The Attitudes and Perceptions of Sworn Victoria Police Personnel in Relation to the Implementation and Ongoing Enforcement of the Victoria Police Cannabis Cautioning Program

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Candidates Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma in any other university or institution. To the best of the candidates knowledge the thesis contains no material previously published or written by another person, except where due reference has been made in the text of this thesis.

No other persons work has been used without due acknowledgement in the main text of the dissertation.

This dissertation has not been submitted for the award of any other degree or diploma in any other university either in Australia or in any other country.

The content of this thesis is the result of work which has been carried out since the official commencement of the approved research program.

Signed

Patti Thyssen

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Abbreviations

ACT  Australian Capital Territory
ADIS  Alcohol and Drug Information Service
AIDS  Acquired Immune Deficiency Syndrome
AIHW  Australian Institute of Health and Welfare
APA  American Psychiatric Association
BAC  Blood Alcohol Content
CCP  Cannabis Cautioning Program
CCPP  Cannabis Cautioning Pilot Program
CCS  Cannabis Cautioning Scheme
CEN  Cannabis Expiation Notice
CENS  Cannabis Expiation Notice Scheme
CES  Cannabis Education Session
CIN  Cannabis Infringement Notice
CINS  Cannabis Infringement Notice Scheme
CNI  Criminal Name Index
COPS  Computerised Operating Policing System
DAU  Drug and Alcohol Unit
DDAP  Drug Diversion Assessment Program
DDI  Drug Diversion Initiative
DDP  Drug Diversion Program
DDS  Drug Diversion Scheme
DIN  Drug Infringement Notice
DPCS  Drugs, Poisons and Controlled Substances Act (1981)
DSM-IV  Diagnostic Statistical Manual of Mental Disorders IV
EOPA  Executive Officer of the Police Association
FBN  Federal Bureau of Narcotics
FER  Fines Enforcement Registry
GBB  Good Behaviour Bond
LPP  Local Priority Policing
NDSHS  National Drug Strategy Household Survey
NIDA  National Institute on Drug Abuse
NPC  National Police Check
NSW  New South Wales
NT  Northern Territory
OSTT  Operation Safety and Tactics Training
QLD  Queensland
SA  South Australia
SCND  Single Convention on Narcotic Drugs
SCON  Simple Cannabis Offence Notice
TAS  Tasmania
THC  Delta-9-tetrahydrocannabinol
VIC  Victoria
WA  Western Australia
WPDLR  Working Party on Drug Law Reform
# Table of Contents

**CHAPTER ONE**

*The Focus of the Study*

1.1 Introduction .................................................. 3
1.2 Background .................................................... 4
1.3 Victoria Police Cannabis Cautioning Program .................. 9
1.4 Scope of Problem—Rationale .................................. 11
1.5 Scope of the Research ......................................... 13
1.6 Contribution to Knowledge ..................................... 16
1.7 Presentation of this Thesis ..................................... 16

**CHAPTER TWO**

*Drugs, Diversion and Law Reform*

2.1 Introduction .................................................... 18
2.2 Prevalence of Cannabis Use in Australia ..................... 19
2.3 Cannabis as a ‘Gateway Drug’ ................................ 26
2.4 Defining Drug Dependency .................................... 29
2.5 Decriminalisation/Legalisation ................................ 48
2.6 Harm Minimisation ............................................. 57
2.7 Drug Diversion in Australia .................................. 67
2.8 Drug Courts: The Soft Option ................................ 78
2.9 Police Culture .................................................. 83
2.10 Conclusion ...................................................... 95

**CHAPTER THREE**

*Conceptual Framework and Study Design*

3.1 Introduction ..................................................... 97
3.2 Interpretivism as a Conceptual Framework .................... 98
3.3 Why Qualitative Research? .................................... 105
3.4 Research Questions ............................................ 107
3.5 Interview Participants ......................................... 108
3.6 Negotiation of Access ......................................... 116
3.7 Research Instrument ........................................... 120
3.8 Qualitative Data ............................................... 123
3.9 Analysis and Development of Themes ......................... 126
3.10 Conclusion ...................................................... 128
List of Tables

Table 2.1 - Australian Infringement Notice Programs ................................................................. 71
Table 2.2 - Australian Caution/Diversion Programs................................................................. 77
Table 3.1 - Police stations involved in CCP piloting ................................................................. 112
Table 3.2 - Uniform and CIU offices included in sample ...................................................... 113
Table 3.3 - Police prosecutions offices included in sample .................................................... 114
Table 4.1 – Participants who provided face to face or telephone responses ......................... 131
Table 4.2 – Participants who declined to take part or who did not respond to a request to participate in the study ........................................................................................................ 131
Table 4.3 – Participants who provided written responses.......................................................... 132
List of Figures

Figure 4.1 - Purpose of introducing the CCP by department ......................................................... 134

Figure 4.2 - Number of participants by drug-related crime attended/prosecuted per week by department ...................................................................................................................... 148

Figure 4.3 - Number of drug-related crimes attended/prosecuted per week by location ........ 149

Figure 4.4 - Number of crimes attended/prosecuted per week by location and department... 150
Abstract

This research examines the attitudes and perceptions of Victoria Police personnel in relation to the Victoria Police Cannabis Cautioning Program (CCP). The CCP (1998) was introduced as a means of reducing the harms associated with cannabis consumption and to divert first-time minor offenders away from the criminal justice system. The program was designed to give offenders a second chance by allowing them to avoid the stigma associated with a court appearance. The thesis examines the implementation of the CCP and the impact it has had on drug law enforcement within Victoria. This is explored through the examination of police interactions with minor cannabis offenders.

The research further examines police perceptions in relation to the CCP, the move away from strict prosecution of minor cannabis offenders and its effect on police exercising their discretionary powers. The research considers the impact of police training, force instruction and offender attitude on the police decision-making process. Also examined is police acceptance of the CCP concept and how they perceive its acceptance within the community.

Police experiences of the CCP and ultimately their perceptions of the program are discussed through the use of an interpretivist framework. Symbolic interaction and the development of a shared “meaning system” can possibly explain how police view the CCP and its impact on drug law enforcement and the criminal justice system as a whole. The research uses qualitative techniques. Qualitative data include semi-structured face-to-face and telephone interviews.
with sworn Victoria Police personnel from uniform, Criminal Investigations Unit (CIU) and prosecutions departments.

Police accepted the concept of the CCP and were willing to give offenders a second chance, however they also wanted offenders to be compelled to attend drug education sessions. Offender attitude towards police and drug use as a whole ultimately determined whether police would issue an offender with a caution. The research shows that although police would like to see some changes to the program, there was a general acceptance of its aims and objectives. Acceptance of the CCP was, however, not solely based on these aims and objectives. The research shows that police used the CCP because it saved them time in the processing of offenders, preparing briefs of evidence and appearing at court to give evidence. This was considered in the first instance. The CCP as a harm minimisation strategy was only considered in the second instance and therefore illustrates a need for additional police training. A number of other suggestions for further police and policy development are posed.
CHAPTER ONE

The Focus of the Study

‘Use’ is not the same thing as ‘abuse’. It is one thing to describe patterns, frequencies, and incidences of drug use in the general population; it is quite another to examine the phenomenon of drug abuse.

Goode, 1997:23

1.1 Introduction

Chapter One will provide an outline of the research. It commences with a brief history of the Victoria Police cautioning program and the reasoning behind expanding the program to incorporate the cautioning of minor cannabis offenders. It will outline the decriminalisation debate and the arguments for and against such a notion and how this debate has contributed to the implementation of programs such as the Cannabis Cautioning Program (CCP). The philosophy behind harm minimisation and the role it plays in the cautioning program will also be discussed. The chapter will draw on the idea that the CCP was introduced to deal with minor first-time offenders rather than those who are regular cannabis users.

This chapter will provide an outline of the research scope, questions, aims and objectives to be considered and answered throughout the research process. It will also include a brief discussion of the rationale behind conducting the study and the theoretical framework used to analyse the research findings.


1.2 Background

Cautioning procedures have been a part of Victoria Police policy since 1959, when cautions were applied in a range of matters where offenders were under the age of 17 years (Victoria Police, 2000a:12). The introduction of the police cautioning program was aimed at assisting child offenders by diverting them from the formal sanction of court proceedings (Victoria Police, 1959, 311(1)). The program was intended to reduce child offending by:

- providing an alternative to Children’s Court proceedings which avoids both the stigma which might be attached to appearance before a Children’s Court and also a formal finding of guilt against the child
- reducing the delay between offence and disposition
- giving support, assistance, encouragement and advice to the child and his parents
- optimising communication in an informal atmosphere between an experienced Police Officer, the child and his family
- giving continuing help to the child and his family.

(Victoria Police, 1959, 311 (1))

In 1985 the cautioning program was extended with the introduction of the Shop Stealing Warning Program. This involved cautioning adult first-time offenders, aged 17 years and above, detected stealing from retail premises (McLeod, Stewart, Meade, & Munro, 1999:13; Victoria Police, 2000a:12). In 1991 these programs were consolidated, and known as the Victoria Police Cautioning Program, a program highly regarded by police as it has been perceived to be successful in diverting persons from the criminal justice system (McLeod et al.,
In 1995 the Premier’s Drug Advisory Council was established. The role of the Council was to carry out an exhaustive investigation into the trade and use of illicit drugs and their impact on Victorians (Premier’s Drug Advisory Council, 1996:1). The investigation resulted in the publication of the Penington Report, which recommended “the elimination, as an offence, of the personal possession and use of marijuana, which would enable police ... resources to be redirected to more effective community policing” (Premier’s Drug Advisory Council, 1996:viii). The government supported the recommendation of the Penington Report to legalise “the use and possession of small quantities of marijuana” (Victoria Police, 1996:i; Victoria Police, 2000a:8). This recommendation was strongly rejected by Victoria Police. Despite this rejection, Victoria Police took the opportunity to develop a more flexible approach towards drugs and law enforcement.

Victoria Police set out to research the possibility of extending their existing cautioning program to include drug offenders. Growing social concern about drug use and possession in the community directed the Victorian government’s focus towards a framework that concentrated on supply control, demand reduction and harm minimisation (Victoria Police, 2000a:11). Given that Victoria Police already operated within this framework, they sought a practical balance between harm minimisation and law enforcement. Victoria Police therefore proposed a “tiered approach to sanctions using cautions by Victoria Police, penalty notices and the court system, which would allow for offences to be placed in perspective” (Victoria Police, 2000a:11). The approach would ultimately discourage people from experimenting with drugs, however it would
also provide a framework whereby first-time offenders could escape the stigma of a court appearance and conviction. Further, it would maintain a framework whereby serious or repeat offenders would still be dealt with accordingly.

Victoria Police tasked their research department with “researching the viability of cautioning offenders for the use and possession of small amounts of cannabis” (Victoria Police, 2000a:13). This resulted in the development of the Cannabis Cautioning Pilot Program (CCPP) in 1997. This program focused on issuing cautioning notices for offences contained under Sections 73 and 75 of the Drugs and Controlled Substances Act 1981 involving small quantities of cannabis and determining appropriate advice and referral mechanisms. The program therefore set out to employ harm minimisation strategies.

### 1.2.1 Harm Minimisation

Harm minimisation is a term used to describe programs developed in order to reduce the consequences of illicit drug use (Mahony, 2000:81; Roche & Evans, 2000:153; Rohl, 2000:129). This term, however, is not necessarily accepted by society as a whole, as many see harm minimisation as the police ‘going easy’ on drug users (Rohl, 2000:128). The harm minimisation debate is often discussed from either a liberalist point of view or a conservative point of view.

Liberalists argue that it is the drug laws themselves that contribute to the harm associated with drug use as they overburden our criminal justice system, with criminalisation of drugs leading to further crimes being perpetrated (for example, organised crime) (Goldberg, 2000:2–3). Given that drugs have always been a part of society, many liberalists argue that a drug-free society is
impossible to achieve (Goldberg, 2000:2–3). They view the drug problem should be viewed as a social problem that needs to be treated as a health issue rather than a law enforcement issue. Liberalists believe drug policy should be focused towards the harm drugs can cause the user (Goode, 1997:66). Furthermore, liberalists see drug crimes as ‘victimless crimes’ and are opposed to imprisonment as a sanction for drug use (Goode, 1997:66). Nadelmann (1995) argues that by treating casual drug users as human beings, we not only keep them out of the criminal justice system but also promote a free society in which “those who do no harm to others should not be harmed by others” (cited in Goode, 1997:66). It is important to note that liberalists predominantly advocate for the decriminalisation of drugs and reaffirm the notion that it is an individual’s right to partake in activities without intervention from government agencies (Parkin, 2000:104).

In contrast, conservatives argue that decriminalisation will increase drug use in society, with drugs being more accessible. This will lead to an increase in drug-related crimes, with offences being committed due to the psychological effects imposed on the user. While liberalists argue that drug use is a ‘victimless crime’, conservatives argue that due to the control drugs can have over the minds and bodies of individuals, it is often not only the user who is affected (Goldberg, 2000:2–3).

According to Goode (1997:58), conservatives believe the answer to the drug problem is to return to traditional values such as maximising government

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1 Conservatives believe in society returning to ‘old fashioned’ values. They believe that reconnecting with traditional values, mainstream religion and age-old customs, among others, will reduce drug abuse. Furthermore, conservatives believe that everyone is responsible for their own actions and that all actions are an individual’s own moral choice (Goode, 1997:56 & 58).
intervention and promoting a system of ‘zero tolerance’. Zero Tolerance is a system “based on a hypothesis that a vigorous enforcement of low-level crimes, including physical disorder (e.g. graffiti) and social disorder (e.g. prostitution), will prevent more serious crimes from occurring” (Roberg, Novak, & Cordner, 2005:122). As such, zero tolerance is a system where police have little or no discretion in whether or not to make an arrest in relation to specific offences (Grant & Terry, 2005:217). Conservatives argue that strict enforcement of the law sends a powerful deterrent message to potential offenders (Grant & Terry, 2005:217). Conservatives do not advocate harm minimisation policies as this moves dangerously close to the legalisation of drugs they have fought hard to eliminate. Zero tolerance is the only way drug abuse can be controlled.

In 1996 the Premier’s Drug Advisory Council conducted an investigation into illicit drug use in Victoria and made recommendations to change legislation, policies and services that would reduce the harm being caused by drugs in our community (Premier’s Drug Advisory Council, 1996:75). In response to these recommendations, Victoria Police considered alternatives to current practices when dealing with persons detected using or in possession of small quantities of cannabis for personal use (Victoria Police, 1996:1). Victoria Police established the pre-court diversionary strategy of cautioning, which involves providing minor cannabis offenders with information about the adverse effects associated with cannabis use and referrals to a drug assessment centre where appropriate (Victoria Police, 1996:i). That is, where a person has been found using or in possession of cannabis, police may use their discretion and caution the offender, diverting them away from the courts.
1.2.2 Diversion

Drug diversion means the diversion of drug users from the criminal justice system into drug treatment. Diversion, whether imposed by police or courts, primarily assumes that intervention at an early stage can “break cycles of destructive behaviour” (Victoria Police, 2002:1), thus leading to a decrease in drug offenders appearing before the courts (Victoria Police, 2002:1). Diversions can either be formal or informal.

Informal diversion essentially provides diversion from the criminal justice system. Formal diversion, on the other hand, allows for the diversion of the offender from court, but not necessarily from the criminal justice system.

(Morrison & Burdon, 1999:19)

In Victoria, formal diversions are generally issued by the courts and often require offenders to fulfil set criteria before they are released from the scrutiny of the criminal justice system (Morrison & Burdon, 1999:19). As offenders are already in the criminal justice system before they can enter a diversion scheme, they can potentially still receive a criminal conviction, particularly when diversion criteria are not met. This meets the CCPP and CCP’s criteria which seeks to remove harm and reduce the number of people entering the criminal justice system.

1.3 Victoria Police Cannabis Cautioning Program

As indicated above the CCP was established in 1997 to test the viability of cautioning adults detected using and or in possession of small quantities of
cannabis. This pilot program was conducted in ‘I’ District \(^2\) between July 1997 and January 1998 (Victoria Police, 1996:6; Victoria Police, 2000a:4, 8&12). Victoria Police believed that by extending their already existing cautioning program to incorporate cannabis offences, it would demonstrate the force’s flexibility and a willingness to embrace change (Victoria Police, 2000a:8&9).

To be eligible for a cannabis caution, offenders needed to meet a specific set of criteria. Offenders must:

- be an adult
- admit to the offence
- be in possession of or using dried cannabis leaf, stem or seeds weighing not more than 50 grams for personal use
- have no history of having committed drug offences.

(Victoria Police, 2000a:A-38)

Other offences which are committed at the time of detection and which can be dealt with by caution or penalty notice may not prevent an offender from receiving a cannabis caution (Victoria Police, 2000a:A-38). Offenders cannot be cautioned on more than two occasions and, at the time of receiving a caution, offenders are given information that outlines the health and legal ramifications of cannabis use (Victoria Police, 2000a:A-38). Following the success of the pilot the Cannabis Cautioning Program (CCP) was established at a statewide level (1998). This research examines the police perceptions of this program.

\(^{2}\) At the time of the CCPP, Victoria was divided into a number of police districts. ‘I’ district incorporated the Broadmeadows area, which was the headquarters of the district at the time. Victoria has since been redefined into regions. Victoria now consists of five police regions, each of which consists of anything up to five districts (Appendix 3).
1.4 Scope of Problem—Rationale

This research arose out of an interest to determine the effectiveness of the Victoria Police CCP from a police perspective. In particular the researcher was interested in determining whether or not such cautioning schemes allow police to exercise discretion. As indicated earlier, cautioning schemes have been implemented as a means of tackling the growing drug problem, however limited research has focused on the impact of such schemes on police officers themselves and their ability to effectively carry out their duties. The majority of the literature (see Chapter Two) on cannabis cautioning relates to programs established in other states of Australia (Donnelly, Hall, & Christie, 1999; Lenton, Christie, Humeniuk, Brooks, Bennett, & Heale, 1999; Sutton & McMillan, 1999; Hales, Mayne, Swan, Alberti, & Ritter, 2003), and to date there appears to be little literature on the outcomes of the Victoria Police CCP. Further, the researcher sought to examine Victoria Police’s rationale behind introducing such a scheme and whether or not those objectives have been successfully met.

As demonstrated earlier, the conservative view of drug use in particular is concerned with the prosecution of drug offenders and ensuring that the police do not ‘go easy’ on offenders. Changes to legislation have perhaps communicated that cautioning schemes are a means of avoiding one’s legal responsibilities, rather than their intended purpose, which is to break the drug use cycle at an early stage and hopefully prevent harder and continued drug use (MacCoun, 2000:125). Breaking this cycle, however, is not limited to drug use. It also relates to breaking the connections and relationships that may be often made while involved in the drug scene. The CCP is a more liberal approach to
the issue of drug use, however it does not discount the conservative ideal. With its focus on harm minimisation, it does not eliminate the element of police discretion.

Police discretion is an essential element of the CCP and can be exercised collectively or individually within set guidelines posed by the policing organisation (Findlay, 2004:70). Despite police being bound by these guidelines, they do not undermine the individual influences that operate on discretion. Findlay (2004:72) suggests that it is “important to determine specifically the context in which discretion and its exercise can determine a particular policing style”. For the purposes of the research, discretion will be defined as set out by Findlay (2004). Findlay (2004) suggests that police discretion is dependent on:

- legal limits such as the definition of an offence
- the visibility of its exercise, and the context in which discretionary encounters occur
- accountability for its exercise, both formal and informal
- the demeanour of those encountered by police and the respect or otherwise that they demonstrate
- general public expectations of the exercise of police powers.

(Findlay, 2004:72)

Given that the CCP allows for differences in social reality, the importance of establishing police member satisfaction is paramount. While there is substantial literature outlining the number of cautioning schemes around Australia (Donnelly et al., 1999; Lenton et al., 1999; Mundy, 2000; Rickard,
2001-2002; Commonwealth Department of Health and Ageing (CDHA), 2002a; Working Party on Drug Law Reform, 2002; Bull, 2003; Hales et al., 2003; Australian Drug Foundation, 2004; Baker & Goh, 2004; Drug and Alcohol Office and Western Australia (WA) Police Service, 2004) and their success in terms of drug deterrence, there is little literature surrounding the views of those engaged in their implementation and ongoing enforcement.

Literature on the Victoria Police CCP has been based on the piloting, evaluation and implementation of the program, which has been internally produced. The evaluation found that of those Victoria Police members who utilised the CCPP, there was a high level of satisfaction with the program (Victoria Police, 2000a:13). This research aims to explore the program from an external point of view, using qualitative rather than quantitative methods in order to see if the same levels of satisfaction expressed by police during the evaluation stage of the CCPP can be reached. It will use an interpretivist framework to examine how shared meanings and systems (Neuman 1997:69) impact on police personnel’s decisions related to the CCP.

1.5 Scope of the Research

This research project aims to explore the impact of the Victoria Police CCP (1998) on Victoria Police personnel by exploring the attitudes and practices of sworn Victoria Police members in relation to the CCP. The study focused on the five police regions throughout Victoria, enabling the study to incorporate both metropolitan and rural areas. While the study made use of literature published on cautioning schemes relating to drugs, its main focus was on a purposive sample of 32 face-to-face and telephone interviews

13
and questionnaire responses with ground-level police personnel. Methods for selection are outlined in detail in Chapter Three.

For the purposes of this research, ground-level police personnel have been defined as uniform Victoria Police personnel, from the rank of Constable to Senior Sergeant, and Criminal Investigations Unit (CIU) members, from the rank of Detective Constable to Detective Senior Sergeant, who are considered operational. The ranks of Constable to Senior Sergeant and Detective Constable to Detective Senior Sergeant were selected, because it was perceived that these members were more likely to have ground-level operational experience of the CCP and the issues associated with its enforcement. Police prosecutors, regardless of rank, were also selected for the purpose of gaining insight into the prosecution issues associated with the CCP. It was perceived that police prosecutors, regardless of rank, would have relatively the same experience in dealing with the CCP.

1.5.1 Research Objectives

The following objectives were developed in order to obtain an understanding of the CCP and its impact on drug law enforcement in Victoria. It was further believed that such objectives would better explore the legitimacy of the program from a general policing perspective. The research examines whether or not ground-level police personnel consider the program an essential tool when dealing with drug offences and offenders. The objectives of the research were:

- to establish what police personnel believe to be the purpose of introducing the CCP
The following research questions were formulated in order to meet the objectives of the research:

1. What do police personnel perceive as being the impact of the CCP on law enforcement and what possible difficulties do they see arising in the prosecution of offenders?

2. Do police personnel believe that the CCP provides them with sufficient discretion for issuing a caution for cannabis use/possession?
What do police personnel perceive the public acceptance level of the CCP to be?

What do operational police personnel perceive as being better—a system of strict prosecution or one of cautioning?

How have police personnel been instructed to deal with the CCP and what training has been provided?

Do police personnel believe that the training they receive is sufficient for implementing the CCP or do they believe it needs updating?

1.6 Contribution to Knowledge

The research aims to make a contribution to the understanding of drug issues, with particular emphasis on cannabis. It is hoped that this research will provide information to assist Police Command in addressing any shortfalls identified and associated with the Victoria Police CCP. It is hoped that by giving ground-level operational police the opportunity to express their attitudes, experiences and perceptions about the program, Police Command will be able to better mould the program to suit the needs of those enforcing the program. Further, the study will contribute to the decriminalisation versus criminalisation debate, providing an awareness of the issues faced by police officers working on the streets and dealing with drug offenders on a day-to-day basis.

1.7 Presentation of this Thesis

Chapter Two examines the decriminalisation debate and the influences this has had on legislative reform and policy shifts surrounding cannabis use and possession. It further analyses the major influences in the implementation of the CCP in Victoria.
Chapter Three provides the research framework, which has largely been influenced by the literature and research examined in Chapter Two. The chapter also discusses the conceptual framework and methodology used to meet the research aims and objectives.

Chapter Four presents the research findings, derived from face-to-face and telephone interviews and questionnaire responses. These interviews and questionnaire responses examine the attitudes, experiences and perceptions of Victoria Police officers, with regards to the ongoing enforcement of the CCP.

Chapter Five thematically analyses the research findings to determine how police view the CCP.

Chapter Six provides discussion on how the research objectives and questions were addressed. It concludes with recommendations for future research.
CHAPTER TWO

Drugs, Diversion and Law Reform

The preparedness of Australian Governments... to modify domestic drug laws seems largely to have been a function of the country’s subordinate status on the world stage, and its desire to be seen as a good ‘international citizen’, rather than being driven by concern within Australia about problems posed by illicit drugs.

Brereton, 2000:90

2.1 Introduction

This chapter examines the relevant literature for this research. A true understanding of the scope of this research can only be achieved through the examination of existing literature on cannabis and the laws that govern its use. It has been argued (Brereton, 2000:90) that drug laws in Australia have been shaped as a result of international pressure rather than a genuine concern to address drug issues within Australia. In order to explore such inferences this chapter has been organised into themes.

The first theme will examine the prevalence of cannabis use in Australia. The second theme will explore the gateway theory and the belief that the use of so-called soft drugs can lead to more frequent use, the graduation to stronger drugs and, subsequently, drug dependency. The third theme will explore the physical and psychological effects of cannabis use and the likelihood of users suffering long-term effects. The fourth theme examines the blurring of boundaries surrounding the legalisation of cannabis for recreational and medical purposes.
and how such debates impact on the drug debate and the strategies implemented to deal with drug use.

The fifth theme examines the newly implemented drug driving laws in Victoria and their effect on the perceived decriminalisation of cannabis use. The sixth theme will discuss the shift in government and police policy and its relationship to the treatment of drug offenders. It will seek to critique the opposing views in the criminalisation/decriminalisation debate, exploring CCP programs in Australia.

The seventh theme will explore the theory of zero tolerance and its perceived inappropriate framework for drug law enforcement in Australia. It will therefore draw on the implementation of drug courts and police diversionary programs and their effectiveness in diverting offenders away from the criminal justice system. The eighth theme will explore police culture and how this influences and impacts on the treatment of drug offenders.

2.2 Prevalence of Cannabis Use in Australia

This theme will explore the prevalence of cannabis use in Australia through the National Drug Strategy Household Surveys (NDSHS) for 2001, 2004 and 2007 (see Australian Institute of Health and Welfare (AIHW) 2003; 2005; 2008). The similarities and differences, which will emerge from the surveys, will be analysed to determine cannabis use and its relationship to drug dependency and harm minimisation.
According to the 2001 NDSHS, conducted by the AIHW, 34.3 per cent of persons aged 14–19 years used cannabis at some time in their lives. Cannabis use was most prevalent among teenage males, with 35.2 per cent reporting having used cannabis at some stage of their lives (AIHW, 2003:20) and 23 per cent reporting that they use cannabis on a weekly basis (AIHW, 2003:21). Females aged 14–19 years almost equalled male use with 33.4 per cent having used cannabis at some stage in their lives (AIHW, 2003:20). The 2001 survey found that 70.6 per cent of users aged 14 years and over obtained their cannabis from friends or acquaintances, suggesting that many users are introduced to drugs through their social environment (AIHW, 2002:47). Further survey findings show: of those who had used cannabis at some stage in their lives, 73 per cent reported having friends or acquaintances who also used cannabis; and of those who reported using cannabis recently, 66.5 per cent of users reported having friends and acquaintances who used cannabis (AIHW, 2002:49).

The 2001 survey suggests that teens still greatly oppose the legalisation of cannabis for personal use (AIHW, 2003:22). In fact, according to the 2001 study, 45.3 per cent of persons within the 14–19 age group held this view (AIHW, 2003:22). Interestingly, those who fell within this age group were not only more likely to use cannabis, but were also less likely to support the position of legalisation for personal use (AIHW, 2003:20 & 21-22). Support for legalisation in 2004 was similar to that reported in 2001 with only 27 per cent supporting the legalisation of cannabis (AIHW, 2005:9).

3Of males aged 14–19 years 12.4% reported using cannabis on a daily basis, 23% used cannabis once per week, 16.8% used cannabis once per month and 47.8% used cannabis less often (AIHW, 2003:20, 21).
Despite the findings with the 14-19 year age group, the 2001 survey reported that cannabis use was much higher among young adults aged 20–29 years of age (AIHW, 2003:20). Within this age group, 61.6 per cent of males and 56.2 per cent of females reported having used cannabis at some stage of their lives (AIHW, 2003:20). Also, in this age group, 24.5 per cent of males and 15.7 per cent of females reported using on a weekly basis (AIHW, 2003:21).

The 2004 survey reported a slight change in the prevalence of cannabis use throughout Australia, with 9.8 percent of females and 7.5 percent of males aged 12–19 years having used cannabis on a daily basis (AIHW, 2005:22). Females within the 40 plus age group were also more likely to use cannabis than males on a weekly, monthly and less often basis (AIHW, 2005:22). Overall, however, males within the 12–19 years age group still remained more likely to use cannabis than females (AIHW, 2005:22). Across all other age groups (20–29 years and 30–39 years) and all levels of use (daily, weekly, monthly and less often use), males were more likely to use cannabis than women (AIHW, 2005:22).

The 2007 survey reported that persons between the ages of 14–19 were less likely to use cannabis on a daily basis than those within all other age groups (AIHW, 2008:50). Persons within the 14–19 year age group were most likely to use cannabis every few months (22.9 percent) or once or twice a year (34.3 percent). Across all age groups 30–39 year olds were most likely to use cannabis on a daily basis (17.7 percent), while 40 plus age group was most likely

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4 Of the males aged 12-19 years of age 21.9 percent used cannabis on a weekly basis, whilst 17 percent used cannabis on a monthly basis. Of the females within this age group 19.4 percent of females used cannabis on a weekly basis whilst 10.5 percent used cannabis on a monthly basis (AIHW, 2005:22).

5 20-29 years, 30-39 years and 40 plus years (AIHW, 2008:50).
to use cannabis on a weekly basis (26.6 percent) and 14–19 year olds most likely to use on a monthly basis (15.3 percent) (AIHW, 2008:50).

The 2001 and the 2007 surveys show that across all age groups males more commonly use cannabis than females (AIHW, 2003; AIHW, 2008). Within the 2007 survey the use of cannabis among older (25–39 years and 40 plus) people decreased whereas this was not as obvious within the 2001 survey. It is difficult to compare the age groups across the surveys as the surveys were not consistent in the way they analysed data across various age groups. For example in 2001 and 2007, young people were defined as 14–19 years and in 2004 they were defined as 12–19 years. Comparisons between the surveys were also difficult due to the way in which data was collected. The categories for use classification varied between surveys and therefore it is difficult to draw conclusions about the frequency of use.

Despite this however, loose interpretations can be made based on the data. Figures, for example, relating to teenage cannabis use could be attributed to teenage curiosity, experimentation or a need to belong. This lends itself to the notion that use or initiation to the drug scene is associated with social interaction. Given that cannabis and ecstasy are both drugs commonly used in communal or group environments, the researcher perceives the number of teenagers using cannabis and ecstasy on a weekly basis as understandable.

Interestingly, when asked to nominate a drug which they associated with a drug problem 29.2 per cent of those aged 14 years and over nominated cannabis as the drug of choice, only preceded by heroin with 39.4 per cent nominating this as their drug of association (AIHW, 2005:7). What is interesting about this is
that despite the increasing social acceptance of cannabis use among teenagers (see Laslett & Rumbold, 2002:40; AIHW 2005) they still perceive cannabis as a drug with the potential to have a catastrophic impact on users. The community, more often than not, views cannabis as a ‘harmless’ or ‘soft drug’, therefore experimenting teenagers tend to turn to cannabis. Where once the use of cannabis was condemned, today prevailing attitudes are more liberal. These attitudes impact on the teenage social environment, where cannabis use becomes a part of that group’s social reality (Neuman, 1997:69). Cannabis use becomes accepted behaviour (AIHW, 2002) and, in some cases, possibly expected behaviour. Attitudes and perceptions of cannabis use and its effects are therefore ultimately contradictory. The fact alone that teenagers, according to the surveys, associate cannabis with a drug problem flies in the face of the notion that cannabis is a ‘soft’ or ‘harmless’ drug and raises questions about the appropriateness of introducing programs where people are cautioned for use and/or possession, particularly where those programs do not include compulsory drug education and rehabilitation.

Laslett and Rumbold (2002:40) argue that youth culture has a considerable effect on the rate at which Australian youth consume illicit drugs. It could be assumed that the increase in illicit drug use among Australian youth can be associated with the type of drugs used and the way in which they are used (Laslett & Rumbold, 2002:40). The development of ‘raves’, which are typically associated with drugs such as ecstasy, provides a good example of how the use of certain drugs fluctuates and the way in which they are used (Laslett & Rumbold, 2002:40).
NDSHS have been used commonly in research papers as they are considered the leading source of licit and illicit drug prevalence data in Australia (Queensland Government, 2010). The NDSHS are prepared by the AIHW, which is funded by the Australian government to collect, prepare and disseminate nationally consistent health and welfare statistics (AIHW, 2010). The NDSHS in particular provide cross-sectional data on alcohol, tobacco and other drug use in Australia (AIHW, 2010). Laslett and Rumbold (2002:32) argue that the surveys possess inherent limitations because of the difficulties of accurately recording illicit drug use. They suggest that illicit drug use in previous years has been under-reported because of the unwillingness of survey respondents to risk prosecution by admitting their knowledge and use of illicit substances (Laslett & Rumbold, 2002:32). They further argue that under-reporting has been due to the availability of technology in previous years (Laslett & Rumbold, 2002:32). The introduction of computerisation of police, health and social records allows for more accurate measurement of drug use today.

The prevalence of cannabis use is varied throughout the Australian states, and the evidence suggests that there has been no greater use of the drug in states where the penalty for possession of cannabis had been reduced to a caution or a fine than in states where the use and possession of cannabis still attracts immediate prosecution (Laslett & Rumbold, 2002:39).

There are several ways in which illicit drug use relates to criminal behaviour. One prevailing criminal offence relates to the supply, production, distribution or possession of illicit drugs. The number of offences committed relating to illicit drugs has steadily increased since the 1970s with a very high proportion of arrests for illicit drugs involving cannabis. The majority of people arrested are
charged with drug use (Laslett & Rumbold, 2002:43). There are also offences where drug use is a contributing factor (Laslett & Rumbold, 2002:43). For example, property offences are believed to be committed due to offenders needing to steal in order to maintain their habit (Laslett & Rumbold, 2002:43).

Drug law enforcement has become more lenient in comparison to earlier laws. In 1987 the Queensland Drugs Misuse Act gave police in that state “sweeping powers and created mandatory life penalties (since repealed) for a broad range of offences including supply of any quantity of a drug to a minor” (Brereton, 2000:93). Jurisdictions around Australia have amended laws relating to possession, with states implementing policies to divert drug offenders away from the criminal justice system (Brereton, 2000:93). Victoria, in particular, has been innovative, for example, in 1998 Victoria Police introduced a statewide cautioning program for cannabis offenders (McLeod et al., 1999:1; Brereton, 2000:93; Commonwealth Department of Health and Ageing (CDHA), 2002a:5). It is due to such programs that there are fewer court cases involving cannabis possession (Brereton, 2000:93–94). This is perhaps an indication that law enforcement agencies are expending fewer resources on the criminalisation of cannabis and taking a more harm minimisation approach to the drug problem (Brereton, 2000:94). There has also been a shift in public opinion about cannabis prohibition. The cannabis legalisation debate became inherently topical in the mid 1990s, with the Premier’s Drug Advisory Council in Victoria (1996) recommending the legalisation of cannabis. This indicated a shift in thinking by state authorities (Brereton, 2000:94).

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6 For further information on harm minimisation, refer to section 2.6.
Before discussing in depth the arguments for and against the legalisation of cannabis, it is pertinent to discuss the physical and psychological effects cannabis can have on users and the likelihood of cannabis use leading to a transition into harder drugs, otherwise known as the gateway effect.

As the following theme will show, the decriminalisation debate is very much concerned with the notion that cannabis use can lead to the use of harder and more addictive drugs.

2.3 Cannabis as a ‘Gateway Drug’

Hall and Pacula (2003) believe that people generally use cannabis in order to experience “mild euphoria relaxation and perceptual alterations, including time distortion, and the intensification of experiences, such as eating, watching films, listening to music, and engaging in sex” (Hall and Pacula (2003:38).

Put simply the positive experience of taking drugs such as cannabis creates a tendency for users to continue to increase their use of the drug. Further, with increased use, users become accepting of the drug scene and more likely to try other harder drugs (Popoff 1970 cited in Bloomquist, 1971:46; Bretteville-Jensen, Melberg & Jones, 2006:3). Bloomquist (1971:45) supports this notion suggesting cannabis use does not ‘lead’ to the use of more dangerous drugs, rather it is the pleasure the user experiences that reinforces the need to seek bigger and better experiences. More recent studies (Fox & Mathews, 1992:13; Kandel et al. 1996 cited in Iversen, 2000:227; Goode, 1997:37; Oetting et al. 1998 cited in Durrant & Thakker, 2003:180–181) have argued that drug use, dependency and the transition to harder drugs can result from an individual’s
environment and socio-economic circumstances. Bloomquist (1971:45) and Iversen (2000:227) argue that even if it is accepted that cannabis is a relatively harmless drug, it can act as a stepping stone or gateway to the use of other illicit and harder drugs.

Kandel et al. (1996 cited in Iversen, 2000:227) conducted a study where 7,000 New York students aged 13–18 years were asked to report their experiences with illicit drugs. Of those surveyed, 995 reported having experience with cannabis, 403 having experience with cocaine and 121 having experience with crack cocaine (Kandel et al. 1996 cited in Iversen, 2000:227). Those who reported using crack cocaine also reported having friends who used marijuana. Kandel et al. (1996 cited in Iversen, 2000:227) argue that this study illustrates that people who share similar environments and socio-economic backgrounds are more likely to share similar drug habits.

Further, Kandel et al. (1996 cited in Iversen, 2000:228), Fox and Mathews (1992:13), Oetting et al. (1998 cited in Durrant & Thakker, 2003:173) and Hayatbakhsh et al. (2007) argue that parental behaviour also greatly influences an individual’s decision to take drugs. Kandel et al. (1996 cited in Iversen, 2000:228) and Hayatbakhsh et al. (2007) found that parental use of alcohol, cigarettes and other substances was an important factor in determining experimentation with these drugs. They further found that children who experimented with illicit drugs were more likely to have parents who used medically prescribed tranquilisers or psychotropic drugs (Kandel et al. 1996 cited in Iversen, 2000:228; Hayatbakhsh et al., 2007). As a result of their parents’ drug use, children believed it was acceptable to deal with psychological distress through self-medication (Fox & Mathews, 1992:13; Kandel et al. 1996:
Kandel et al. (1996 cited in Iversen, 2000:227) and Oetting et al. (1998 cited in Durrant & Thakker, 2003:172) therefore found that human behaviour is learnt through ‘primary socialisation’. Essentially humans learn what is acceptable and unacceptable behaviour within certain environments through primary socialisation, which includes imitation and observation. That is, we learn through imitating the behaviours and actions of our parents, grandparents, friends and other social acquaintances. Primary socialisation can be directly linked to socio-economic circumstances as a family’s income often determines where they live and where children go to school. Children from lower income families are therefore more likely to be exposed to crime, drugs and other anti-social behaviour. Who they socialise with ultimately determines their behaviour. Primary socialisation can not only influence whether or not an individual commences drug use, but also how much they use and for how long (Durrant & Thakker, 2003:173). Zimmer and Morgan (1997 cited in Iversen, 2000:227) however, reject this notion arguing that a person’s socio-economic circumstances do not influence whether or not an individual chooses to use or continue to use drugs, but rather is a natural sequence of transition.

The ‘natural sequence of transition’ theory, as suggested by Zimmer and Morgan (1997 cited in Iversen, 2000:227), is supported by Fergusson, Boden and Horwood (2006:3). Although they do not make a correlation between primary socialisation and cannabis use, Fergusson et al. (2006) argue that there is a “casual chain sequence in which a) cannabis is used prior to the onset of other illicit drugs and b) the use of cannabis increases the likelihood of using other
illicit drugs” (Fergusson et al., 2006:3). Studies conducted by Kandel, Yamaguchi and Chen (1992 cited in Fergusson et al., 2008:3), Fergusson and Horwood (2000 cited in Fergusson et al., 2006:3), Kandel and Yamaguchi (2002 cited in Fergusson et al., 2006:3), Golub and Johnson (2002 cited in Fergusson et al., 2006:3) provide “strong and consistent evidence that the use of cannabis invariably precedes the use of other illicit drugs” (Fergusson et al., 2006:3).

As indicated above, many researchers believe that social interaction influences the transition from cannabis to harder illicit drugs. Proponents of decriminalisation take this notion one step further, arguing that the transition to harder drug use is a result of being introduced to the underground world of illicit drugs through marijuana use. They theorise that by separating soft drugs from harder drugs and by making soft drugs more readily available, the transition can be broken. This theory can be illustrated by examining the Dutch decriminalisation policy which is discussed later in this chapter (see section 2.5.1).

### 2.4 Defining Drug Dependency

Until the 1970s, studies failed to identify the presence of a ‘withdrawal syndrome’ associated with cannabis therefore leading many to believe that cannabis was not a drug of dependence. However, this failure occurred because drug dependency was often defined by tolerance levels and the withdrawal symptoms an individual experienced when abstaining from a drug (Hall, Johnston & Donnelly, 1999:92). A broader approach was then taken towards defining drug dependency. According to this approach, drug dependency
involves “compulsion to use, a narrowing of the drug-using repertoire, rapid reinstatement of dependence after abstinence and the high salience of drug use in the user’s life” (Hall et al., 1999:92).

Drug dependency, according to the American Psychiatric Association (APA) Diagnostic Statistical Manual of Mental Disorders (DSM-IV), comprises “a cluster of cognitive, behavioural and physiologic symptoms indicating that the individual continues use of the substance despite significant substance related problems” (APA, 1994:176). For a person to be medically classed as substance dependent, they must present at least three or more of the following criteria at any time within a 12-month period.

1. Tolerance, as defined by either of the following:
   a. need for markedly increased amounts of the substance to achieve intoxication or desired effect
   b. markedly diminished effect with continued use of the same amount of the substance.

2. Withdrawal, as manifested by either of the following:
   a. the characteristic withdrawal syndrome for the substance
   b. the same (or closely related) substance is taken to relieve or avoid withdrawal symptoms.

3. The substance is often taken in larger amounts or over a longer period than was intended.

4. There is a persistent desire or unsuccessful efforts to cut down or control substance use.

5. A great deal of time is spent in activities necessary to obtain the substance (e.g. visiting multiple doctors, driving long distances),
use the substance (e.g. chain smoking), or recover from its effects.

6. Important social, occupational, or recreational activities are given up or reduced because of substance abuse.

7. The substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

(APA, 1994:181)

Significantly, the APA definition precludes minor or casual drug users from being diagnosed as drug dependent. The terms ‘addiction’ and ‘dependence’ have often been used interchangeably, creating confusion and misunderstanding about drugs and drug use. More often than not casual users as well as habitual users, regardless of dose, are referred to as ‘addicts’ (Fox & Mathews, 1992:10). This study will focus on the term ‘dependence’ or ‘dependent’ as discussed by Fox and Mathews (1992:11), in order to discuss cannabis and the effects of drug use. Furthermore, these terms are believed to be more appropriate as the APA definition does not refer to casual drug users but to users who would be considered seriously or heavily dependent. From the researcher’s perspective, the terms ‘addiction’ and ‘addicts’ tend to imply criminality or illicit drug use and do not acknowledge the fact that individuals can also become dependent on legal or prescription drugs. It is pertinent to make a distinction between these terms as the CCP sets out to distinguish between minor or experimental users and serious repeat offenders.
2.4.1 Physical and Psychological Dependence

Drug dependence can often be described in two parts, physical and psychological. Fox and Mathews (1992:11) argue that physical dependence is not dependence in the true sense but is a reaction to the “chemical action of a drug on receptors of the central nervous system”.

Physical dependence is determined by the drug used, the frequency and size of the dose and the user’s constitution. For example, one individual may develop physical withdrawal within two weeks of use while another may not show signs of physical withdrawal for two months (Fox & Mathews, 1992:11). Physical withdrawal occurs when a user does not take a dose prior to their previous dose wearing off (Fox & Mathews, 1992:12). Someone who self-administers cannabis several times a day, every day, may still experience physical withdrawal. Cannabis withdrawal symptoms include nausea, vertigo, drowsiness, lethargy, fatigue, rapid heart rate, dry mouth, vomiting, nervousness, tension, restlessness, appetite changes, sleep disturbance and red eyes (Upfall, 2002:104; Budney, Roffman, Stephens & Walker, 2007: 13; Goldberg, 2009:247). In order to avoid such symptoms, an individual may choose to continue with the drug, thus physical dependence occurs (Fox & Mathews, 1992:12).

Fox and Mathews (1992:12) and Goldberg (2009:245) argue that most cannabis users do not develop a physical dependence to the drug, however this argument relies on how they define physical dependence. They suggest that dependence in its correct sense refers to psychological dependence, which only occurs in a minority of cases. In most instances, drug use occurs as a result of examples set
by family or others in a social setting, where the introduction to drugs usually only consists of one or two doses before the individual decides they do not like it or simply do not wish to continue taking it (Fox & Mathews, 1992:13). If drug taking does continue, it is usually on a casual or recreational basis where dependency does not develop (Fox & Mathews, 1992:13).

Goldberg (2009:245) takes this notion one step further arguing that cannabis dependency is unlikely to occur because drug use drops as people get older. This argument supports the theory that most cannabis users are casual or experimental users. Goldberg’s (2009:245) argument, however, is contrary to the cannabis prevalence rates reported by the NDSHS in 2001, 2003 and 2007. In all three surveys (see section 2.2), cannabis use was more prevalent among 20–29 year olds (2001), 20–29 and 30–39 year olds (2003) and 30–39 year olds and 40 plus year olds (2007). The surveys show that as people got older, they used cannabis more regularly.

Fox and Mathews (1992) draw on Krivanek’s (1989) notion that “addiction is a property of the addict” (Krivanek 1989 cited in Fox & Mathews, 1992:13). They believe that physical dependence is often a result of a drug user’s fear of suffering withdrawal symptoms therefore resulting in psychological dependence (Fox & Mathews, 1992:13). This is supported by McMurran (1994) and Budney, Vandrey, Hughes, Thostenson and Bursac (2008:2), who theorise that difficulty in quitting a drug is more often than not associated with withdrawal and McMurran states that continued use is “based upon the avoidance of unpleasant symptoms” (McMurran, 1994:40). Other factors such as lack of support, self-esteem, confidence and loneliness are all personal factors that can contribute to the development of psychological dependence (Fox & Mathews, 1992:13;

Psychological dependence can result in cannabis psychosis (or marijuana psychosis) (Hall et al., 1999:97 & Iversen, 2000:188). Cannabis psychosis is a drug-induced madness, which, while temporary, nearly always occurs in persons taking large doses of cannabis, but which is not limited to cannabis (Iversen, 2000:188). Individuals with a disposition for mental illness are more likely to experience psychotic episodes when regular users of cannabis, however these mental effects are not isolated to cannabis and can be related to most psychotropic drugs (Iversen, 2000:188). Toxic psychosis in regular high-level cannabis users can often emulate symptoms of schizophrenia, so much so that individuals may experience delusions of control, persecution, thought insertion and auditory hallucinations (Hall et al., 1999:96; Iversen, 2000:188; Upfall, 2002:104–105). Patients who manifest these symptoms can often be diagnosed as paranoid schizophrenic, suggesting perhaps that symptoms of schizophrenia may be caused by cannabis effects on the brain (Iversen, 2000:188).

2.4.2 Cannabis vs Tobacco—Long-Term Effects

There has been extensive research on the effects of tobacco smoke and its biological effects. According to Hall et al. (1999:101) and Iversen (2000:191 &193), marijuana smoke has similar components to tobacco smoke and can
therefore make useful predictions about the effects of marijuana smoke on
individuals. More than 6000 chemical constituents have been identified in
tobacco smoke. These can be dependent on the wrapping paper, which can alter
the burning characteristics, which, in turn, can alter the chemical components
of the smoke.

Although significant links between long-term cannabis use and chronic
obstructive lung disease are yet to be established, Zimmer and Morgan (1997
cited in Iversen, 2000:200) argue that marijuana smoking has only recently
become increasingly widespread. Insufficient numbers of people have therefore
had long-term exposure to marijuana smoking for a clear link between
marijuana and lung disease and cancer to be established. Iversen (2000:200)
argues that links between marijuana smoking and lung diseases should be
considered given the relatively long period of time that elapsed before links were
made between tobacco smoking and lung cancer.7

In 1987 Professor Tashkin from the Department of Medicine at the University of
California conducted a study that examined the effects of marijuana and tobacco
on the lungs of consumers. Tashkin (1987) compared 144 marijuana-only
smokers with 135 people who smoked both tobacco and marijuana. He also
studied 70 tobacco-only smokers and 97 non-smokers. Tashkin (1987) found
that 20 per cent of both tobacco and marijuana smokers who consumed three to
four joints and more than 20 cigarettes a day developed symptoms of chronic
bronchitis. Those who smoked both tobacco and marijuana did not present any

7 Tobacco smoking became commonplace among men early in the 19th century and it was not
until the 1950s that a link was made between tobacco smoking and cancer of the lungs, mouth,
throat, larynx and pancreas. It took a good forty to fifty years for these diseases to be linked to
long-term tobacco smoking and it is perhaps a matter of time before such links are made to

In a follow-up study conducted in 1997, Tashkin found that over a ten-year period, tobacco smokers’ lung function had worsened, making them more likely to develop chronic obstructive lung disease (Tashkin 1997 cited in Tashkin, 1999:323; Tashkin 1997 cited in Iversen, 2000:195; Tashkin 1997 cited in Hall et al., 1999:102). There were no such changes observed in marijuana smokers. Tashkin therefore suggested that they are less likely to develop such lung problems than tobacco smokers (Tashkin 1997 cited in Tashkin, 1999:323; Tashkin 1997 cited in Iversen, 2000:195; Tashkin 1997 cited in Hall et al., 1999:102).

Wu et al. (1988 cited in Hall & Pacula, 2003:63) conducted a study that compared the toxicity of cannabis smoke to that of tobacco smoke. The study found that because cannabis smokers inhale more deeply than tobacco smokers, cannabis smokers are likely to inhale 40 to 54 per cent more smoke than tobacco smokers (Wu et al. 1988 cited in Hall & Pacula, 2003:63). Their study further compared the level of tar and carbon monoxide absorbed by regular tobacco and marijuana users. When comparing a single filtered tobacco cigarette with a marijuana cigarette, marijuana smoke resulted in four to five times the amount of carbon monoxide and tar absorbed (Wu et al. 1988 cited in Iversen, 2000:193).

The toxicity of cannabis smoke as opposed to tobacco smoke is supported by Hall et al. (1999:101), Iversen’s (2000:193) and Goldberg (2009:248) who argue that reports show that carcinogens and other chemicals, such as
benzanthracene, benzpyrene ammonia and hydrogen cyanide, are more prevalent in marijuana smoke than tobacco smoke. This coupled with the way in which some users smoke cannabis is said to potentially enhance the dangers of its use. Cannabis smokers generally inhale more deeply than tobacco smokers, therefore increasing the absorption of tetrahydrocannabinol (THC) and carbon monoxide in the lungs (Upfall, 2002:104). It has not yet been proven that cannabis causes lung cancer, however studies according to Goldberg (2009:248) have shown damage to the wall lining of the airways in humans. It has been reported that cannabis smokers exhibit pathological changes in their lungs, 20 years before tobacco smokers (Goldberg, 2009:248).

Given the health effects that can be attributed to both tobacco and cannabis and others that can be attributed to one but not the other (Hall & Pacula, 2003:136), there appears to be little logic in prohibiting a drug that has been legal for decades and legalising a drug that has been illegal for decades. According to Hall and Pacula (2003:135), chronic tobacco and cannabis smoking can cause the same respiratory diseases and cancer of the aerodigestive tract. Although there have been chronic health problems associated with tobacco smoking, such as cancer of the cervix, stomach and bladder, these have yet to be attributed to cannabis smoking. Psychological diseases such as schizophrenia have been associated with cannabis but not with tobacco (Hall & Pacula, 2003:136–137). This is particularly significant given the accelerating social acceptance of cannabis use and the subsequent increase in the demonisation of tobacco use.

With pressure mounting on the government to outlaw the use of tobacco and legalise the use of cannabis particularly for medical purposes, research on the health effects of cannabis use does little to support the argument for cannabis
legalisation. The anti-tobacco campaign, particularly in Victoria, has focused on banning tobacco smoking in restaurants, enclosed workplaces and pubs, with significant success (Victorian Department of Human Services, 2007:1). In 2010 smoking in cars where children are present was banned and a move to ban tobacco smoking in private residences is under debate (Department of Health, 2010).

### 2.4.3 Medical Use of Cannabis

The issue of cannabis dependency and its long-term effects on the human body is particularly significant as the debate about cannabis legalisation often involves discussions on legalisation for medical purposes. It has been argued (Rosenthal & Kubby, 1996; Hartel, 1999:464; DuPont, 2000; Iversen, 2000) that cannabis has many benefits for patients diagnosed with illnesses such as AIDS and cancer and arguments for its legalisation often rely on society's sympathy and compassion for sufferers of these diseases to further their cause. The underlying deficiency in these arguments, however, is that the therapeutic and non-medical use of cannabis should be explored separately.

Cannabis is said to be beneficial in treating symptoms associated with AIDS and the adverse effects associated with chemotherapy used to treat cancer patients. Cannabis can reduce the wasting process\(^8\) in AIDS patients by stimulating the appetite, reducing nausea and anxiety. Cannabis is also said to be beneficial in treating nausea and vomiting in cancer patients who have received chemotherapy (Rosenthal & Kubby, 1996:57; Hartel, 1999:464; DuPont, 2000:174; Iversen, 2000:131; Haney et al. 2007:1). Many of the symptoms

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\(^8\) The wasting process is a “progressive anorexia and weight loss experienced by those diagnosed with AIDS” (Hartel, 1999:465).
associated with AIDS and cancer, however, can be controlled or alleviated by synthetic cannabinoids\(^9\) such as Dronabinol (Iversen, 2000:138-139; Hall & Pacula, 2003:148). Dronabinol comes in tablet form and gives relief after thirty minutes to 1 hour of ingestion. Due to the fact that only 10 to 20 per cent of THC reaches the system there is little possibility of addiction occurring (Iversen, 2000:139; Haney et al., 2007:1).

Nabilone is another synthetic version of cannabinoids used to relieve the symptoms of nausea and vomiting and has been proven to be effective in 50 to 70 percent of cases (Iversen, 2000:142). Pro-cannabis lobbyists argue that Nabilone and Dronabinol can cause drowsiness, lightheadedness and dizziness, which make them unacceptable alternatives to smoked cannabis (Iversen, 2000:142). Peron (1994 cited in Rosenthal & Kubby, 1996:57) and Haney et al. (2007:1) argue that the limitations of drugs such as Dronabinol and Nabilone are that they can only be administered via a capsule, which the patient needs to keep down long enough for the medication to work. This is particularly difficult in patients who are experiencing vomiting due to chemotherapy (Peron 1994 cited in Rosenthal & Kubby, 1996:57).

Rosenthal and Kubby (1996:58) argue that Dronabinol and Nabilone are addictive and cause people to live a life of being constantly medicated. Iversen (2000:139) does not support this view as he suggests that there is little active drug left in the body after total absorption. Furthermore, given the properties of cannabis it is unlikely that patients will not experience the same effects from the

\(^9\) Synthetic cannabinoids are artificially produced cannabis products through combining chemical or biochemical elements (Merriam-Webster, 2005:813). Synthetic cannabinoids are produced by an artificial rather than a natural process or material (Harris, Nagy & Vardaxis, 2006:1809).
smoked material. It could be reasonably argued, however, that these side effects are no worse than the effects experienced by those who smoke cannabis. For example, Iversen (2000:142) and Haney et al. (2007:1) argue that patients who have taken Nabilone or Dronabinol found the psychotropic effects, cloudiness and confusion induced by the drugs unpleasant and disturbing, and ceased use of the drugs. It could be argued that patients would perhaps experience the same effects after smoking cannabis, particularly in those who have never used cannabis before (Hartel, 1999:462).

Wang, Collet and Shapiro’s (2008 cited in Degenhardt & Hall 2008:1685) review into the adverse effects of medical cannabis use supports this notion. In their review of 23 randomized controlled cannabinoid trials, none of which included smoked cannabis, the most reported adverse side effect was dizziness. This shows that synthetic cannabinoids are safe for the short-term symptomatic relief of nausea and vomiting in cancer and HIV/AIDS patients without the serious adverse side effects that may occur with smoked cannabis. (Degenhardt & Hall, 2008:1685).

According to Hall et al. (1999:100) and Klein (1999:361), cannabis in its plant form has the potential to have adverse effects on patients, particularly if their immune system is already deficient. Marijuana plant material can often contain micro-organisms that can cause bacterial infection (Klein, 1999:361). This is particularly significant as legalisation proponents (Rosenthal & Kubby, 1996) argue that cannabis is beneficial for HIV/AIDS patients. HIV/AIDS patients suffer from a deficient immune system therefore patients who use cannabis are more susceptible to infectious diseases, particularly pneumonia (Hartel, 1999:480).
Rosenthal and Kubby (1996:56) and Hartel (1999:463) believe smoked marijuana provides more relief than prescribed drugs because it is faster acting. Hartel (1999:463) further argues that the smoke from the plant material itself irritates the respiratory system. Smoked cannabis contains tars, carbon monoxide, hydrogen cyanide and nitrosamines, the contents of which are enough perhaps to keep a non-smoker from attempting use (Hartel, 1999:464). There may be little benefit in prescribing cannabis (in smoked form) to cancer patients, as the compounds are also said to cause cancer. Furthermore, given that marijuana depresses the immune system, there also appears to be little benefit in prescribing (smoked) marijuana to patients diagnosed with AIDS. Their damaged immune systems leave them open to contracting and developing other diseases of an equally serious nature. Based on the effects that smoked marijuana can have on the respiratory system, AIDS patients who are prescribed marijuana for wasting syndrome could be open to developing cancer (Hartel, 1999:480). Having said this however, the possible effects of cannabis could have little consequence for patients who are suffering diseases that are life threatening (Iversen, 2000:204).

In their argument against the use of synthetic cannabinoids for medical use Rosenthal and Kubby (1996) failed to identify the strict vigorous tests that drugs must undergo before they can be marketed as medicine. The very fact that drugs such as Dronabinol and Nabilone are available on the market indicates that they have passed these tests and have been proven to be beneficial in the treatment of various illnesses. These tests provide vital information to doctors when prescribing these medicines to their patients (DuPont, 2000:176; Grinspoon & Bakalar, 2000:168; Iversen, 2000:135). When doctors prescribe
for individual patients, they must take into account not only any safety issues tests have identified, but also the drug’s perceived efficiency in dealing with the symptoms presented and the patient’s medical history (Grinspoon & Bakalar, 2000:168). Doctors perform this kind of analysis daily, so it is reasonable to believe that, based on their training, doctors would be able to determine the appropriateness of prescribing a drug such as cannabis and or its synthetic form (Grinspoon & Bakalar, 2000:168). Despite this however, Grinspoon and Bakalar (2000:172) and Degenhardt and Hall (2008:1685) argue that a lack of information on the risks of medical cannabis use and cannabis effects in general has left many doctors uneducated about the drug. It is therefore perhaps unrealistic to impose prescription responsibilities on local general practitioners.

DuPont (2000:175-176) argues that the fight for cannabis to be legalised for medical purposes is merely an attempt to rehabilitate the negative image of marijuana. He therefore suggests that illicit drugs or abused drugs can still be used for medical purposes and meet the same strict standards set for other medicines (DuPont, 2000:176) In addition to meeting strict standards the drug should prove to be significantly beneficial to a level that no other drug (non abused) can offer (DuPont, 2000:176). Despite DuPont (2000) making some valid comments, his arguments are limited by the use of the term ‘non abused’ drugs. Regardless of whether drugs are classed as illicit or licit, all drugs have the potential to be abused or for an individual to become dependent.

As the debate over the legalisation of cannabis for medical purposes raises the possibility of cannabis being readily available and used in the community, it is imperative that the effects of cannabis on cognitive functioning are explored.
2.4.4 Cannabis, Cognitive Functioning and Driving

According to Hall et al. (1999:95); Hall and Pacula (2003:38); Stough, Boorman, Ogden and Papafotiou (2006:7); Lenne, Triggs and Regan (2004:3) and Stough and King (2010:5), cannabis impairs cognitive functioning, with users suffering short-term memory loss, and impaired reaction time and motor co-ordination. Just as alcohol is said to have an impact on an individual’s ability to perform functions such as drive a vehicle, proponents of cannabis criminalisation suggest that the use of cannabis can have the same effect (Hall & Pacula, 2003:39). This is particularly significant as the legalisation debate has focused on the effects of cannabis use on motor vehicle drivers and their ability to operate a vehicle while under the influence of cannabis.

Crancer et al. (1969 cited in Smiley, 1999:175) conducted one of the earliest driver simulator studies where 22mg of THC and a Blood Alcohol Content (BAC) of 0.10% were compared. Each participant in the study was required to undertake a 23 minute simulated drive after ½ an hour, 2½ hours and 4 hours after using either drug. Participants were asked to maintain speed, break and signal at particular intervals throughout each test. Crancer et al. (1969 cited in Smiley, 1999:175) found that those participants who consumed alcohol had increased “acceleration, brake, signal, speedometer and total error rates” (Crancer 1969 cited in Smiley, 1999:175). Participants who consumed cannabis showed an increase speedometer measure only. Interestingly while both cannabis and alcohol showed increased error rates, alcohol affected driver’s performance up to four hours after consuming the drug while cannabis affected performance only during the first simulation run (Smiley, 1999:175).
Smiley et al. (1975 cited in Hall & Pacula, 2003:40) conducted a similar study, which found that time to “react to a signal increased after a combination of cannabis and alcohol” (Smiley 1975 cited in Hall & Pacula, 2003:40). A study conducted by Hansteen et al. (1976 cited in Hall & Pacula, 2003:40) produced similar findings. They found that driving speed decreased while under the influence of cannabis, but did not decrease while under the influence of alcohol.

In 1981 Smiley et al. (1981 cited in Parliament of Victoria, 1996:65 & Smiley, 1999:177) conducted a further study where subjects were given marijuana treatments of 0, 100 and 200mcg/kg. Subjects were tested 15 minutes after smoking the marijuana and were required to complete a 45-minute driver-simulation test. Results showed that the correct number of turnoffs taken decreased and reaction time to emergency decision-making increased significantly with subjects crashing into obstacles (Smiley 1981 cited in Parliament of Victoria, 1996:65; Smiley 1981 cited in Smiley, 1999:177). The results indicated that the use of realistic simulators can prove that cannabis impairs driving ability and supports Smiley’s (1999) argument that early studies into the effects of cannabis on simulated driving showed fewer effects than later studies, as simulators often suffered from unrealistic car dynamics (Smiley, 1999:177).

Hall et al. (1999:105) and Hall and Pacula (2003:41) argue that driver-simulation studies cannot replicate real on-road traffic conditions, due to the ethical issue of placing participants in potentially dangerous situations. The studies that have managed to simulate real on-road situations have found that

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10 Hansteen et al. (1976) found that a BAC of 0.07% and a THC of 5.9mg produced the same impairment on a traffic-free driving course as the study conducted by Crancer et al. (1969) (Hansteen et al. 1976 cited in Hall & Pacula, 2003:40).
cannabis use impairs an individual’s ability to react to emergency situations (Hall & Pacula, 2003:41).

The issue of cannabis use and its influence on driving skills is of particular concern to law enforcement bodies because of the number of individuals reported driving while under the influence. Various studies conducted around Australia (Reilly et al. 1998 cited in Copeland, Gerber, Rowland & Klyde-Kingshot, 2005:17; Lenne et al. 2001 cited in Copeland et al., 2005:17; Armstrong, Wills & Watson 2005:4) found that regular long term users of cannabis drove while intoxicated. One study found that of “331 drivers.....surveyed, almost 26 percent reported drug driving at some time, 8 percent reported drug driving within the last 12 months and 6 percent reported drug driving within the previous four weeks” (Armstrong, Wills & Watson 2005:4). Lenne et al. (2001 cited in Copeland et al., 2005:17) and Armstrong et al. (2005:3) argue that the willingness of people to drive under the influence of drugs, can largely be attributed to the fact that many regular cannabis users are of the common belief that the police are ill-equipped to detect cannabis intoxication and therefore the likelihood of getting caught driving under the influence of drugs is low.

The debate over the legalisation of drugs such as cannabis is particularly important when discussing issues such as driving under the influence of drugs. Although proponents of decriminalisation argue that by making cannabis legally available to users, there would be a decrease in the costs associated with its prohibition, the costs associated with its legalisation have perhaps not been considered. As argued by Hall and Pacula (2003:221), drug driving laws will
become very much like drink driving laws. In fact, in Victoria, a move towards drug driving laws has already occurred.

In 2004 the Victorian government gave the Victoria Police the power to conduct roadside saliva testing for illicit drugs including cannabis (Australian Drug Foundation, 2005:1). Section 49 of the Road Safety Act (VIC) 1986 provides that it is an offence for any person to drive while under the influence of a drug that may impair an individual’s ability to properly control a motor vehicle.

Under the drug driving scheme, if a police officer suspects an individual of being impaired by drug use, the individual, under section 55D of the Act must submit to an oral fluid test at the request of the investigating officer (Road Safety Act 1986, section 55D). Similar to drink driving roadside tests, a positive result can lead to a driver receiving a fine and or loss of licence (Road Safety Act 1986, section 49 (3AAA)), although this is dependent on whether or not the driver has previous drug or drink driving convictions (Australian Drug Foundation, 2005:2). For a first offence, drivers are liable to a fine of not more than 6 penalty units and loss of licence for up to 3 months (Road Safety Act 1986, sections 49 (3AAA)(a), 50 (1E)(a)). Should an individual acquire a subsequent drug driving offence then the driver may receive a fine of up to 12 penalty units and or loss of licence for up to 6 months (Road Safety Act 1986, Section 49 (3AAA)(b) & Section 50 (1E)(b)).

In their research of literature on cannabis prevention issues, Copeland et al. (2005) found that a consultation of ten drug treatment and prevention practitioners, resulted in an agreement that driving whilst intoxicated with cannabis should be discouraged. They further found that the practitioners were
sceptical of roadside testing procedures believing that they were unfair as they detected the presence or recent use of THC in the system rather than the level of active THC (Copeland et al., 2005:18). One practitioner went so far as to express views that the roadside saliva test was designed to detect persons who have used drugs rather than apprehend those who were driving while impaired (Copeland et al., 2005:18). This is a rather interesting view as both governments and law enforcement bodies argue that the intention behind drug-testing strategies is to reduce the harm associated with cannabis. It could be further argued that the lack of a prescribed THC level shifts the legality of cannabis use from one section of the law to another. The lack of a prescribed THC level in roadside testing is significant given the results of simulated driving studies. While all studies discussed showed cannabis to impair driving ability, impairment occurred with the administration of different doses of cannabis and over different periods of time. This shows that similar to alcohol people can be affected at different rates and for different periods of time.

CCPs such as those discussed in Chapter One are said to be designed in order to remove the stigma associated with a criminal conviction (Victoria Police Standing Orders, 1959, 311 (1); Hunter, 2001:2; Working Party on Drug Law Reform, 2002:5). However, with the introduction of drug testing stations, drug-related crime has also moved into the realm of motor vehicle offences. Those found driving a vehicle under the influence of cannabis are likely to be prosecuted and or lose their licence (Road Safety Act 1986, section 49 (3AAA)). Cannabis consumption remains illegal despite cautioning strategies, but drug driving procedures perhaps do not take into consideration the social constraints associated with cannabis use. Similar to alcohol and alcoholism, cannabis can also create a dependency for the user. Despite this however, the law finds it
appropriate to prescribe a legal limit for alcohol but not for cannabis when driving despite both drugs having similar effects on cognitive functioning (*Road Safety Act 1986*, sections 3, 49 (1)(b), 50; Smiley 1999:175; Johns, 2004:54; Fitzpatrick, Daly, Leavy & Cusack, 2006:404 & 407). It could be argued that both drugs impose inherent dangers to the user and to the community, despite their different legal status. Nevertheless, law and policy makers continue to discriminate against cannabis and other illicit drug users by apprehending and charging users regardless of toxicity levels present in the body (*Road Safety Act 1986*, section 3; Fitzpatrick et al., 2006:407). It could be further argued that law enforcement agencies have not fully accepted the issues surrounding illicit drug use and dependency. The fact that law enforcement agencies treat drug users as individuals with a genuine health issue in one instance (through the CCP) and then treat them as offenders in another raises questions about cannabis cautioning and harm minimisation strategies.

### 2.5 Decriminalisation/Legalisation

According to Roche and Evans (2000:154), ‘decriminalisation’ and ‘legalisation’ are terms that have been used interchangeably, often causing confusion and establishing a grey area within the drug debate. Both terms have been used to describe systems ranging from the complete removal of drug offences in legislation to reducing penalties associated with drug offences. Drug programs implemented by Australian law enforcement agencies that issue either cautions or fines for minor cannabis use and possession have often been referred to as models of decriminalisation (Healey 2002:41). Healey (2002:41) suggests that the term decriminalisation is perhaps inaccurate for such programs, as cannabis remains illegal. As suggested by Durrant and Thakker (2003:242) it is perhaps
more accurate to refer to these programs as strategies of ‘depenalisation’ rather than decriminalisation. The use of the term decriminalisation is potentially problematic as it implies that the use and possession of small quantities of cannabis is now legislatively legal. To the layperson or someone outside the criminal justice field, the term decriminalisation would mean to cease to treat the activity of cannabis use as a crime or illegal.

Decriminalisation is one of the most supported avenues available for drug reform. Hall and Pacula (2003:220) suggest that schemes that divert first-time cannabis offenders to treatment services or impose a fine for possession of small quantities, is perhaps one way in which we can decriminalise cannabis. According to Rickard (2001-2002:8), Australian drug policies generally fit one of two frameworks—prohibitionism criminal penalties or prohibitionism civil penalties. Prohibitionism criminal penalties models considers “cannabis related activities as criminal activities, and in line with their criminality they can attract serious penalties such as fines or incarceration” (Rickard, 2001-2002:8). Prohibitionism civil penalty models allow for the possession and personal use of small quantities of drugs to be “dealt with by penalties such as fines, rather than criminal sanctions including imprisonment. Criminal sanctions still apply for possession, manufacture and trafficking of large quantities of drugs” (Premier’s Drug Advisory Council, 1996:105).

It should be noted that the Victoria Police CCP is an approach that relies on prohibitionism with criminal penalties (Rickard, 2001-2002:8), a scheme that legislatively prohibits cannabis-related activities (Rickard, 2001-2002:41). Programs such as the CCP in Victoria enable offenders found in possession of small quantities of cannabis (50 grams or less) to receive a caution (Victoria
Police, 2000a:A38). This is not a legislative-based option, rather a policy that has been considered and implemented by Victoria Police. The CCP cannot therefore be referred to as a system of decriminalisation, as stated by Mahony (2000:60). Cannabis use not only in Victoria, but also across the nation remains illegal, regardless of programs implemented in each state.

The programs implemented by law enforcement agencies in Australia have not decriminalised the possession and use of small quantities of cannabis. In Victoria, sections 73 and 75 of the *Drug, Poisons and Controlled Substances Act 1981 (DPCS Act 1981)* deem the possession and use of cannabis as an illegal act. Roche and Evans (2000:154) consider that the term decriminalisation describes changes to the legal status of a prohibited substance, however they, unlike Mahony (2000), suggest that cautioning and expiation schemes, such as those implemented in Victoria and South Australia, deal in ‘partial decriminalisation’ of cannabis. They argue that law enforcement agencies in these states treat possession of less than a certain amount of the plant as a non-criminal offence (Roche & Evans, 2000:154). Despite this however, the notion that Victoria Police in particular have ceased to refer to the possession of small quantities of cannabis as a criminal offence is perhaps unrealistic. Through careful examination of the *DPCS Act 1981*, it can be seen that cannabis possession, despite the introduction of the CCP, remains a criminal offence.

**2.5.1 Cannabis Use and Possession Remains Illegal**

Section 76 of the *DPCS Act 1981* in part pertains to adjourned bonds being given to persons charged with the possession and use of non-trafficable amounts of cannabis (50 grams or less). Section 76 specifically states that where:
the court is satisfied beyond reasonable doubt that a person is guilty of the offence with which they are charged, the court without proceeding to conviction ... adjourn the further hearing to a time and place to be fixed (such time being not more than 12 months thereafter) and allow the person to go at large upon them giving an undertaking under section 75 (1) of the Sentencing Act 1991, unless the court considers it appropriate to proceed to a conviction.

(DPCS Act 1981, section 76 (b)(c))

Simply, where an individual has not previously been convicted of being in possession or using non trafficable amounts of cannabis, they can, at the court’s discretion, given an undertaking, where for 12 months they must promise the court that they will not be involved in any illegal activity. If an individual is arrested while on a court undertaking, they can have their undertaking cancelled and any sanctions, noted when the undertaking was implemented, imposed.

At the time of approving an undertaking, the magistrate may impose certain conditions, which will be enforced should the undertaking be broken. If the court is satisfied that the individual has “observed the conditions of the undertaking, the court must dismiss the charge without any further hearing of the proceeding” (Sentencing Act 1991, section 75 (6)). Although the drug charges are dismissed by the court at the successful completion of the undertaking, it is perhaps pertinent to note that the charge, the undertaking and the dismissal are all recorded on the individual’s criminal record maintained by Victoria Police (Z Hasiotis [Victoria Police] 2008, pers. comm., 25 March).
Through examining the relevant sections of the *DPCS Act 1981*, it can be seen that in Victoria in particular, the possession and use of small quantities (50 grams or less) of cannabis has not been decriminalised. Dismissal of use and possession charges can only be issued by a magistrate once the court is satisfied that the individual has observed the conditions of the undertaking. For this to occur an individual must first be charged with the offence and the case listed for hearing at court. The very notion that a person must be charged with the use and possession alone indicates its illegal status. An individual can therefore be charged and prosecuted only if the activities undertaken are considered illegal, by way of legislation. The implementation of the Victoria Police CCP does not therefore cease to make use and possession of cannabis illegal. It is a system which potentially removes the element of a court appearance and possible conviction, however if a police officer believes an offender should still be prosecuted, the *DPCS Act 1981* provides for this to occur. According to Comrie (1999:52) it is a strategy that reduces the harm associated by the drugs used and a system by which users can be given ‘a second chance’.

Drug policy in the Netherlands has often been referred to as the first system of decriminalisation. Despite the distinction between hard and soft drugs encased in Dutch drug laws (Rickard, 2001-2002:38; Hall & Pacula, 2003:195), the possession, sale, cultivation and use of cannabis remains illegal according to legislation (Goode, 1997:79). In practice, however, the sale and use of 30 grams or less of cannabis is not prosecuted (Goode, 1997:79; Hall & Pacula, 2003:195). The Dutch government’s drug policy makes a distinction between hard and soft drugs to cause a separation in the drug markets and divert soft drug users away from dealers of harder drugs (Rickard, 2001-2002:38). For example, by not prosecuting users and sellers of cannabis, the Dutch government has allowed for
the supply of cannabis through ‘licensed’ and regulated coffee shops (Rickards, 2001-2002:38). Although the police ignore the sale of cannabis in coffee shops, advertising the sale of any cannabis-related product is prohibited and cannabis cannot be sold to minors. The presence of a minor in any cannabis coffee shop will result in the shop being shut down (Goode, 1997:80). King (1998) argues that by turning a blind eye to the sale of cannabis in coffee shops, the problems associated with the use of cannabis are brought into “public view so that they can be addressed by the health and welfare system” (King, 1998:157). This argument suggests that cannabis use is no longer viewed as a criminal issue, however despite the Dutch tolerance towards cannabis use King (1998:157) further argues that tolerance has had adverse consequences. The Netherlands’ geographical location, combined with its liberal approach towards cannabis, has encouraged individuals from neighbouring countries to commute to the Netherlands to purchase drugs that are illegal in their own country. This creating a ‘honey-pot effect’ (King, 1998:157). Such consequences have caused the Dutch government to reduce the quantity of cannabis that can be sold in coffee shops (King, 1998:157).

Despite the restriction on the amount of cannabis that can be purchased, 1.5 million tourists visit the Netherlands each year for the specific purpose of purchasing cannabis for use (Jolly, 2012; Rawlinson, 2012). This according to the Dutch government has had a roll on effect whereby cities are being choked by the sheer volume of cars entering cities, causing traffic jams and parking shortages (Jolly, 2012; Holligan, 2012). Parking shortages are particularly significant given that many cannabis buyers cannot find parking in order to visit a “coffee shop” therefore “clandestine dealers have begun offering foreign drivers the option of buying their cannabis without ever leaving their cars”
(Jolly, 2012; Holligan, 2012). This practice is forcing drugs back onto the streets instead of restricting it to a regulated environment (Jolly, 2012). As a result of these unintended consequences of the current cannabis policy, the Dutch government proposed to restrict the sale of cannabis to Dutch residents only, by 1 January 2013 (Jolly, 2012; Sharma, 2012). Known as the Cannabis Card Law, legislative changes would see the sale of cannabis to tourists banned and Dutch residents required to be a member of a “coffee shop” and produce identification in order to purchase cannabis (Sydney Morning Herald, 2012; Holligan, 2012). Designed to curb late night revelry, traffic jams and decrease the number of hard drug dealers on the streets (Sydney Morning Herald, 2012; Holligan, 2012), the reforms were not without their opponents. Coffee Shop owners and the Mayor of Amsterdam opposed the changes arguing that it unfairly discriminated against other European residents, had the potential to lead to more crime and had the potential to effect local businesses as most received as much as 90 per cent of their income from tourists looking to purchase cannabis (Rawlingson, 2012; Hollingan, 2012). As a result of opposition to the proposed laws, the Dutch government has scrapped its proposal making a ruling that it will be up to each individual city to decide whether or not tourists will be permitted to purchase cannabis from “coffee shops” (Sydney Morning Herald, 2012; Sharma, 2012).

According to Hall and Pacula (2003:197), a system of true legalisation is one where licences would be granted for the production and sale of cannabis. A legalised system would work similarly to those of the alcohol and tobacco industries, where companies or small retail businesses apply for government authorisation to sell cannabis as part of a retail business. Authorisation would place restrictions on the age to purchase cannabis and on the THC levels in
retail supplies. Further restrictions would be placed on the quantities that
buyers could purchase at any given time (Hall & Pacula, 2003:197).

A legalised system such as this is not unrealistic or out of reach of the Australian
government. The use, possession, sale and cultivation of cannabis in Victoria is
illegal, but there are provisions within the DPCS Act 1981 that allow for the
cultivation and processing of low THC cannabis. Under section 62, persons can
apply for authorisation to possess, process, sell or supply cannabis seed for
commercial or research purposes relating to low THC cannabis for non-
therapeutic use (DPCS Act 1981, section 62). For an application to be
authorised, a person must, in the case of research, give evidence that the
research would be conducted by a person with scientific qualifications and
training (DPCS Act 1981, section 62). Furthermore, an extensive background
check is conducted to ensure that the applicant and their associates are of good
repute.

There is no reason why a similar system that legalises cannabis cannot be
implemented in Australia. The Australian Excise Act 1901 (Commonwealth)
provides for the production, manufacture and sale of tobacco seed, plant and
leaf in Australia. By obtaining a licence and paying a duty, parties can grow
tobacco leaf, and manufacture and sell tobacco cigarettes (Excise Act
(Commonwealth) 1901, sections 25 & 28). As Hall and Pacula (2003) suggest,
it is not unrealistic for such a system to be adapted for the production and sale
of cannabis. Questions are raised about whether it is a realistic option when
action groups and the government are currently working towards what is
believed to be a prohibition of tobacco smoking. How determined the
government is to prohibit tobacco use however also raises questions. According
to the preamble of the Victorian Tobacco Act 1987, “tobacco use is a widely
accepted practice amongst adults which it is inappropriate to ban completely” 
(Tobacco Act (VIC) 1987, preamble iii). It could be argued that the revenue raised through tobacco growing and consumption is enough to discourage the government from placing a blanket prohibition on the use of tobacco.

The move towards decriminalisation could therefore arguably be a move towards the total legalisation of cannabis, not only because cannabis use has gained increasing social acceptance but also because, potentially, the cannabis industry could act as an extensive revenue-raising scheme for government.

Despite the known inherent dangers of tobacco consumption, its use is still prevalent among the young. The 2010 NDSHS indicates 15.5% of people aged between 12 and 19 years of age smoke tobacco on a daily basis (AHIW, 2011:25). These figures analysed in combination with the 2004 and 2007 survey results show that regardless of age group there has been little change in the proportions of people who smoke on a daily basis. The change in proportion of daily smoking saw an overall decrease across Australia (AHIW, 2011:24). Despite this small decrease in daily use rates however the number of cigarettes smoked per person per week has increased. The 2010 survey indicates that on average the number of cigarettes smoked by 14-19 year olds on a weekly basis has increased from 53.3 to 116.4 since 2007 (AHIW, 2011:35). With this in mind there seems little logic in criminalising or banning tobacco smoking and legalising cannabis when the possibility of cannabis use among adolescents is likely to duplicate that of tobacco. Notwithstanding this, Goldberg (2003:86) makes a legitimate argument when he suggests that it is perhaps unfair of society to coerce an individual into abstaining from behaviours or activities that
they find desirable. While this is an argument in favour of legalisation, it too can lend itself to the argument of prohibition.

Perhaps one of the greatest concerns associated with decriminalisation is the potential for an increase in cannabis sales and the availability of more potent forms (Hall & Pacula, 2003:221). Although it could be argued that decriminalising cannabis would decrease the costs associated with its prohibition, Hall and Pacula (2003:220) believe that revenue and resources allocated to its prohibition would simply be transferred into revenue and resources of a different nature. For example, resources would have to be allocated to educating the community about the psychological and health related effects of cannabis, with particular emphasis on everyday users and adolescents who are more prone to peer group pressure. Furthermore, as suggested by Hall and Pacula (2003:221), strategies comparable to those for drink driving will be required, with increased police resources allocated to help reduce drug driving. This very notion is supported by the recent implementation of roadside drug testing as discussed in section 2.4.4. Although the illegal status of cannabis may be diminished, its health effects are not (Hall & Pacula, 2003:221). Reducing the harms associated with drug use, whether it be legal or illegal, needs to be explored.

2.6. Harm Minimisation

Despite the ever-increasing use of the term ‘harm minimisation’, defining it has never been more complicated. For example, Single and Lenton (1998 cited in Roche & Evans, 2000:152) argue that harm minimisation can be defined in three ways:
Narrow definitions, which emphasised the acceptance of continued drug use;

Broad definitions, which also allowed for inclusion of abstinence orientations; and

Hard empirical definitions, which required evidence of success of the strategies.

Single and Lenton (1998 cited in Roche & Evans, 2000:152) consider that both narrow definitions and broad definitions are problematic as they potentially exclude harm minimisation programs that incorporate non-use as a component, while also having the potential to incorporate too much, thereby not excluding anything. Hard empirical definitions, however, require strict statistical evidence of a scheme’s success (Single & Lenton 1998 cited in Roche & Evans, 2000:152). Regardless of the way harm minimisation is defined, one commonality, according to Roche and Evans (2000:153), is that harm minimisation focuses on reducing the harm associated with illicit drug use and not reducing the use of illicit drugs themselves.

According to Rumbold and Hamilton (1998), the objectives of harm minimisation are:

- identification of the harmful consequences for individuals, those around them, the community overall and
- the implementation of strategies to minimise this harm.


Rumbold and Hamilton (1998:135) argue that the move towards harm
minimisation stems from the failure of prohibition and legalisation strategies to effectively curb the supply and demand for drugs. They argue that there are three approaches to drug harm minimisation, these being “the host (the person who uses the drug and his or her desire or demand for the drug), the agent (the drug itself and its availability) and the environment in which drugs are used” (Rumbold & Hamilton, 1998:136–137).

The host approach assumes that individuals lack knowledge about the adverse consequences of drug use and therefore providing them with information about the harms will result in a reduction of use (Dietze, 1998:189). It is assumed that by providing information, individuals will make responsible decisions regarding their use. Whether or not this approach actually has had any impact on use levels is still to be established as according to the prevalence rates discussed in section 2.2 cannabis use remains significant across all age groups regardless of harm minimisation strategies implemented in recent years (e.g. CCP) (Dietze, 1998:189).

The environmental approach according to Dietze (1998:194) can focus on two areas, the first on providing alternatives to drug use in one’s own environment, the second on initiatives in the local community. Providing drug users with an alternative to drug use assumes that individuals take up drug use in order to fulfil a need in their lives, such as escaping from boredom or poor living conditions. Alternatives must fill the needs of the drug user, diverting them away from drug use and towards more meaningful activities (Dietze, 1998:194). Having said this however, it is believed that programs intended to divert users away from drugs need to reflect a similar experience to that of drug use. That is, as drug use is considered a high risk activity, any alternative must meet this
Kutin (1998:161) argues that law enforcement agencies focus on supply reduction and that they are effective only in limiting the trafficking and manufacture of illicit substances. Kutin’s (1998) argument that reducing supply alone has not been effective in reducing substance abuse is legitimate, but to suggest that law enforcement agencies only play a role in major drug offences is perhaps unrealistic (Kutin 1998:161). The Victoria Police CCP illustrates law enforcement’s ability to deal with the health issues associated with drug use. The Victoria Police CCP (1998) incorporates an element where individuals arrested for small quantities of cannabis (50 grams or less) can be referred to a health service/counselling services as a means of promoting rehabilitation (Victoria Police, 2000a:A38). Attendance at a health service is voluntary and there is nothing to compel an individual to attend. In contrast to the CCP, the Victoria Police Drug Diversion Scheme (DDS) incorporates an element where individuals found in possession of illicit drugs (other than cannabis) can be compelled to attend rehabilitation/treatment services (CDHA, 2002a:9). Further, the DDS stipulates that offenders must have no other drug convictions, they must admit the offence and agree to attend drug assessment and treatment. Once an individual agrees to treatment and admits the offence they are eligible for a caution instead of prosecution, again only if no other drug convictions exist (CDHA, 2002a:9; Victoria Police, 2002:8).

Mahony (2000:60) argues that the implementation of CCPs depicts the willingness of law enforcement agencies to decriminalise minor drug possession offences. Former Victoria Police Chief Commissioner Neil Comrie (1999:49) disagrees with this argument stating that drug law enforcement in Victoria, as
well as Australia wide, is focused on harm minimisation not decriminalisation. While Victoria Police conducts itself within the parameters of harm minimisation, Comrie (1999:49) stresses that harm minimisation is not about drug legalisation. According to Comrie (1999:49), legalisation or decriminalisation are not frameworks that were considered realistic approaches for Victoria Police to implement. Like many law enforcement agencies, Victoria Police considers drug use as a victimless crime, however still recognises the need for enforcement action to ensure the welfare and health of the community (Comrie, 1999:51). Comrie (1999:52) further argues that harm minimisation approaches enable law enforcement agencies to focus resources on the ‘real’ criminals such as manufacturers, distributors and growers, rather than young drug offenders who are more likely to be in the experimental stage of drug use. Harm minimisation approaches do not decriminalise drugs but rather allow for a system where minor drug offenders can be diverted away from the criminal justice system and towards health services (Comrie, 1999:52).

Harm minimisation has played an important role in Australian drug policy over the years, but there are fears that this approach communicates the wrong message to society (MacCoun, 2000:123). MacCoun (2000:125) believes that through the introduction of drug diversion strategies, it may be inferred that government and society as a whole do not expect users to quit using drugs. He argues that if the harm minimisation approach communicates any kind of message at all, it is that we as a community view drugs as harmful and we discourage their use, however should an individual choose to use them we will help them use drugs less harmfully (MacCoun, 2000:125).

Mahony (2000:81) and Rohl (2000:129) argue that harm minimisation is
entrenched in law enforcement because law enforcement has been concerned with reducing the harm associated with activities and behaviours that have an adverse effect on the peace and lives of individuals and society as a whole. Mahony (2000:81) argues that regardless of the problems and issues law enforcement agencies face, harm minimisation in recent times has essentially been considered the key to problem solving. Law enforcement agencies have adopted a number of strategies in order to achieve harm minimisation (Mahony, 2000:81). One such strategy is the introduction of diversion, which diverts young or first-time offenders away from the criminal justice system and towards rehabilitation, counselling and health services (Mahoney, 2000:81; Rohl, 2000:129). As a result, law enforcement strategies have been focused on the prosecution of dealers and traffickers rather than of users. Drug diversion strategies implemented throughout Australia will be discussed in detail in section 2.7.

In contrast DuPont and Voth (2000) argue that harm minimisation is nothing more than a “creative renaming for the dismantling of legal restrictions against drug use and sale” (DuPont & Voth, 2000:138). According to Dietze (1998:188) and DuPont and Voth (2000:139), harm minimisation policies focus strictly on reducing the effects of illicit drug use without reducing the use of drugs itself. Furthermore, DuPont and Voth (2000:139) believe that harm minimisation works on the assumption that the majority of harm caused by illicit drugs is caused by society’s efforts to control drug use rather than the result of the drug use. They draw on the decriminalisation model implemented in the Netherlands, to support their notion that harm minimisation is not a desirable goal towards drug control (DuPont & Voth, 2000:139). Since the introduction of the decriminalisation model there has been an increase in crime and drug use.
with the number of marijuana addicts increasing by 30 percent (DuPont & Voth, 2000:139).

Given the health and social consequences associated with illicit drug use, it stands to reason that for almost two decades ‘harm minimisation’ has been the underlying focus of Australian drug policies (Roche & Evans, 2000:152). There are varying views on the role of harm minimisation and the effect it has on drug use. As discussed, harm minimisation can be viewed as a system that reduces the effects of drugs rather than reducing the use of drugs.

2.6.1 Zero Tolerance

With harm minimisation failing to reduce both the use and effect of drugs, supporters of criminalisation believe that there should be a zero tolerance approach towards drug use. Some perceive that drug use and possession should not be tolerated at all.

Zero Tolerance is based on the theory that an individual who is intending, or at least willing, to commit a substantive or major crime is unlikely to baulk at committing trivial or preparatory crimes, and that dealing with each and every person committing minor or preparatory crimes is likely to reduce substantive or major crimes. (Edwards, 1999:55).
Zero tolerance, also known as “aggressive policing, is a strategy where police target minor crime in order to send a signal that such behaviour will not be tolerated in the community” (Roberg et al., 2005:123).

Zero tolerance policing is a means by which police can target particular offences in an effort to eradicate the behaviour or significantly diminish its associated harms (Grant & Terry, 2005:217). Although it is acknowledged that discretion is an essential tool in law enforcement, there are instances where ‘non-discretionary’ (Grant & Terry, 2005:217) policing is employed. The term ‘non-discretionary’ is often used when referring to zero tolerance policies as the discretionary powers entrusted in police are removed and police are therefore required to arrest all offenders involved in the targeted offences (Grant & Terry, 2005:217).

Broken windows theory, introduced by Wilson and Kelling (1982 cited in Roberg et al., 2005:122), explores the notion that an aggressive line of policing minor criminal offences can assist in reducing the likelihood of more serious offences occurring. They argue that “when signs of disorder are ignored, incidents of violence and delinquency will erupt and become serious crime problems” (Wilson and Kelling cited in Roberg et al., 2005:122). In contrast, Harcourt (2001 cited in Roberg et al., 2005:123) believes that broken windows theory is yet to be empirically verified. He argues that many cities that have not implemented zero tolerance policies have experienced considerable declines in crime (Harcourt 2001 cited in Roberg et al., 2005:123).

Although effective in its objectives, it could be argued that zero tolerance does not work for drug offenders, particularly illicit drug users. As discussed,
dependency drives users to continue to commit drug-related offences such as use, possession and, in some cases cultivation, therefore rendering zero tolerance ineffective (Fox & Mathews, 1992:13; Goode, 1997:37; Durrant & Thakker, 2003:180–181). Furthermore, other so-called minor offences, such as shoplifting, are also committed by drug offenders in order to survive or fund their habit. It is not uncommon for drug users to steal foodstuffs in order to obtain sustenance and to steal any item that they believe they can sell easily for money towards their ‘next fix’ (Porter, 2001:8). According to Roberg et al. (2005:123), it is due to such dependencies that no amount of ‘aggressive policing’ will deter drug users from using or committing property offences in order to support their habits. Physical and psychological dependency causes or drives users to offend rather than a need or wish to be deviant.

Furthermore, zero tolerance does not allow for the identification of individual community needs. Strategies such as local priority policing (LPP) (as recently implemented by Victoria Police) aim to identify individual law enforcement needs within individual communities. Community concerns can be addressed through LPP, however zero tolerance applies the law equally in all environments regardless of the needs identified by the community (Roberg et al., 2005:124). For example, where a community may be plagued by drug-related crime, another may have relatively few drug-related crime issues and a zero tolerance approach would be of no benefit.

It could be argued that zero tolerance sends a powerful message to the community that certain behaviour is not tolerated and therefore deters the community from committing particular offences. However, recent events reported in the Australian media raise questions about how successful zero
tolerance is in deterring offenders. An example of this is the 2005 hanging of Australian Van Nguyen in Singapore for attempting to smuggle almost 400 grams of heroin into Singapore (ABC News Online, 2005; Hogan, Cooke & Butcher, 2005). Currently the penalty for drug smuggling in Singapore is a mandatory death penalty, yet such penalties failed to deter Nguyen (NSW Council for Civil Liberties, 2008). Another example, prominent in the media, is the case of the Bali nine, who were arrested by Bali officials for attempting to smuggle 8 kilograms of heroin worth $4 million out of Bali into Australia (ABC Behind the News, 2006). In this case there are claims of duress, which perhaps could reasonably explain the actions of some of the alleged offenders, but it is evident that the threat of the death penalty was not enough to deter the nine.

The zero tolerance approach is strongly rejected by former Victoria Police Commissioner Neil Comrie (1999:50). Comrie acknowledges there are instances where vigorous targeting of offences is required as the only response to particular offences, but zero tolerance is not a strategy that complements Victoria Police practices (Comrie, 1999:50). Like other law enforcement agencies within Australia, Comrie argues that the only appropriate means of dealing with problem areas of law enforcement is “problem solving through partnerships with the community and relevant organisations” (Comrie, 1999:50). Comrie’s belief in the legitimate use of police discretion and the ability for police to build strong meaningful partnerships with the community saw the introduction of harm reduction and diversion strategies (Comrie, 1999:50) and led to implementation of the Victoria Police CCP and DDP.
2.7 Drug Diversion in Australia

Drug diversion in simple terms means “diversion of drug users away from the criminal justice system into drug treatment” (CDHA, 2002a:1). Diversion may utilise all aspects of drug treatment from intervention, such as rehabilitation programs to education programs (CDHA, 2002a:1). Drug diversion primarily is based on early intervention aimed at breaking the drug-taking cycle by introducing education and treatment to the user (CDHA, 2002a:1).

As discussed briefly in Chapter One, diversion has been a part of the Australian criminal justice system for many years. In Victoria, in particular, diversion schemes, other than those relating to drug offences, have existed since 1959 (Victoria Police, 2000a:12). Diversion can come in the form of informal and formal cautioning both of which can be very beneficial to the offender. Informal cautioning allows for offenders to maintain a strict absence from the criminal justice system, with police officers, depending on the circumstances, dealing with offenders out on the street at the time of the offence rather than issuing a caution at the station (Dingwall & Harding, 1998:103, Victoria Police, 2000a:12). Formal cautioning allows offenders to maintain a certain distance from the criminal justice system, but it also requires a certain amount of involvement on behalf of the offender (Dingwall & Harding, 1998:103). Through formal cautioning, offenders can, depending on the jurisdiction, be issued with a formal caution notice that will be recorded against their name and will be taken into account should the offender reoffend. Offenders, again depending on the jurisdiction in which they are dealt with, can be issued with a caution on the street or by a more senior officer at the station (Dingwall &
Harding, 1998:104). CCPs\textsuperscript{11} across the nation use formal cautioning procedures as a means of processing offenders.

Although the scope of this study is primarily focused on the Victoria Police CCP and police perceptions in relation to its implementation, the researcher finds it necessary to discuss the diversionary strategies implemented by the other state police forces of Australia. Such discussion and exploration is considered essential in truly understanding the changing attitudes of law enforcement bodies towards drug use. This is discussed in sections 2.7.1.1, 2.7.1.4 and tables 2.1 and 2.2.

Having said this however, the researcher found it difficult to resource publications that clearly outlined the current processes involved in each diversion program. The publications were vague, contradictory and outdated. Through the research process it became evident that although programs were implemented with the best intentions there was little public awareness of the programs, suggesting that the police forces of Australia have done little to publicise the harm minimisation policies they have implemented. It is unclear why such harm minimisation strategies have had little publicity, but it may be because law enforcement agencies are unwilling to be seen promoting leniency. It appears as though members of the public only become aware of the strategies once they are involved in the process.

\textsuperscript{11}Victoria Police Cannabis Cautioning Program, Tasmania Drug Diversion Initiative, New South Wales Cannabis Cautioning Scheme, Queensland Drug Diversion Assessment Program.
2.7.1 **Australian Approaches Towards Drug Diversion**

As the laws by which we are governed are constantly modified to reflect societal attitudes, it is important to acknowledge their historical origins. Behaviour that might be seen as socially unacceptable in one historical period might be seen as socially acceptable in another (Makkai, 2000:63). Depending on prevailing laws and social norms, individuals who go against these norms can often be labeled as ‘criminal’ or ‘deviant’. The defining of criminality and deviance can often be dependent on cultural differences and can be clearly shown in relation to drug users (Makkai, 2000:63). The social groups with which we as human beings interact can often account for the differences in substance abuse. Social morality and social behaviour are often ‘learnt’ and in many cases can be made accountable for what we ultimately consider to be acceptable or socially normal (Durrant & Thakker, 2003:166 & 172). The cultural groups with which we interact shape our way of thinking and behaviour and can influence the role we play within society (Durrant & Thakker, 2003:167). By exploring these cultural differences, the social acceptability of cannabis use and its subsequent demonisation over time can be demonstrated. Through this, a sound understanding of how our laws and social attitudes towards drugs such as cannabis have come full circle can be obtained.

A brief exploration of the history of cannabis use in Australia and internationally is presented in Appendix One. It sets out the significant impact that drugs such as opium had on Australian society in the early years of settlement and the influencing factors that shaped our drug laws and attitudes towards drug use.
The late 1990s and early 2000s saw the majority of Australian police forces become serious about implementing diversionary drug strategies aimed at reducing the harms associated with drug-related crime. It was during this period that law enforcement agencies began to recognise drug-related crime as a health issue and devise ways in which minor drug users could be educated about the health and legal consequences of drug use.

In Australia today there are now two distinct models of drug diversion, those where the offender is issued with an infringement notice and those which offer a caution or diversion notice for a first offence.

### 2.7.1.1 Australian Drug Infringement Notice Programs

South Australia (SA), Australian Capital Territory (ACT), Northern Territory (NT) and Western Australia (WA) all issue infringement notices for a first-time minor cannabis offence. The cannabis offences for which an infringement notice can be issued and their associated penalties are discussed in Table 2.1.
<table>
<thead>
<tr>
<th>STATE</th>
<th>YEAR</th>
<th>PRESCRIBED AMOUNT</th>
<th>FINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Australia</td>
<td>1987</td>
<td>- Possession of less than 25g of cannabis or less than 5g resin.</td>
<td>$150</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Possession of 25g-100g of cannabis or 5g-20g of resin.</td>
<td>$300</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Smoking cannabis or cannabis resin in a private place.</td>
<td>$150</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Cultivation of 1 plant (for own use).</td>
<td>$300</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Possession of smoking equipment.</td>
<td>$150 or $30</td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td>1993</td>
<td>- Possession of up to 25g of cannabis.</td>
<td>$100</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Cultivation of 1 or 2 plants.</td>
<td>$100</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Use of cannabis</td>
<td>$100</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>1996</td>
<td>- Possession of 50g or less of cannabis.</td>
<td>$200</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- 10g or less of cannabis resin.</td>
<td>$200</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Cultivation of up to 2 plants.</td>
<td>$200</td>
</tr>
<tr>
<td>Western Australia</td>
<td>2004</td>
<td>- Possession of 15g or less of cannabis.</td>
<td>$100</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Possession of 15g to 30g of cannabis</td>
<td>$150</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Cultivation of up to 2 plants.</td>
<td>$200</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Possession used smoking equipment.</td>
<td>$100</td>
</tr>
</tbody>
</table>

12 Hunter, 2001:2; Sutton & McMillan, 1999:4; Controlled Substances Act 1984, Section 45(a); Controlled Substances (Expiation of Simple Cannabis Offences) Regulations 2002, Regulation 5 & 6.
13 In South Australia where a person is found in possession of equipment used for smoking cannabis but where no other cannabis offence exists, the prescribed fine is $150. Where a person is found in possession of equipment used for smoking cannabis but where other cannabis offences exists (e.g. possession), the prescribed fine is $30 (Controlled Substances (Expiation of Simple Cannabis Offences) Regulations 2002, Regulation 6(d)).
16 Working Party on Drug Law Reform, 2002:7; Drug & Alcohol Office & Western Australian Police Service, 2004:2; Cannabis Control Act 2003 (WA), Section 6(2), Section 7 (2) & Section 5 (1) & (2); Cannabis Control Regulations 2004 (WA), Schedule 1.
17 The WA program is an infringement notice based system, but offenders can opt to attend a drug education session rather than expiate the infringement notice Cannabis Control Regulations 2004 (WA), Regulation 8 (4)(ii).
As can be seen from Table 2.1, infringement notice programs around Australia include similar offences and penalties. What is particularly interesting however is the amount of cannabis allowed for personal use. Unlike the other states, SA allows for up to 100 grams of cannabis for personal use, which attracts a fine of up to $300. The other states (ACT, NT and WA) allow for varying quantities of up to 50 grams, with fines ranging from $100 to $200. It is interesting to see the varying amounts between states that can be dealt with by expiation and it raises questions about what measurements state authorities use to determine suitable quantities for expiation. It could be argued that 100 grams is a considerably large amount of cannabis for personal use and, with that in mind, what is to say that by allowing the possession of up to 100 grams of cannabis, this will not encourage individuals to delve into trafficking offences. Noticeably, not all states include the possession of cannabis smoking equipment as expiatable. Why some states have included this and others have not is unclear.

SA was the first state in Australia to not only reduce the penalties associated with the personal use and possession of cannabis, but to also introduce a system whereby offenders can expiate the offence.

2.7.1.2 Acceptance and Effect of the CEN System

In 1999 Sutton and McMillan conducted a study into law enforcement and other criminal justice\(^{18}\) attitudes towards cannabis laws in SA. They explored police officers experiences in dealing with members of the public in relation to the

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\(^{18}\) Those consulted for the study included the Chief Justice, the Chief Magistrate, a representative from the Office of the Director of Public Prosecutions, the National Crime Authority, police prosecutors, the officer in charge of the Drug Task Force, Drug Task Force and regional detectives and police patrol officers, personnel in the Correctional Services and Attorney-General’s Department (Sutton & McMillan, 1999, viii).
issuing of expiation notices, as well as changes to operational policing (Sutton & McMillan, 1999:viii-ix). Sutton and McMillan (1999:2) argue that the Cannabis Expiation Notice (CEN) system has won general acceptance from criminal justice professionals.

The intended purpose of the CEN system is to divert minor cannabis offenders away from the criminal justice system. Sutton and McMillan’s (1999) research revealed that police personnel’s willingness to maintain the CEN system surrounded administrative issues, rather than focusing on the benefits to the offenders. Police personnel reported that expiation procedures were less time consuming than prosecution, with exhibit storage and court appearance times being virtually non existent (Sutton and McMillan, 1999:13). Members of the judiciary however found the advantages of the CEN system to be offender focused with many being able to avoid a criminal conviction (Sutton & McMillan, 1999:13).

Although police respondents admitted that the CEN administratively made their job easier when dealing with minor cannabis offenders, they argued that the system still needed improving (Sutton & McMillan, 1999:13–14). Many police personnel argued that fines associated with a CEN notice were perceived as too lenient and as a result had an effect on the morale of police officers charged with its enforcement. Police were of the opinion that cannabis was so widespread that the enforcement of minor drug laws was a futile exercise, as many citizens believed that the possession and cultivation of minor amounts of cannabis was now legal (Sutton & McMillan, 1999:13–14).
A study into the effects of the CEN system on levels and patterns of cannabis use in SA conducted by Donnelly et al. (1999) revealed that there was a “general increase in lifetime cannabis use across Australia between 1985 and 1995” (Donnelly et al., 1999:11). It could be argued that society’s growing acceptance of minor cannabis use has created greater exposure to the drug and its experimentation, but Donnelly et al. (1999) are reluctant to attribute this to the increase in cannabis use in SA as this is a phenomena that is not isolated to Australia. For example, they report that similar shifts in attitude have occurred in the USA, Canada and Europe yet these geographical areas have not changed legal penalties for cannabis use and still largely promote a system of prohibition (Donnelly et al., 1999:11; Hunter, 2001:2). Donnelly et al. (1999) suggest that the increase in cannabis use since the introduction of the CEN system is perhaps a reflection of the perceived notion that cannabis use is a less serious crime than in previous years. They believe that these perceptions may have created a willingness for individuals to report their cannabis use and resulted in an increase in reporting of cannabis use, not an increase in cannabis use itself (Donnelly et al., 1999:11). This is consistent with the views of Laslett and Rumbold (2002:32) who argue that the perceived increase of cannabis use reported in the NDSHS is not an increase in use in itself but rather is a result of survey respondents unwillingness to risk prosecution through admitting their knowledge and use of illegal substances.

2.7.1.3 From Prohibition to Diversion

Prior to WA introducing the Cannabis Infringement Notice (CIN) system the state maintained a system of strict prohibition. In 1999 Lenton et al. conducted a comparative study of the SA CEN system and the strict prohibition of WA.
They found that of the WA respondents, many of them “disagreed with the cannabis laws which operated in that state at the time of the study” (Lenton et al., 1999:32). At the time Lenton et al. (1999) conducted their comparison of the two states, the only leniency available in WA with regards to minor cannabis offences “was police discretion not to charge and apprehended cannabis users” (Lenton et al., 1999:32).

A majority of WA respondents reported that receiving a conviction for minor cannabis use resulted in adverse employment consequences. This included being unsuccessful in obtaining a position and being sacked from their current position (Lenton et al., 1999:35). Respondents also reported being reluctant to apply for particular positions due to the likelihood of being asked to consent to a criminal history check (Lenton et al., 1999:35). Schemes such as the CEN are designed to assist minor cannabis offenders avoid a criminal conviction and the stigma of a court appearance, however the Lenton et al. (1999) study revealed that recipients of such notices as CEN experienced negative employment consequences (as indicated above). Given this, the number of CEN recipients who experienced a negative employment experience was significantly fewer compared to those who were formally prosecuted in the WA system (Lenton et al., 1999:36).

Lenton et al. (1999) reported that regardless of whether respondents received a CEN or were prosecuted for minor cannabis offences, respondents’ continued to use drugs. This outcome suggests “civil penalties or criminal law does not reduce the cannabis use of the vast majority of people apprehended by it” (Lenton et al., 1999:38).
Appendix Two gives an outline of the infringement notice programs throughout Australia.

2.7.1.4 Australian Drug Caution/Diversion Programs

Victoria (VIC), New South Wales (NSW), Tasmania (TAS) and Queensland (QLD) all issue caution/diversion notices for first-time minor cannabis offences. The cannabis offences for which a caution/diversion can be issued and their associated penalties are discussed in Table 2.2.

As can be seen from Table 2.2, similar offences are included in cannabis cautioning/diversion programs around Australia however the amount for which a person can receive a caution differs slightly. In all states except NSW individuals can receive a caution for up to 50 grams of cannabis for personal use. NSW allows for up to only 15 grams. What is particularly interesting, however, is the number of times a person can be cautioned for possession and use of cannabis as these range from one to three cautions before a person is prosecuted. Encouragingly in all states, offenders are issued with information outlining the health and legal consequences of cannabis use.
Table 2.2 - Australian Caution/Diversion Programs

<table>
<thead>
<tr>
<th>STATE</th>
<th>YEAR</th>
<th>PRESCRIBED AMOUNT</th>
<th>CAUTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Victoria¹⁹</td>
<td>1998</td>
<td>• Possession of 50g or less of cannabis.</td>
<td>• May receive no more than 2 cautions for both offences. Written information about health &amp; legal consequences of cannabis use provided at the time of caution.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Use of 50g or less of cannabis</td>
<td>• Police may refer offenders to drug education, however attendance at drug education is voluntary.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• May receive no more than 2 cautions for both offences. Written information about health &amp; legal consequences of cannabis use provided at the time of caution.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Police may refer offenders to drug education, however attendance at drug education is voluntary.</td>
<td></td>
</tr>
<tr>
<td>Tasmania²⁰</td>
<td>1998</td>
<td>• Possession of 50g or less of cannabis.</td>
<td>• May receive up to 3 cautions of all four offences. Written information about health and legal consequences of cannabis use provided at the time of caution.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Use cannabis</td>
<td>• Second and Third time offenders are referred to a counselling session. Failure to attend will result in the offender being charged with the original offence.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Cultivate Cannabis</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Possess smoking equipment.</td>
<td></td>
</tr>
<tr>
<td>New South Wales²¹</td>
<td>2000</td>
<td>• Possession of 15g or less of cannabis</td>
<td>• Cautions given. Written information about health &amp; legal consequences of cannabis use provided at the time of caution.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Use of 15g or less of cannabis</td>
<td>• Offenders must attend a drug education session.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Possession of smoking paraphernalia.</td>
<td></td>
</tr>
<tr>
<td>Queensland²²</td>
<td>2001</td>
<td>• Possession of 50g or less of cannabis.</td>
<td>• Diversion given on one occasion. Written information about health &amp; legal consequences of cannabis use provided at the time of diversion.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Possession of smoking equipment.</td>
<td>• Offenders must attend a drug assessment program.</td>
</tr>
</tbody>
</table>

¹⁹ Victoria Police, 2000a:A-38; CDHA, 2002a:5
2.8 Drug Courts: The Soft Option

This study is primarily concerned with diversionary strategies implemented by police forces throughout Australia, but the researcher considers it necessary to discuss other forms of diversionary strategies such as drug courts. An understanding of drug courts is important for this study as it demonstrates how law enforcement and health promotion have been combined and provides an understanding of the avenues available to offenders once they fall outside the realms of police diversionary schemes.

Drug courts within Australia were introduced in order to address the ever-increasing number of drug offences being brought before the courts and to provide a means for dealing with individuals who would ordinarily receive a term of imprisonment due to their drug use (Makkai, 2000:81; Taplin, 2002:3; Passey et al., 2003:1; King, Fletcher, Alberti & Hales, 2004:53). The three primary objectives of drug courts are to reduce the likelihood of offenders involved in drug offences receiving a sentence of incarceration; to provide options for receiving drug treatment and rehabilitation, which will hopefully result in the reduction or extinction of their drug dependency (Makkai, 2000:81; Flaherty & Jousif, 2002:7; NSW Government 2005; King et al., 2004:53), and to protect the community against illicit drug users and the criminal activity in which drug offenders participate, by reducing levels of recidivism and re-arrest (Flaherty & Jousif, 2002:7; WA Department of Justice, 2003:1). These objectives are achieved by diverting drug offenders away from the mainstream court proceedings and towards specialist programs that treat
their drug dependency and prepare them for re-integration into the community as law-abiding citizens (NSW Government 2005).

To be eligible for a drug court order and drug treatment program, an offender must not be subject to any other court order, must plead guilty to the offence and must reside within a specified area (Lind et al., 2002:8; Taplin, 2002:11 & 19; King et al., 2004:91). The offender must be charged with an offence within the jurisdiction of the Magistrates Court or its equivalent (Local District Court in NSW) and must be punishable by imprisonment, but must not include any offences that involve actual bodily harm or be of a sexual nature (Flaherty & Jousif, 2002:8; Lind et al., 2002:8; Taplin, 2002:12; Passey et al., 2003:2; WA Department of Justice, 2003:53; King et al., 2004:91). If a drug court finds that an offender is eligible, they are ordered to undergo detoxification and assessment, which involves physical and mental health reviews, and based on these findings an individual treatment plan is prepared (Taplin, 2002:8 & 13; NSW Government 2005).

Programs generally consist of elements where offenders are expected to reduce drug use, cease criminal activity and submit to several drug tests on a weekly basis. Offenders are expected to develop life and job skills and ultimately gain ongoing employment. Throughout the program, offenders are also expected to regularly report back to the drug court (Taplin, 2002:30). If a drug court finds that an offender is not meeting the criteria of their program satisfactorily then the court may impose sanctions that include withdrawal of privileges, increased supervision, increased drug testing or imprisonment (Taplin, 2002:37 & 38). Likewise if a drug court finds that an offender is performing well then the court
can reward the offender by decreasing supervision and drug testing or decrease the monetary penalty that the offender has been ordered to pay (Taplin, 2002:40).

At the termination of a program a drug court may set aside the original sentence and replace it with another more appropriate sentence (Taplin, 2002:54). In deciding the final sentence a drug court takes into account the offender’s participation in the program and any time spent in custody (Taplin, 2002:55). If an offender complies with a program, the court, in a majority of cases, will hand down a non-custodial sentence as well as award certificates of graduation and achievement for completing the requirements set out by the court (Lind et al., 2002:9–10; Taplin, 2002:56).

Drug court proponents argue that by referring offenders to treatment services prior to sentencing, offenders are encouraged to seek treatment for their drug dependency while having minimal contact with the criminal justice system (King et al. 2004:53). Advocates further argue that although offenders may still have a criminal sanction imposed on them after completing the program, more often than not this is a suspended sentence or a good behaviour bond and is dependent on the offender’s participation in the program (WA Department of Justice, 2003:57; King et al., 2004:4–5). The notion that drug courts direct drug offenders away from the criminal justice system is not entirely supported by the researcher. It is acknowledged that through appearing before a drug court, offenders may avoid a term of imprisonment, but it is important to note that in order to appear before the drug court offenders have already been arrested and charged with a drug-related offence (Z Hasiotis [Victoria Police]
2008, pers. comm., 25 March). The researcher suggests that through the process of arrest the offender has entered the criminal justice system. It is therefore perhaps unrealistic to suggest that an offender has only entered the criminal justice system once they are imprisoned. Furthermore, unlike police diversionary schemes such as the CCP and DDP, offenders, regardless of their successful completion of the court imposed drug treatment program, will obtain a criminal history which will be discloseable should a criminal history check be conducted (Z Hasiotis [Victoria Police] 2008, pers. comm., 25 March). A Good Behaviour Bond (GBB) or suspended sentence handed down by a drug court appears on a National Police Certificate and could ultimately preclude an offender from obtaining employment in particular areas (Z Hasiotis [Victoria Police] 2008, pers. comm., 25 March). Despite this however, proponents argue that, for offenders, attending a drug court is not about avoiding a criminal history, but is about obtaining assistance in kicking their drug dependency.

### 2.8.1 Drug Courts and Legal Coercion

Through what Anglin and Hser (1990:438) refer to as *legal coercion*, drug offenders undertake drug treatment programs to avoid imprisonment, yet to ensure they hold up their end of the bargain, offenders are compelled to undertake drug tests, the results of which are reported back to the court. The result of such tests ultimately determines the sanction that will be imposed on the offender. Urine testing or urinalysis has become a common instrument in the monitoring of illicit drug use among drug treatment participants, however Anglin and Hser (1990:437) argue that the effectiveness of this testing on treatment outcomes is yet to be studied thoroughly. Despite this however, they suggest that “considerable evidence points to its effectiveness when linked to

Legal coercion, according to Anglin and Hser (1990:438), is essential to ensuring offenders comply with drug treatment program conditions. McGlothlin, Anglin and Wilson (1977) found that compared to community–based drug treatment programs, those implemented through legal coercion were more effective in rehabilitating offenders (cited in Anglin & Hser, 1990:438).

According to Anglin and Hser (1990:438), drug courts in Australia have been criticised because of the perception that offenders only agree to attend drug treatment programs in order to avoid a term of imprisonment, not because they genuinely want to become drug free. Makkai (2000:81) supports this, arguing that drug courts have been criticised as they allow for treatment places to be taken away from those who genuinely want treatment, but who have not or are not likely to come under the notice of the police. This argument would perhaps be dismissed by Deputy Chief Magistrate Jelena Popovic, who suggests that there is little awareness among the community of the extent to which drugs relate to criminal activity (Porter, 2001:8). According to Popovic, drug-related crime goes beyond the scope of use, possession and cultivation offences, with 80
to 90 per cent of matters appearing before the courts related to drug behaviour (Porter 2001:8). Courts had been compelled to change their approach towards drug-related crime, moving from a system of sanctions to rehabilitation and harm minimisation (Porter, 2001:8).

Drug courts allow offenders the opportunity to obtain assistance in reducing or eradicating their drug dependency through a harm minimisation approach, but the researcher however disagrees with Popovic that the introduction of such courts has resulted in a move away from sanctions. As discussed, the likelihood of an offender receiving a suspended sentence or GBB is relatively high, particularly in the case of minor drug offences (King et al., 2004:4–5; WA Department of Justice, 2005:57). Magistrates handing down a suspended sentence or a GBB in itself is a sanction; a court result outside of acquittal, not proven, dismissed, caution, withdrawn, or not presented is a sanction. Offenders who agree to participate in a drug treatment program are open to some kind of sanction. The difference being that if offenders agree to undertake a drug treatment program they are able to remain out of prison. Offenders are therefore likely to opt for treatment, regardless of a genuine desire to be rehabilitated.

2.9 Police Culture

Given that the drug diversion strategies implemented in each state of Australia are subject to police discretion it is important to examine the contributing factors that influence their decisions. According to Manning (1989 cited in Chan, 1997:43), police culture is one of these factors. Before police culture is discussed however, it is pertinent to briefly explore organisational culture: what
it is, how it is developed and how it affects those within the organisation. An exploration into organisational culture will enable a better understanding of the theory of police culture. Police culture is defined as “a complex set of learned and shared beliefs, customs, skills, habits, traditions and knowledge common to society”\(^{23}\) (O’Loughlin & Billing 2000:65).

Organisational culture is defined by Robbins and Coul tar (1996:79), Fulop and Linstead (1999:92) and Robbins and Barnwell (2002:377) as a system of shared meanings that not only enables one organisation to be distinguished from another, but also dictates how individuals within that organisation behave. According to the literature (Robbins & Coul tar, 1996:79; Fulop & Linstead, 1999:92; Robbins & Barnwell, 2002:377), shared beliefs, values, rituals, myths and practices create a common understanding in an organisation.

These shared meanings, beliefs, values and practices are rarely random, but rather the result of seeking a desired outcome and of the organisation adapting to its environment. Adapting to its environment ensures not only the organisation’s survival, but also creates a collective identity, which enables members to work together (Robbins & Barnwell, 2002:377–378). According to Robbins and Barnwell (2002) “the culture of an organisation is carried in the values and behavioural norms of organisational members” (Robbins & Barnwell, 2002:378) and as such often possesses both “terminal and instrumental values” (Robbins & Barnwell, 2002:378). Terminal values refer to the common desired outcome which organisational members seek to attain, whilst instrumental

\(^{23}\) O’Loughlin and Billing (2000) define society as “a number of people who have lived together long enough to become organised to some degree and who share a common culture” (O’Loughlin & Billing, 2000:65).
values refers to the desired standards of conduct the organisation expects of its members. While these values often change with its environment, terminal and instrumental values are also often a result of the founding member’s vision or mission as to what the organisation should be (Robbins & Barnwell, 2002:378 & 385).

Current leaders and management can also influence an organisation’s values and direction. According to Fulop and Linstead (1999), leaders and managers can shape their organisation by:

- what they pay attention to and notice
- their reactions to problems and crises
- role modelling, coaching, mentoring and teaching
- their criteria for selection, reward, promotion and punishment/sanction
- their influence on organisational structure and policy.

(Fulop & Linstead, 1999:100)

The influence of leaders and managers is dependent on the organisational constraints they face, such as “meetings, budgets, levels of hierarchy, size of subunits, operating procedures, policies reports and manuals” (Fulop & Linstead, 1999:100).

Managers influence organisational culture through the individuals they choose to join the organisation. Management can identify those who they believe have the knowledge, skills and potential to successfully perform jobs within the
organisation. They can select those who are most likely to share the values of those already in the organisation, which ensures that the culture is maintained (Robbins & Barnwell, 2002:388).

Manning (1989) argues that police culture arises through “accepted practices, rules and principles of conduct that are situationally applied” and where “generalised rationales and beliefs” exist (Manning 1989 cited in Chan, 1997:43).

Schein (1985) defines police culture as:

A pattern of basic assumptions – invented, discovered, or developed by a given group as it learns to cope with its problems of external adaptation and internal integration, that has worked well enough to be considered valid and, therefore, to be taught to new members as the correct way to perceive, think, and feel in relation to those problems.

Police culture is described by Dempsey (1999:128) as “characterised by clannishness, secrecy and isolation from those not in the group”, He argues that there is a “police personality” (Dempsey, 1999:129); similarly, Skolnick (1995) refers to the “working personality of police officers” (Skolnick 1995 cited in Dempsey, 1999:129; Skolnick 1995 cited in Findlay, 2004:107).

According to Skolnick (1966) this working personality includes:
A sense of mission about police work, an orientation towards action, a cynical or pessimistic perspective regarding the social environment, an attitude of constant suspicion, an isolated social life coupled with a strong code of solidarity with other police officers, political conservatism, racial prejudice, sexism, and a clear categorisation of the public between the rough and the respectable. Among these characteristics, the so-called ‘siege mentality’ and ‘code of silence’ have often been linked with the concealment and proliferation of police misconduct.


According to Chan (1997:44), the police culture or ‘working personality’ of police officers leads to the stereotyping of offenders and legitimises the mistreatment of offenders based on this stereotype. Solidarity and the code of silence within the police culture ensure that any misconduct is condoned. Edwards (1999:152) argues that these are negative aspects of police culture, as which allow “individuals to adopt rude, violent, racist or corrupt behaviour by creating an atmosphere where the duty to support one’s workmates takes precedence over other duties” (Edwards, 1999:152).

The police have their own culture with their own set of learned and shared beliefs. According to Skolnick (1966), Goldstein (1968) and Neiderhoffer (1969), the learned skills and beliefs of police are developed through psychological, educational and sociological attitudes (Skolnick 1966, Goldstein 1968 & Neiderhoffer 1969 cited in Findlay, 2004: 101). Psychological attitudes are formed through parental teaching, social status and early education.
Educational attitudes can be developed as a result of police training and the influence of experienced police. Sociological attitudes can be developed through day-to-day police work and meeting the demands and expectations of colleagues that have, in turn, been shaped by the values of the organisation (Grant & Terry, 2005:223; Roberg et al., 2005:272). Findlay (2004:107) argues that “police culture is more than simply a reflection of the social or cultural background of individual police officers”. Police culture also reflects organisational beliefs and is moulded through routine police work (Findlay, 2004:107).

In contrast, Brown (1981) suggests that police culture is developed through “three major principles: honour, loyalty and individuality” (Brown 1981 cited in Dempsey, 1999:128). Honour is bestowed upon police who take risks during their day-to-day working life, loyalty includes assisting other police in emergency situations while also giving support when an officer’s actions or inaction have been criticised. Individuality lends itself to those officers who are most likely to be able to take charge of any situation that may face them (Brown 1981 cited in Dempsey, 1999:128). These principles are the positive aspects of police culture, as they “increase effectiveness and efficiency and have a beneficial effect on the public” (Edwards, 1999:152).

It is due to these complex influences, O’Loughlin and Billing (2000:66) argue, that it is difficult to define police culture, particularly as police culture is host to many subcultures. O’Loughlin and Billing (2000:66) and Findlay (2004:104–105) argue that subcultures according to rank, duties performed and gender can be identified and that shared beliefs and skills are developed in these subcultures. According to O’Loughlin and Billing (2000:66), the existence of
subcultures creates difficulty for police organisations to build a positive police culture. They argue a positive image of police culture can only be achieved through police organisations communicating organisational objectives and expectations to personnel (O’Loughlin & Billing 2000:66). According to Sheehan and Cordner (1995 cited in Dempsey, 1999:129) it is the “existence of such unofficially established, negative, institutionalised role expectations which is the primary reason so many police departments are held in such low esteem by the public” (Sheehan & Cordner 1995 cited in Dempsey, 1999:129).

The researcher agrees with Sheehan and Cordner (1995) and O’Loughlin and Billing (2000) but suggests that this positive image or culture will only be apparent within the organisation itself. For example, currently in Victoria, police are bound by the Victoria Police Code of Ethics which not only promotes integrity but also equality in the treatment of the community (O’Loughlin & Billing, 2000:66; Victoria Police, 2000b:1). The researcher suggests that regardless of how ‘well behaved’ or professional police management perceive their personnel to be, it is likely that the public will find some element of police conduct with which to be dissatisfied. The researcher bases this notion on Dempsey (1999:131) and Findlay’s (2004:108) argument that police, regardless of their intentions, are deemed as the ‘enemy’ and thus makes way for the manifestation of the ‘us and them’ mentality.

Commissioner Fitzgerald (1989) agrees with Skolnick (1966), Goldstein (1968) and Neiderhoffer (1969), when he argues that within their personal lives police share many of the same interests, values, problems and faults as other members of the community. However, Fitzgerald asserts that police form a strong bond
and separate social group that make it unique from other occupational cultures (Neiderhoffer 1969, Skolnick 1966 & Goldstein 1968 cited in Findlay, 2004:101). This argument contrasts with that of Van Maanen (1978 cited in Chan, 1997:44), who argues that police culture is influenced by many factors stemming from police members’ work lives and rejects the notion that the police are unique in having developed a distinctive culture. The researcher argues that police culture is more dominant than other occupational cultures, not because of its propensity to lead towards police corruption, but because of its high media exposure. Through examination of the literature it is evident that many authors draw a connection between police culture and misconduct or corruption, a notion supported by Chan (1997) and O’Loughlin and Billing (2000). Police culture is subject to many influences and as such is open to both positive and negative aspects (Chan, 1997:46; O’Loughlin & Billing, 2000:81).

The rotten apple theory, which explores the notion that a minority within an organisational structure who partake in activities of misconduct, cause the entire organisation to be tarred with the same brush, is embraced by O’Loughlin and Billing (2000:76) and Robert et al. (2005:301) as discussed by Edwards (1999:86).

Van Maanen (1978) argues that “workers in all occupations develop ways and means by which they manage certain structural strains, contradictions and anomalies of their prescribed role and task” (Van Maanen, 1978 cited in Chan, 1997:44). Police exercise their discretionary power based on what they perceive to be normal and suspicious behaviour. Through such stereotyping they are
able to make decisions that ultimately mean the difference between arrest and caution (Chan, 1997:44).

Skolnick (1966) argues that police culture is a result of the work that police have to encounter throughout their career, a notion that is supported by Van Maanen (1978). Both Skolnick (1966) and Van Maanen (1978) argue that due to factors such as potential dangers faced in the course of their duties, many police not only treat members of the public with a great deal of suspicion, but are also trained to perceive all encounters with the public as encounters with potential offenders and a possible threat to their personal safety (Skolnick 1966 cited in Grant & Terry, 2005:225; Van Maanen 1978 cited in Chan, 1997:45). Van Maanen (1978 cited in Dempsey, 1999:131) found that in training, recruits were taught a strong sense of mateship and that recruits tended to have a high regard for the ‘war stories’ of longer servicing officers. Through these stories, recruits learn when and when not to enforce the law; and by adopting the practices of more experienced officers, they avoid being ostracised (Van Maanen 1978 cited in Dempsey, 1999:131). The isolation from the public that police experience as a result of their duties is particularly significant as it is be a contributing factor in the way police deal with members of the public.

There has been significant research into police culture and its connection with corruption or misconduct. Van Maanen (1978 cited in Chan, 1997:45) believes that police culture need not necessarily mean negativity. He considers police culture to be essential to the survival of police officers due to the isolation they experience. Findlay (2004) believes such isolation exists in “rank against rank, uniform versus plain clothes, operational police against management and more
importantly police against the public and vice versa” (Findlay, 2004:108). Through solidarity, police are assured they are supported when faced with external threats (Chan, 1997:45; Findlay, 2004:107). External threats to police are often assessed based on “age, gender, ethnicity, appearance, language, recreational preferences and association” (Findlay, 2004:115). According to Findlay (2004), “policing is about differentiating groups within society on the basis of public order, criminality, deviance and often just plain difference” (Findlay, 2004:115).

The apprehension of offenders is a major function of police work, but questions have been raised about how this function can be combined with the implementation of the Victoria Police CCP (O’Loughlin & Billing, 2000:67–68). Does the very nature of the program change the way in which police treat and interact with drug offenders? Or does the inner police culture determine how drug offenders are treated?

Discretion is defined by Davis (1969) as:

A police officer or police agency (which) may be said to exercise discretion whenever effective officer limits on his, or her, or its power leave the officer or agency free to make choices among possible courses of action or inaction.

(Davis 1969 cited in Grant & Terry, 2005:216).

In other words, discretion is when a police officer has a choice about how they will respond to a particular situation (Grant & Terry, 2005:217). Discretion in
order to be effective must be predetermined by rules, which are set by the police organisation. Through discretion police are able to be creative in the way in which they administer the law (Grant & Terry, 2005:216). As suggested by Bottomley (1973), “not only are the individual needs of the client taken into account but the decisions themselves are very likely to be influenced by the individual characteristics and values of the decision-maker” (cited in Findlay, 2004:71). For example, decisions can be dependent upon the way in which police perceive challenges to resistance of their function (Roberg et al., 2005:287).

Jacob (1973), on the other hand, considered that other factors influenced police discretion. These are the characteristics of the crime, the relationship between the offender and the victim, the relationship between the police, the offender and/or the victim and department policies and objectives (cited in Dempsey, 1999:122). The characteristics of the crime are said to influence discretion as the more serious the crime, the less likely police are able to exercise discretion. The relationship between the offender and the victim is said to influence police discretion, as the closer the connection between the parties the less likely police are to arrest the offender. The relationship between the police and the offender or the victim is also said to influence police discretion, as the more respect an offender shows an officer, the more likely they are to be treated leniently. Likewise, the more respect a complainant shows an officer, the greater likelihood that their complaint will be treated seriously. Police policies influence police discretion, dependent on police command’s operational targeting (Dempsey, 1999:122). For example, police command can instruct officers to adopt a zero tolerance approach towards particular offences and as
such officers are unable to exercise their discretion and are compelled to prosecute offenders.

Travis (1983 cited in Findlay, 2004:74) identified four principle influences on the exercise of police discretion. These include the behaviour of the offender, the behaviour of the police, the location and time of the encounter and operational targeting (Dempsey, 1999:122; Findlay, 2004:74; Roberg et al., 2005:287).

The factors that influence police discretion can be illustrated in a study conducted by Lundman (1980) that found that police frequently arrested members of the public who demonstrated a disrespectful demeanour towards them. Those who demonstrated displays of temper, violence and non-compliance were more likely to be arrested than those who were polite and compliant (Lundman, 1980:192). Simply, how people react to being questioned by police has a significant effect on an officer’s decision to arrest them. According to Findlay (2004:114) and Grant and Terry (2005:219), disrespect in a police encounter breeds contempt as it manifests itself as a challenge to an officer’s authority and is therefore less likely to cause the officer to treat the offender leniently.

Findlay (2004:80) believes that offender behaviour and police response significantly influence the process of diversion. As discussed, the introduction of CCPs allows police to refrain from formally charging cannabis offenders. In Victoria, providing cannabis offenders meet a set of formalised criteria, police are free to exercise their discretion in deciding whether or not to formally
charge the offender. Police are encouraged to issue a caution in the event the criteria is met, but police are also free to use their discretion in deciding not to issue a caution (Findlay, 2004:80).

2.10 Conclusion

Through examining the existing literature about cannabis and the laws that govern its use, it can be seen that there are many factors that need to be considered when discussing decriminalisation. The most prominent arguments involve considerations of the psychological and physiological effects of cannabis and whether the associated adverse effects are outweighed by the medical benefits. Keeping within this theme it has been demonstrated that low-level cannabis use need not necessarily act as a gateway to harder drugs. Rather it is a combination of a person’s environment and socio-economic circumstances and the pleasurable effects of the drug that reinforce its use.

Given the different factors that can influence individuals and their decision to continue drug use, it has become evident why Australian police forces have moved towards a harm minimisation framework. As discussed, a zero tolerance framework does not allow for targeting of individual needs and therefore runs a risk of ignoring health issues in the pursuit of crime reduction. It is also evident that a harm minimisation approach towards drug use is perceived as the best practice for Australian police forces. Having said this however, there is a scarcity of literature on the effects harm minimisation approaches have had on the ability of police personnel to effectively carry out their duties. Furthermore, little research has been done on how police personnel perceive
cannabis/diversion programs in reducing drug-related crime and whether such programs are perceived as an effective tool in law enforcement.

Chapter Three will focus on the research methodology. It will outline the research questions and also discuss the conceptual framework for the research. It will further outline methods for collecting research data, including data sampling, those excluded from the research data and negotiating access to the target population. It will also focus on data analysis and theme building.
CHAPTER THREE

Conceptual Framework and Study Design

*Qualitative methods are defined as data consisting of detailed descriptions of situations, events, people, interactions and observed behaviours, direct quotations from people about their experiences, attitudes, beliefs and thoughts and excerpts of entire passages from documents, correspondence and records and case histories.*

Patton, 1997:273

3.1 Introduction

Kuhn (1970) argues that the most valuable research is based on quantitative rather than qualitative predictions (cited in Patton, 1997:268). Contrary to this, Patton (1997) and Neuman (2003:141) argue that qualitative research allows social life to be understood fully as it delves into the feelings, attitudes, beliefs, thoughts and perspectives of those being studied. Patton (1997) further argues that “valuing quantitative measures to the exclusion of other data, limits not only what one can find out but also what one is even willing to ask” (Patton 1997:275). Referring to the debate between qualitative and quantitative, as a “paradigm of choices”, Patton (1997:275) suggests that different problems require different kinds of data.

With the implementation of amendments to the *Drugs, Poisons and Controlled Substances Act 1981*, decisions about the way in which drug offenders were dealt with by both the police and the courts were expected to change. The
researcher therefore set out to establish whether or not amendments to police policy and legislation had changed the way in which the police dealt with drug offenders. On commencement of the research, the researcher questioned whether the Victoria Police CCP would enable the police to exercise discretion when dealing with drug offenders. It was felt that the amendments to police policy and legislation would redefine drug offences, in effect legalising cannabis and removing the element of discretion from the role of policing.

This chapter will examine interpretivism as a conceptual framework, its connection with symbolic interaction and how both were paramount in exploring the perceptions and attitudes of sworn Victoria Police personnel in the implementation and ongoing enforcement of the CCP.

This chapter will explore the qualitative methodologies used and the justification for using such methods. It will discuss the processes and research instruments used for gathering data as well as the process for accessing the target population and how this was negotiated. Finally the methods used to select the research sample and the justification for including and excluding particular individuals in or from the target population will be outlined.

3.2 Interpretivism as a Conceptual Framework

An interpretivist framework was adopted for the research. Interpretivism is not only associated with the qualitative method of research, but also focuses on understanding human experiences by gaining insight into what human beings perceive to be reality. Philosopher Max Weber (1864–1920) argued that social science concerns itself with qualitative methods and that the only way to gain
insight into the experience and perceptions of individuals is to listen and observe them (Weber 1864–1920 cited in Holloway, 1997:93). Interpretivism is essentially context bound, in other words it relies on participant observation and field research to “acquire an in-depth understanding of how people create meaning in everyday life” (Neuman, 1997:68). According to Neuman (1997:68–69), interpretive researchers are concerned with establishing what is significant or relevant, by taking on the perspective of those studied to gain an understanding of why individuals react in certain ways to particular situations.

The interpretivist approach considers that those encased within the same social environment have been exposed to and share a ‘meaning system’ (Neuman, 1997:69). Meaning systems allow individuals within the same social environment to interpret each other’s behaviour thus concluding it to be legitimate. The same behaviour may not be considered legitimate by a third party, as they may not be exposed to the same meaning system (Neuman, 1997:69). Social reality does not, however, become stagnant or permanent as the entry of new individuals into the environment may cause new meanings to be introduced therefore altering what may be deemed as social reality (Neuman, 1997:69; Musolf, 2003:105). As individuals do not react to situations in the same manner, they may not attribute the same meaning to social interactions (Musolf, 2003:105).

According to Neuman (1997) “social reality is based on people’s definitions of it” (Neuman, 1997:69), therefore how a person defines a situation ultimately determines how they react and give meaning to the situation (Berg, 1989:8; Neuman, 1997:69; Sarantakos, 2005:44). For example, a police officer’s social
reality may include ways in which to react to drug offenders. This may be to search, question and arrest those in possession of cannabis. This behaviour is learnt through years of exposure to a particular social environment and its expectations. Social reality for the police may change if legislation requires those individuals in possession of cannabis to be cautioned and rehabilitated rather than prosecuted. The social reality may now be that the ‘drug offender’ is searched, questioned, cautioned and referred for rehabilitation or counselling (Neuman, 1997:69; Patton, 1997:281).

Interpretivists argue that social environment and “meaning systems” (Neuman, 1997:69) dramatically affect the way in which individuals react to a situation, but they do not assume multiple interpretations of a situation are impossible. This allows for freedom of thought for individuals within the same social environment (Neuman, 1997:70). Police may work within the same environment but they may have different views. For example, as discussed in Chapter 2.9, one police officer may view drug offences as a criminal issue and another may view them as a health issue.

### 3.2.1 Symbolic Interaction

Symbolic interaction is linked to interpretivism, as it is a system by which people can develop “shared meanings through their interactions” (Patton, 2002:112). These meanings become ‘their reality’ through the way in which they interpret the world around them (Berg, 1989:7; Flick, 1998:17; Rice & Ezzy, 2000:17; Corbetta, 2003:257). Shared meanings ultimately develop as a result of partaking in each other’s day-to-day experiences (Musolf, 2003:103; Reynolds, 2003a:72). Symbolic interaction draws on the assumption that those
who interact together socially and/or professionally develop like-minded interpretations and perceptions. It is these developed interpretations and perceptions that shape the way in which we as individuals react to particular situations and behaviours and can ultimately determine how we treat others (Berg, 1989:7; Flick, 1998:17; Neuman, 2003:63; Sarantakos, 2005:43). An underlying element in this process is not only how we as individuals react to situations, but also how we are labelled by others. How others label us can ultimately determine how we react to situations and the environment around us (Rice & Ezzy, 2000:17; Reynolds, 2003a:40 & 72). If we as observers see how others react to certain environments and situations and understand or sympathise with the reasons behind such reactions, we adopt the displayed behaviour and it therefore becomes our ‘social reality’. Through shared meanings we develop cultures and societies and thus an understanding of social worlds (Musolf, 2003: 108; Reynolds, 2003a:69).

Qualitative research operates on the basic assumption that “cultural systems of meaning” (Flick, 1998:22) create what an individual perceives as social reality (Krathwohl, 1993:322; Flick, 1998:22). Having said this however, Krathwohl (1993:322) argues that the social reality of individuals can differ from individual to individual within the same cultural system. An example of this is explored in the discussion on police culture in Chapter 2.9. The police are considered by many to have their own culture, but within police culture subcultures exist. In these subcultures, police officers may view the role of policing differently, depending on how they view their role in the police force and in society as a whole (Krathwohl, 1993:323). Cultural expectations and traditions can influence our reaction to particular situations and environments. How our
fellow human beings expect us to react to certain individuals, in certain environments, can cause us to adapt our behaviour accordingly (Reynolds, 2003a:70).

### 3.2.2 Labelling

Symbolic interaction, which shapes the way in which we develop like-minded perceptions and interpretations, can be linked to labelling theory, where behaviour experienced through our interactions can influence how we perceive others and ultimately how we label them (Patton, 2002: 112). In turn, how we label individuals can affect the way they perceive their own reality.

Labelling theorists argue that there is no consensus within society about what is deemed to be normal or acceptable behaviour. Australia is a multicultural society made up of individuals from various ethnic, racial and socio-economic backgrounds and it would be unrealistic to believe that we all share the same norms, beliefs and values (Becker, 2001:216; Herman-Kinney, 2003:708). Rather than being a result of consensus, shared beliefs and norms can be due to self-interest or as a result of coercion from a powerful body, such as the police, government or religious institutions (Cunneen & White, 2002:48; Herman-Kinney, 2003:708; Burke, 2005:143). Therefore what is defined as deviant behaviour is open to interpretation from individual to individual. Becker (2001:218), Cunneen and White (2002:46), Herman-Kinney (2003:708) and Burke (2005:143) argue that deviance is defined not by what causes people to act in certain ways, but how people react to the behaviour displayed. The process of labelling someone as deviant, “therefore is a process of tagging,
defining, identifying, segregating, describing, emphasizing and making conscious and self-conscious” (Herman-Kinney, 2003:709).

According to labelling theory, individuals do not simply respond to external stimuli, they bring their own meaning to the situations and environments they face and this impacts on their behaviour (Cunneen & White, 2002:45). How we refer to others not only affects how others react to us, but also how we react to them (Cunneen & White, 2002:46; Patton, 2002:112). For example, terms such as ‘junkie’, ‘druggie’ and ‘smack head’, if used by a police officer out on the streets, can immediately invoke reactions such as feelings of persecution and a lack of trust on behalf of the drug offender. Likewise an individual stopped on the street by police for suspicion of being in possession of drugs can immediately invoke feelings of distrust and suspicion on behalf of the investigating police officer (Cunneen & White, 2002:46; Patton, 2002:112). An example of the effects of labelling can be seen in the decision (discussed in Chapter 2.5.1) by Dutch police to adopt a policy of non-prosecution when dealing with cannabis offenders. The Dutch police came to the realisation that harm minimisation was concerned with reducing the harmful effects of drug use, resulting in the more dignified treatment of drug offenders. Rather than resorting to derogatory names, Dutch police now refer to drug offenders as “Dutch citizens who use drugs” (Rohl, 2000:129). It could be argued that through this change in labelling, police are perceived in a more positive light by drug offenders. Further, the type of drugs that individuals use can also play a part in how society labels their behaviour.
Although the behaviour of drinking alcohol and smoking tobacco cigarettes often comes under scrutiny, it is generally considered socially acceptable. Few would look twice at an individual smoking a tobacco cigarette or consuming large amounts of alcohol at a party. At the other end of the spectrum however, those observed injecting drugs or even perhaps smoking a cannabis cigarette at a party could cause alarm. Such behaviour would be deemed by many to be deviant or socially unacceptable (Kellehear & Cvetkovski, 2002:50). This of course would be dependent on the meanings attached to such actions by individuals participating in or observing these behaviours.

Another aspect of labelling, as outlined by Cunneen and White (2002:46) and Burke (2005:147), is that labelling can alter an individual’s self-identity, in that they perceive themselves as they have been labelled. For example, if you tell someone frequently enough that they are a hopeless drug addict, they may then perceive themselves in this light when in actual fact their drug use may be nothing more than experimental. This could ultimately lead the individual into heavier drug use, through acting out the labelled behaviour (Cunneen & White, 2002:46). This is particularly significant given that younger people are more likely to respond to labels imposed on them. CCPs as outlined in Chapter 2.7 have embraced labelling theory and aim to divert young, first-time offenders away from the criminal justice system, before they can be labelled as criminal, deviant or drug addicts.

What society labels as deviant or abnormal behaviour may change over time due to shifts in law enforcement initiatives and cultural change. With the introduction of CCPs, the use and possession of small amounts of cannabis are
treated more leniently than in the past. Although cannabis is still an illegal
drug, the change in law enforcement initiatives and the ‘soft drug’ label have
changed the way society defines its use (Becker, 2001:219). Through exploring
police personnel’s attitudes and perceptions in the implementation and ongoing
enforcement of the Victoria Police CCP, the research examined how cultural
definitions and the change in law enforcement initiatives impact on police
personnel’s perceptions of drug offenders. Through exploring police personnel’s
attitudes and perceptions, it was also possible to explore how police defined
drug offenders and how this impacted on the treatment of such offenders.

3.3 Why Qualitative Research?

According to Patton (1990:290), qualitative research can assist in better
understanding the world and the subjects within it. Through observation and
taking note of the terminology used by subjects, researchers can gain an
understanding of individual perspectives and experiences, while also exploring
how individuals give meaning to their lives based on these experiences (Patton,
Qualitative methods comprise collecting data through written and spoken words
and do not normally comprise numeric data collection (Holloway, 1997:93).
Qualitative data can comprise autobiographical accounts, observational studies
and interviews (Berg, 1989:6; Holloway, 1997:93; Oliver, 1997:17). The
qualitative method is associated with an interpretive approach that lends itself
to the study of social science and “gaining access to the experiences, attitudes
and perceptions of individuals within society by listening to them and observing
them” (Holloway, 1997:93; Oliver, 1997:17). Fundamentals such as these led
theorist Herbert Blumer (1969) to conclude that a qualitative approach to
research was the only way to gain an understanding of how people perceive and understand the world (Blumer 1969 cited in Flick, 1998:17).

The qualitative research approach better equips respondents with the opportunity to express their experiences in their own terms without limitation. Qualitative methods are based on the premise that different people will understand events in society in different ways. Further, this should be taken into account when gathering data, particularly considering that a human subject can choose how they will respond to a particular stimulus (Holloway, 1997:93; Oliver, 1997:17; Flick, 1998:6). This is in contrast to quantitative methods, which can limit the data gathered. For example, in quantitative data collection and the use of surveys, respondents are often limited by the answers they can give. Respondents are often unable to expand on their answers therefore limiting the collection of information-rich data (May 1997:111; Corbetta, 2003:265). Corbetta (2003:266) argues that for the perspective of the subject to be grasped, interviews must be flexible and respond to the personalities and experiences of the subjects.

The use of qualitative methods can also uncover and outline:

- an individual's beliefs, perceptions and knowledge in regards to particular situations or events,
- the methods, social rules, expectations, patterns and roles by which their situation is structured,
- the legitimisation by which their situation is structured; unquestioned character of their situation, and
the motives and interests, purposes, goals and plans through
which participants interpret their situation.

(Burns, 1994:251)

Based on these criteria, qualitative methodology focuses on how different people
declare an event/situation through their own actions, perceptions,interpretations and beliefs (Burns, 1994:251).

A qualitative methodology was therefore considered most appropriate in the
collection of data for this research as the researcher sought to understand the
attitudes and opinions of Victoria Police personnel in relation to the CCP. It was
thought that this methodology was best suited to achieving the objectives of the
research as set out in Chapter 1.5.1.

3.4 Research Questions

The aims and objectives of the research were to explore the impact of the CCP
on Victoria Police personnel through the examination of their attitudes and
practices with regard to the program. Further, the objectives were to gain an
understanding of the CCP and its impact on drug law enforcement in Victoria.

To meet these objectives the following research questions were posed for the
study:

1. What do police personnel perceive as being the impact of the CCP on law
enforcement and what possible difficulties do they see arising in the
prosecution of offenders?
2. Do police personnel believe that the CCP provides them with sufficient discretion for issuing a caution for cannabis use/possession?

3. What do police personnel perceive the public acceptance level of the CCP to be?

4. What do operational police personnel perceive as being better—a system of strict prosecution or one of cautioning?

5. How have police been instructed to deal with the CCP and what training has been provided?

6. Do police personnel believe that the training they receive is sufficient for implementing the CCP or do they believe it needs updating?

3.5 Interview Participants

Prior to Victoria Police being approached to conduct the research a target population needed to be identified. Based on the departmental structure of Victoria Police, it was possible to clearly identify groups within the organisation, which were of interest to the researcher (Oliver, 1997:48; Corbetta, 2003:219). As such the method of purposive sampling was used to obtain a target population.

Purposive sampling is a method which allows for a target population to be selected on the basis of the researcher's own knowledge of the population and its elements (Watt, 1978:77; Bailey, 1994:96; May, 1997:88). The researcher therefore “selects individuals who are presumed to be typical of certain segments of the population and therefore representative of it (Krathwohl, 1993:137; May, 1997:88; Neuman, 2003:213). Purposive sampling further allows the research to concentrate on a target population that is most likely
information rich (Patton, 2002:230). Information-rich target populations are those in which researchers feel they can learn the most about the topic of inquiry. Unlike quantitative forms of data collection, purposive sampling can result in an in-depth understanding of the issues at hand rather than a generalisation (Patton, 2002:230).

In order to select the target population Victoria Police as a whole entity was divided into its existing five (police) regions (see Appendix 3). Each police region was then divided into three subgroups – uniform, CIU and prosecutions. Each subgroup was then treated as a separate entity and a random sample drawn from each of the subgroups (Oliver, 1997:48). For example, all uniform stations within police region one were segregated from the uniform stations of other regions and a random sample of five stations was drawn. The same process was used to select a sample from CIU and prosecutions subgroups, with one CIU and one prosecution office being randomly selected from each of the five (police) regions. The selected stations were then presented to the Victoria Police Research Co-ordinating Committee (RCC), during the ethics process, for approval to interview a member (within specifically identified ranks) from each selected station.

Random sampling combined with purposive sampling was used as it allowed for every member of the target population to have an equal chance at being selected, while also allowing the target population to be divided into non-overlapping subgroups and selected accordingly (Bailey, 1994:92; Oliver, 1997:48). The techniques used were considered most appropriate in ensuring that those selected for interview were most likely to use the CCP in an
operational context and would ensure that there was an appropriate representation of rural and metropolitan members.

A purposive sampling technique was used throughout the research as the researcher found it both possible and desirable that the sample be selected based on her knowledge of the population (Watt, 1978:88; Berg, 1989:110; Bailey, 1994:96; May, 1997:88). Purposive sampling was also used as it allowed the researcher to utilise the available sample, as determined by the OIC of each station. Based on the work commitments of members within the target population, the researcher anticipated problems with accessing members of the target population despite ethics approval from Victoria Police. The researcher therefore had to be prepared to utilise which ever personnel were available from each of the randomly selected police stations (uniform, CIU, prosecutions) (May, 1997:88; Oliver, 1997:49).

3.5.1 Police Personnel Included in the Research

Uniform personnel from the rank of Constable to Senior Sergeant and CIU personnel from the rank of Detective Constable to Detective Senior Sergeant, who were considered operational within each of the five (police) regions of Victoria (Appendix Three), were selected. It was perceived that these members were more likely to have ground-level operational experience of the CCP and the issues associated with its enforcement. Although CIU members, due to the nature of their duties, were likely to have less experience in dealing with the program than uniform members, it was perceived that they would still possess a high understanding of the objectives of the CCP.
Police prosecutors, regardless of rank, within each of the five police regions of Victoria (Appendix Three), were also selected in order to gain insight into the prosecution issues associated with the CCP. It was perceived that police prosecutors, regardless of rank, would have relatively the same experience in dealing with the CCP.

The inclusion of police prosecutors in the target population was not originally considered by the researcher, however upon discussion with the Victoria Police RCC, during the ethics process, agreement was made for this group to be included in the research sample. Originally, the researcher excluded this entity from the target population due to the researcher’s perception that police prosecutors would have little to do with the CCP. This perception was based on the notion that by the time cannabis offenders reach prosecution, the opportunity for further cautions has since expired and that information relating to any cautions issued to offenders is not admissible in court.

It was proposed that 47 participants (stations/offices) in total be interviewed. This consisted of five uniform personnel, one CIU person and one prosecutions person from each of the five police regions (see Appendix Three), OIC of the Drug Squad, Executive Officer of the Police Association (EOPA), a staff member from the Drug and Alcohol Unit (DAU) plus the nine original police stations involved in focus group discussions during the Victoria Police Cannabis Caution pilot program conducted from 1997 to 1998 (see chapter 1.3).

In total 44 participants (stations/offices) were contacted for interview. This consisted of five uniform personnel, one CIU person and one prosecutions
person from each of the five police regions (see Appendix Three), plus the nine original police stations involved in focus group discussions during the pilot stage of the CCP.

The stations within each of the nine districts that were involved in the original Victoria Police CCPP were also included for the current study. These stations are set out below in Table 3.1.

**Table 3.1 - Police stations involved in CCPP**

<table>
<thead>
<tr>
<th>POLICE STATION</th>
<th>REGION</th>
<th>DISTRICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne City</td>
<td>1</td>
<td>A</td>
</tr>
<tr>
<td>St Kilda</td>
<td>1</td>
<td>B</td>
</tr>
<tr>
<td>Knox</td>
<td>4</td>
<td>F</td>
</tr>
<tr>
<td>Altona North</td>
<td>2</td>
<td>J</td>
</tr>
<tr>
<td>Broadmeadows</td>
<td>3</td>
<td>I</td>
</tr>
<tr>
<td>Geelong</td>
<td>2</td>
<td>K</td>
</tr>
<tr>
<td>Mildura</td>
<td>3</td>
<td>N</td>
</tr>
<tr>
<td>Shepparton</td>
<td>3</td>
<td>O</td>
</tr>
<tr>
<td>Morwell</td>
<td>5</td>
<td>Q</td>
</tr>
</tbody>
</table>

These original districts were selected by Victoria Police to participate in their original pilot program based on statistics indicating the highest number of cannabis offenders charged from March 1993 to July 1996 (Victoria Police, 1996:15). Victoria Police Command selected ‘I’ district because it had the highest percentage of first-time offenders charged with use or possession of cannabis (Victoria Police, 2000a:14). This district also incorporated a mix of...
both rural and metropolitan communities (at the time), which was considered important when considering statewide implementation (Victoria Police, 2000a:14). ‘I’ district incorporated a number of north-western Melbourne suburbs. Broadmeadows was selected as part of the target population, as it was the headquarters of ‘I’ district. Due to ‘I’ district Command having extensive knowledge of the CCP, it was felt that members would be well equipped to discuss the issues surrounding the implementation and enforcement of the program (Victoria Police, 2000a:14).

Uniform and CIU stations randomly selected by the researcher for inclusion in the research are set out below in Table 3.2.

**Table 3.2 - Uniform and CIU offices included in sample**

<table>
<thead>
<tr>
<th>REGION</th>
<th>UNIFORM</th>
<th>CIU</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>City Patrol Group, Malvern, Caulfield, Brighton, Chelsea</td>
<td>Fitzroy</td>
</tr>
<tr>
<td>2</td>
<td>Keilor Downs, Werribee, Ballarat, Horsham, Warrnambool</td>
<td>Ballarat</td>
</tr>
<tr>
<td>3</td>
<td>Mill Park, Coburg, Castlemaine, Echuca, Swan Hill</td>
<td>Broadmeadows</td>
</tr>
<tr>
<td>4</td>
<td>Heidelberg, Camberwell, Belgrave, Benalla, Wangaratta</td>
<td>Ringwood</td>
</tr>
<tr>
<td>5</td>
<td>Frankston, Narre Warren, Warragul, Lakes Entrance, Sale</td>
<td>Frankston</td>
</tr>
</tbody>
</table>

Police prosecutions offices randomly selected by the researcher for inclusion in the research are set out below in Table 3.3.
Table 3.3 - Police prosecutions offices included in the sample

<table>
<thead>
<tr>
<th>REGION</th>
<th>PROSECUTIONS OFFICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Melbourne</td>
</tr>
<tr>
<td>2</td>
<td>Sunshine</td>
</tr>
<tr>
<td>3</td>
<td>Broadmeadows</td>
</tr>
<tr>
<td>4</td>
<td>Ringwood</td>
</tr>
<tr>
<td>5</td>
<td>Dandenong</td>
</tr>
</tbody>
</table>

Of the 44 stations contacted, 12 stations in total either did not respond to the researcher’s requests for an interview, officially declined to take part in the study or did not return written responses by the return date. This consisted of eight uniform, three CIU and one prosecution participants. Written responses were only requested where several attempts to conduct face-to-face or telephone interviews proved futile. The researcher’s decision not to repeatedly contact stations for a response or to conduct another random sample selection was based on a number of reasons. Although the RCC gave approval for all selected stations to be interviewed and approval from the RCC forwarded to the station’s OIC, approval was granted on the condition that stations could decline to take part. The researcher therefore took non-response as an indication that these stations did not wish to take part in the study. Of the stations that formally declined to participate in the research, reasons cited related to time constraints, staffing levels and a lack of involvement in the CCP. Despite this however, stations that did not participate in the research were generally evenly spread across the five police regions. As a result of non-response and conscious decisions not to participate, the research sample was reduced to 32 participants.
This consisted of three face-to-face interviews, six telephone interviews and 23 written responses. A breakdown of participants who provided face to face, telephone and written responses is outlined in chapter 4.2.

### 3.5.2 Police Personnel Excluded from the Research

The rank of Inspector and above were excluded from the target populations as it was perceived these police personnel were considered more along the lines of managers. It was further perceived that police personnel from the rank of Inspector and above were less likely to have ground-level operational experience in dealing with the CCP.

Police personnel from Sexual Offences and Child Abuse Units (SOCA), Regional Response Units (RRU) and Traffic Management Units (TMU) were also excluded as part of the target population because their duties were considered specialist and did not fit into the realms of general policing as defined for the purposes of this research project.

The researcher also intended to interview the OIC of the Drug Squad as a means of gaining knowledge into the impact of the CCP on the functioning of the Drug Squad. However, during the data collection phase it became evident through police prosecutor responses that the CCP would have little impact on police personnel outside uniform and CIU departments. It was therefore decided that the OIC of the Drug Squad would not be interviewed. It was felt that information received would add little value to the data and research as a whole, as a majority of drug-related offences dealt with by this squad relate to major drug offences. In this instance offenders in most cases would not be eligible for
a cannabis caution notice.

It was also intended that the EOPA and a staff member from the Victoria Police DAU would be interviewed. Again as with the OIC of the Drug Squad it was perceived that the value of the data that would be collected from such participation would be of little value. Given that these members do not have day-to-day experience in the ongoing enforcement of the CCP and are not considered operational as defined for the purposes of this study, these areas of Victoria Police were not included in the study.

3.6 Negotiation of Access

Permission to interview sworn Victoria Police personnel on their attitudes and practices in regards to the implementation and ongoing enforcement of the Victoria Police CCP was considered necessary for the feasibility of the research, but also to ensure compliance with current Victoria Police policies.

In order to gain access to Victoria Police personnel:

- Contact was made with the Victoria Police RCC, where a full research ethics paper, including interview schedules was required to be submitted (Appendix Four).
- The RCC, prior to approval, contacted the relevant Regional Commanders and Assistant Commissioners on behalf of the researcher for approval to be granted for interviews to take place within each of the selected stations.
A letter of introduction, written by a member of the RCC was drafted for and supplied to the researcher to assist in the negotiation process with the OIC of each station (Appendix Seven).

Approval to conduct the research was granted on the condition that participants could decline to take part at any stage throughout the data collection stage. As a result, all participants were required to sign consent forms prior to participating in the study (Appendix Eight).

The researcher wrote to each OIC, outlining the research being undertaken, the interview schedule and providing a copy of written approval from the RCC (Appendix Nine). The OIC was charged with the selecting a member to participate in the research. The member contacted the researcher and the research process was discussed. The selected member was given the opportunity to accept or decline participation.

On 2 November 2001 conditional approval for the researcher to access and interview sworn Victoria Police personnel was granted by RMIT University Ethics Committee, subject to Victoria Police approval (Appendix Five). Written approval was received from the RCC on 17 January 2002 to conduct 47 interviews with Victoria Police personnel within the ranks of Constable to Senior Sergeant, Detective Constable to Detective Senior Sergeant, police prosecutors, the OIC of the Drug Squad, the EOPA, and a staff member from the DAU (Appendix Six). Those who provided responses were within each of the five police regions (Appendix Three). RCC approval was forwarded to the Chairperson of the Higher Degrees Committee, RMIT University.

Access to the RCC and subsequently the target population was made easier as a
result of the researcher’s employment with Victoria Police and the organisation’s willingness to assist staff in bettering themselves through higher education and training. Due to the complicated hierarchical structure of Victoria Police, access to personnel for research purposes would not have been possible without the involvement of the RCC and OIC in the negotiation process.

3.6.1 Access Limitations

Purposive sampling was useful in determining the target population as it allowed the research to concentrate on a target population that was most likely to provide information rich responses (Patton, 2002:230) while also being flexible enough to allow the researcher to use what target population was available at the time. Despite these advantages however, there are some limitations.

Although purposive sampling allows for researchers to select the target population based on their knowledge of the population, researcher bias runs a risk of creeping into the data. In order to avoid this, the researcher, after randomly selecting the stations that would participate in the study, felt bias could be reduced by entrusting the selection of participating members to the OIC. This would not only serve as a means for reducing researcher bias, but also enable the researcher to gain access to a target population that was most likely to be available throughout the data collection phase. This factor was particularly significant given the environment in which sworn police personnel work, often unavailable due to annual leave, court appearances, training and shift work.
The limitations of the OIC choosing participants were that the OIC would have knowledge not only of which personnel were to participate in the study but also what questions would be asked of them. The involvement of the OIC could influence the participants’ answers, steering them towards the corporate ideal and away from the participants’ own personal perceptions. Furthermore, the OIC could select personnel who had particular views of the CCP. However, to assume that such influences took place would be problematic, as there is no evidence to support this. Furthermore, regardless of how access to the target population was obtained, the OIC of each participant would still need to be aware of their participation in order to allow for flexibility within rostered shifts. While ordinarily such involvement from a person in authority over the participant would be considered a conflict of interest and has the potential to skew the data, it must be understood that due to the hierarchical structure of Victoria Police, access to sworn Victoria Police personnel would be impossible without the involvement of the OIC. This is particularly significant given Victoria Police personnel are restricted from commenting publicly on police policy and practices. Further it is evident from the data collected (see Chapter Four) that there was no pressure or influence imposed on participants by the respective OIC as there were a number of chosen participants who formally declined to take part in the study. There were also a number of stations selected for the study who did not respond to the request for a member of their station to be nominated to take part in the study. It was clearly agreed between the researcher and the Victoria Police RCC, during the ethics phase, that police members from the selected stations could decline to take part in the study at any point.
3.7 Research Instrument

The interview schedule used to collect data from sworn Victoria Police personnel was designed to address the research aims and was directly related to the implementation and ongoing enforcement of the Victoria Police CCP (Appendix Nine). The schedule provided open-ended questions in an attempt to gain as much information as possible about sworn police personnel’s attitudes and perceptions in relation to the CCP. Questions covered issues relating to thoughts about overall implementation as well as thoughts on training. Given time limits imposed on sworn police personnel due to the nature of their duties, it was imperative that interviews were not too long, yet were designed in such a way to allow for maximum information gathering. It is generally accepted among police personnel that personal thoughts held about police policy will not be publicly commented upon. For this reason it was important to ensure that the questions did not discourage respondents from answering honestly for fear of retribution, despite authorisation being granted for such questions to be posed.

The participants were asked to comment on the overall introduction, implementation and ongoing enforcement of the CCP. They were also asked to comment on what improvements they would like to see in the program.

Interview questions put to sworn personnel from prosecution departments contained a slightly different format than those posed to uniform and CIU members. These interviews still addressed the research aims and implementation and training issues, but they also addressed any possible changes in prosecution issues as a result of the program’s implementation.
All participants who took part in the data collection phase were asked if they wished to look over their answers as a form of validation. All respondents declined to take part.

Face to face interviews took approximately 30-60mins, while telephone interviews took approximately 30-45mins. The time it took to complete a face to face or telephone interview is difficult to accurately record as in many instances interviews were interrupted. Participants were called away by colleagues and were required to take other telephone calls. While in retrospect such interruptions are almost obviously going to occur due to the nature of participants work, this was not considered in the initial design stages of the research. It was anticipated that once approval was given to gain access to the participants and participants agreed to be apart of the study appropriate time would be made by the participants to be interviewed. The interruptions experienced severely effected the researchers ability to illicit detailed responses during the interviews. Based on such factors it is acknowledged that it would perhaps have been more appropriate to disseminate a comprehensive questionnaire. Where questionnaires were completed by participants it was anticipated that completion time would have varied considerably between participants, based on the detail of responses given. Such variations could be between 30-60mins.

3.7.1 Confidentiality

The need for confidentiality within a law enforcement agency is of paramount importance, a practice that is instilled in all police personnel, both sworn and
unsworn, from day one. Typically sworn police personnel have access to information that relates to client criminal histories and other personal information. The use of the term client is particularly significant, as information that police personnel can access does not solely relate to information stored in relation to offenders. Information can also be stored in relation to property, victims and incidents that require police intervention. Although the Information Privacy Act 2000 (VIC) provides for police to disseminate police information to other organisations, such provisions are limited to the scope of their duty as police officers. Police information may only be disseminated to other law enforcement organisations for the purposes of crime prevention, detection and investigation, and where rigorous information security practices are in place (Information Privacy Act 2000, s. 13(a), Sch.1, 2.1(g)(i) (iv)).

As a result of the type of information police can access, it was essential such information was not revealed to the researcher. The researcher maintained a strict policy of refraining from posing questions to participants that may elicit client-specific information. Having worked with sensitive information while employed with Victoria Police for five years, the researcher was aware of the necessity to ensure that client information did not enter the data collection process.

Just as police personnel have a duty to ensure confidentiality of client information, the researcher had a duty of care to the participants of the study, to ensure that data collected could not be linked to participants. Data and field notes recorded and maintained by the researcher replaced participants’ names
with codes. This ensured participants’ anonymity as information provided could not be directly linked to them.

### 3.8 Qualitative Data

At the beginning of the study it was the researcher’s intention to collect data through conducting face-to-face interviews with sworn Victoria Police personnel. Face-to-face interviews were selected as they allow the researcher more flexibility in observing participants in their natural setting while also allowing for elaboration and clarification throughout, especially in cases where answers appear to be incomplete (Burns, 1994:361). Furthermore, with the use of face-to-face interviews, response rates tend to be higher as respondents are often more willing to give verbal answers to questions rather than written ones (Burns, 1994:362).

One of the difficulties of conducting interviews was the inability in many cases to arrange mutually convenient interview times for the researcher and participants. Issues contributing to this included police personnel obligations such as shift work, annual leave, court appearances and training. In order to overcome such limitations, particularly where several unsuccessful attempts to meet were made, the researcher included telephone interviews. Telephone interviews were selected as an alternative to face-to-face interviews as they possess the same structural characteristics and therefore are a good tool for collecting information-rich data. Telephone interviews can also prove to be more economical and less time consuming while allowing for open communication between the participant and the interviewer (Bailey, 1994:197; Sarantakos, 2005, 283). Time consumption was particularly important given
the time constraints placed on police personnel. One notable disadvantage of
the telephone technique is that the interviewer is unable to observe non-verbal
behaviour expressed by the participant (Bailey, 1994:198; Sarantakos,
2005:283).

Telephone interviews used the same semi-structured interview format as that
used in face-to-face interviews. Telephone interviews were also audio taped
with the use of a speaker phone. The advantages of telephone interviews were
that mutually convenient times were easier to arrange and the use of audio
equipment assisted in the accurate recording of data. Where telephone
interviews could be arranged, the researcher found that time management was
most effective, as time was not spent in having to travel from station to station
to find that participants were no longer available, despite confirmations being
made (Bailey, 1994:197; Sarantakos, 2005:283). As with face-to-face
interviews, telephone interviews allowed for the researcher to prompt, elaborate
and clarify answers (Bailey, 1994:198; Sarantakos, 2005:283). Given that the
telephone interviews were not solicited in the traditional method, through the
use of cold calling or computer-assisted dialling, interviews were not affected by
limitations typically associated with this form of interviewing. Due to the pre-
arrangement of interviews, limitations such as termination of interview or
apprehension on behalf of the participant about interviewer's anonymity were
avoided.

Using telephone interviews did not entirely solve the problem of participants
having difficulty committing to a time for an interview. Where participants
were finding it difficult to commit to a face to face or telephone interview, they
requested to provide written responses to the interview questions. While this seemed to be a solution to data collection issues this too presented limitations.

Limitations included the researcher having to make several follow-up calls to participants who had not yet returned written responses. Due to this limitation, the data collection phase was extremely drawn out. A further drawback was that written responses could be limited due to participants unwillingness to spend time giving detailed answers. The obvious limitation in using e-mail is the inability of the researcher to prompt, elaborate and encourage further information from participants which is possible during face-to-face and telephone interviews. All participants who requested written responses were forwarded these in an appropriate format which were consistent with Appendix Four as per approval from RMIT ethics and the RCC. A further limitation in swapping from face to face and telephone interviews to a questionnaire is that it would have been beneficial to have developed a more comprehensive questionnaire to illicit more in-depth and information rich responses. While swapping data collection methods from interviews to questionnaire responses may initially raise concerns, the consent form participants were required to sign allowed for data collection to be undertaken by interview or by questionnaire. The consent form used to engage participants for the study was an approved RMIT Human Research Ethics Committee form, which was current as at the time of receiving ethics approval from RMIT. This form was also included in the ethics application paper submitted and approved by the Victoria Police RCC.

All interviews whether conducted face to face or via telephone were tape recorded with participants’ consent (Appendix Eight) and subsequently
Transcriptions were compiled by a third party, however no identifying features accompanied the tape recordings and therefore participants’ anonymity remained secure. Tape recording of interviews was used to ensure an accurate record of the interview. The use of audiotape can be useful in capturing information that would otherwise be overlooked by written records. Audiotape can capture inflection in the voice of the participant that may help during analysis (Krathwohl, 1993:227). Another advantage of audio data is that it can be revisited throughout the analysis stage for insight. One weakness of this process, which was identified during the data collection process, was the failure of audio equipment. Audio equipment failed during one interview, however as the researcher made it a common practice to take notes during all interviews, data could still be extracted from the interview process (Krathwohl, 1993:228).

Upon the conclusion of the data collection phase, all audio-taped interviews were transcribed and checked by the researcher for accuracy and for a detailed understanding of the data.

### 3.9 Analysis and Development of Themes

Qualitative researchers generally interpret data by first subjecting it to thematic analysis. In this process, data is arranged into themes, patterns and categories of a similar nature. This process is repeated several times in order to assist in condensing the data into a manageable and meaningful form (Neuman, 2003:441–2).

The researcher perceived that thematic analysis was the best method for
extracting themes and concepts. The justification for this is that qualitative data coding occurs during the data collection phase, not before the data collection phase as is often common with quantitative research. Commonly the coding of qualitative data is derived from the responses posed by interview participants; with quantitative data however, questionnaire answers are pre-coded (Oliver, 1997:128, 130). Qualitative or thematic analysis proved paramount early on in the data collection phase, with the researcher being able to identify issues, such as the inclusion of police prosecutors in the research sample. The identification of such issues allowed for the researcher to make educated decisions about the research sample still to be interviewed.

In order for the thematic process to be adopted, it was first necessary to ensure that all audio-taped interviews were transcribed and checked prior to coding commencing. Transcribed interviews, written responses and interviewer notes were coded to aid in the development of themes. Through the use of open coding, initial themes were identified (Patton, 2002:453; Neuman, 2003:442). These themes included perceptions relating to training and implementation of the CCP, and issues concerning the decriminalisation of cannabis.

Once initial themes were identified, data was examined and coded a second time to extract any further emerging themes and issues. As suggested by Oliver (1997:130), this is an important step as the same information can be used to develop one or more themes or categories. Regardless of whether answers were in the form of transcriptions, written responses or researcher notes, all data was coded and analysed in a similar manner.
3.10 Conclusion

As the previous discussion demonstrates, flexibility in the research design proved essential. Through the use of qualitative methodologies the research design could be modified to accommodate limitations identified throughout the data collection phase. Information provided by police prosecutors proved valuable in that it helped identify limitations in the research. Information gathered gave direction to the research allowing the researcher to refocus on areas that would be more information rich. Through refocusing the direction of the research, the research design was able to maintain its validity. The research shows that when appropriate frameworks and methodologies are selected, limitations can be overcome.
CHAPTER FOUR

Police Perceptions of the Cannabis Caution Program

I am ....... disappointed with the way things have gone in the last ten to fifteen years. As per normal the quiet minority are not listened to and people in authority seem to pander to small interest groups and the entire community suffers. A harder line from the courts and schools would hopefully turn around what has churned out a generation of spoilt brats who have no consideration or respect for their elders or persons in authority.

4.1 Introduction

The objective of this research was to gain an understanding of the attitudes of Victoria Police personnel in relation to the implementation and ongoing enforcement of the Victoria Police CCP. The study focused on examining police personnel and documenting their attitudes towards, and experiences of, the CCP. As discussed in Chapter Three, data was collected through face-to-face interviews, telephone interviews and questionnaires administered to uniform, CIU and prosecution members. The information that follows is a discussion of the results of this research.

Before examining the themes which emerged from the research however it was deemed necessary to provide contextual and background information in relation
to the research participants. This chapter therefore commences with an exploration of the profile of the participants and what they perceived the purpose of introducing the CCP was. Following this is a presentation of the research findings in major themes and subthemes. The first theme examines police practices related to the CCP including the influencing factors which effect police decisions of whether or not to issue a caution. The second theme examines police reflection on the efficiency of the CCP including the extent to which police feel cannabis is a problem. The third theme explores the prosecution of cannabis use and possession including whether or not the CCP reduces prosecution of cannabis offences and the effect the CCP has on police and court time and resource management.

4.2 Profile of Participants

As discussed in Chapter Three a total of 32 responses were received from uniform, CIU and prosecution police personnel. Participants from uniform and CIU held the ranks of Constable to Senior Sergeant and Detective Constable to Detective Senior Sergeant respectively. Police prosecutors, regardless of rank, were selected for the purpose of gaining insight into the prosecution issues associated with the CCP.

In total, 26 uniform, two CIU and four prosecution members provided answers through face-to-face interviews, telephone interviews and questionnaire responses. Tables 4.1-4.3 outline a breakdown of the participants and the methods by which they provided responses.
Table 4.1 – Participants who provided face to face or telephone responses

<table>
<thead>
<tr>
<th>POLICE STATION</th>
<th>REGION</th>
<th>RESPONSE TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Patrol Group Uniform</td>
<td>1</td>
<td>Telephone</td>
</tr>
<tr>
<td>Brighton Uniform</td>
<td>1</td>
<td>Telephone</td>
</tr>
<tr>
<td>Melbourne Prosecutions</td>
<td>1</td>
<td>Telephone</td>
</tr>
<tr>
<td>Altona North Uniform</td>
<td>2</td>
<td>Face to Face</td>
</tr>
<tr>
<td>Sunshine Prosecutions</td>
<td>2</td>
<td>Face to Face</td>
</tr>
<tr>
<td>Broadmeadows Prosecutions</td>
<td>3</td>
<td>Face to Face</td>
</tr>
<tr>
<td>Shepparton Uniform</td>
<td>3</td>
<td>Telephone</td>
</tr>
<tr>
<td>Ringwood Prosecutions</td>
<td>4</td>
<td>Telephone</td>
</tr>
<tr>
<td>Narre Warren Uniform</td>
<td>5</td>
<td>Telephone</td>
</tr>
</tbody>
</table>

Table 4.2 – Participants who declined to take part or who did not respond to a request to participate in the study

<table>
<thead>
<tr>
<th>POLICE STATION</th>
<th>REGION</th>
<th>RESPONSE TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>St Kilda Uniform</td>
<td>1</td>
<td>No response</td>
</tr>
<tr>
<td>Malvern Uniform</td>
<td>1</td>
<td>No response</td>
</tr>
<tr>
<td>Ballarat CIU</td>
<td>2</td>
<td>Declined to take part</td>
</tr>
<tr>
<td>Geelong Uniform</td>
<td>2</td>
<td>No response</td>
</tr>
<tr>
<td>Keilor Downs Uniform</td>
<td>2</td>
<td>No response</td>
</tr>
<tr>
<td>Broadmeadows CIU</td>
<td>3</td>
<td>No response</td>
</tr>
<tr>
<td>Wangaratta Uniform</td>
<td>4</td>
<td>Declined to take part</td>
</tr>
<tr>
<td>Knox Uniform</td>
<td>4</td>
<td>No response</td>
</tr>
<tr>
<td>Benalla Uniform</td>
<td>4</td>
<td>No response</td>
</tr>
<tr>
<td>Lakes Entrance Uniform</td>
<td>5</td>
<td>Declined to take part</td>
</tr>
<tr>
<td>Frankston CIU</td>
<td>5</td>
<td>No response</td>
</tr>
<tr>
<td>Dandenong Prosecutions</td>
<td>5</td>
<td>No response</td>
</tr>
</tbody>
</table>
Table 4.3 – Participants who provided written responses

<table>
<thead>
<tr>
<th>POLICE STATION</th>
<th>REGION</th>
<th>RESPONSE TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Melbourne City Uniform</td>
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<td>Written</td>
</tr>
<tr>
<td>Caulfield Uniform</td>
<td>1</td>
<td>Written</td>
</tr>
<tr>
<td>Chelsea Uniform</td>
<td>1</td>
<td>Written</td>
</tr>
<tr>
<td>Fitzroy CIU</td>
<td>2</td>
<td>Written</td>
</tr>
<tr>
<td>Werribee Uniform</td>
<td>2</td>
<td>Written</td>
</tr>
<tr>
<td>Ballarat Uniform</td>
<td>2</td>
<td>Written</td>
</tr>
<tr>
<td>Horsham Uniform</td>
<td>2</td>
<td>Written</td>
</tr>
<tr>
<td>Warrnambool Uniform</td>
<td>2</td>
<td>Written</td>
</tr>
<tr>
<td>Broadmeadows Uniform</td>
<td>3</td>
<td>Written</td>
</tr>
<tr>
<td>Mildura Uniform</td>
<td>3</td>
<td>Written</td>
</tr>
<tr>
<td>Mill Park Uniform</td>
<td>3</td>
<td>Written</td>
</tr>
<tr>
<td>Coburg Uniform</td>
<td>3</td>
<td>Written</td>
</tr>
<tr>
<td>Castlemaine Uniform</td>
<td>3</td>
<td>Written</td>
</tr>
<tr>
<td>Echuca Uniform</td>
<td>3</td>
<td>Written</td>
</tr>
<tr>
<td>Swan Hill Uniform</td>
<td>3</td>
<td>Written</td>
</tr>
<tr>
<td>Heidelberg Uniform</td>
<td>4</td>
<td>Written</td>
</tr>
<tr>
<td>Camberwell Uniform</td>
<td>4</td>
<td>Written</td>
</tr>
<tr>
<td>Belgrave Uniform</td>
<td>4</td>
<td>Written</td>
</tr>
<tr>
<td>Ringwood CIU</td>
<td>4</td>
<td>Written</td>
</tr>
<tr>
<td>Morwell Uniform</td>
<td>5</td>
<td>Written</td>
</tr>
<tr>
<td>Frankston Uniform</td>
<td>5</td>
<td>Written</td>
</tr>
<tr>
<td>Warragul Uniform</td>
<td>5</td>
<td>Written</td>
</tr>
<tr>
<td>Sale Uniform</td>
<td>5</td>
<td>Written</td>
</tr>
</tbody>
</table>
The themes that follow in this chapter are based on the answers provided by these participants.

### 4.3 Purpose of the CCP

Participants were invited to discuss what they perceived as the purpose of Victoria Police introducing the CCP. Here the researcher sought to determine participants’ understanding of why the introduction of such a program was deemed necessary and appropriate for dealing with cannabis offenders. It was perceived that by obtaining this contextual information it would provide a greater understanding of the remaining responses provided throughout the research.

Many participants provided multiple answers to the question and therefore reasons cited were varied. As can be seen from Figure 4.1, 15 uniform and one CIU participant stated that reducing the burden placed on police and court resources was the main purpose of introducing the CCP. Avoiding a criminal conviction was also cited, with ten uniform and one CIU participant, stating that the purpose of the CCP was a means of giving first-time offenders a second chance, by diverting them away from the criminal justice system. One uniform participant stated:

> The purpose of the CCP is to give first-time offenders who are caught in possession of using a small amount of cannabis an opportunity to avoid the justice system ...

(Uniform 28)

Similarly, one CIU participant stated that the purpose of the CCP was:
To allow first-time minor drug offenders to be dealt with in an appropriate way other than being dealt with by a court.

(CIU 3)

Only one uniform participant believed the purpose of the CCP was to identify the people at risk of becoming drug addicted.

**Figure 4.1 - Purpose of introducing the CCP by department**

Of the 26 uniform participants who took part in the study, participants stated that they believed the purpose of the CCP was not only to educate offenders about the effects of cannabis use and its associated harms, but also to reduce the harms. These same participants also believed that the purpose of the CCP was to rehabilitate those using drugs while preventing a drug gateway effect, whereby users may be tempted to try harder drugs.

Of the four police prosecutors who participated in the study, three considered the introduction of the CCP as a time-saving mechanism for both the police and the courts. The fourth prosecutor believed the introduction of the CCP reflected a shift in societal attitudes, where cannabis use was becoming increasingly
accepted by the community. Prosecutors also saw the introduction of the CCP as a means whereby generally law-abiding citizens, who have been detected committing minor cannabis offences, can receive a second chance and also avoid a court appearance.

As will be seen in section 4.4 what influences police practices in relation to whether or not police members issue a caution is also varied. The influencing factors are not however necessarily consistent with Victoria Police’s reasons for implementing the CCP.

4.4 Police Decision Making Practices Relating to the CCP

There are number of factors which influence participants’ decision of whether or not to issue an offender with a caution for cannabis use or possession. The sub-headings which follow explore these factors and discuss their impact on police practices relating to the CCP.

4.4.1 Influences of offender attitude on decision making practices

All participants were asked to state what influenced their decision to caution an offender or proceed straight to prosecution. Twenty uniform and two CIU participants stated that if an offender fell within the Victoria Police CCP criteria, they, as investigating members, would issue a caution. A total of 23 uniform participants and one CIU participant stated that an offender’s attitude influenced their decision to issue a caution. Within this group, three uniform participants stated that an offender’s attitude towards drug use itself would preclude them from issuing a caution. As one uniform participant stated:
If they have a good attitude and...are willing to abandon the property (the drugs) then they will be given a caution. But we do have people ask for the property back and of course that’s not the idea of the cautioning program. If they want it back then they don’t see why it (drug taking) is an issue, so of course there will not be cautioning with this attitude.

(Uniform 2)

Another participant stated:

About the only time I wouldn’t do it [issue a caution] would be when the offender had a very poor attitude, and I believe the court experience would be beneficial or that the removal of the cautioning step would bring on a more punitive and or rehabilitative sanction that little bit earlier.

(Uniform 13)

These responses indicated that there are instances where police are willing to move away from the CCP in an attempt to illustrate the seriousness of drug use and the adverse effects such use can have on the offender physically, socially and legally.

In contrast, one uniform participant stated that an offender’s attitude towards drug use did not influence the decision to issue a caution, rather it was the offender’s attitude towards police that would preclude a caution from being issued:
... it’s their attitude towards us ... if they come across abusive and rude to me, well screw them, they can wear a trip to court.

(Uniform 19)

Of the 24 participants who stated that attitude influenced their decision, one CIU response and seven participant responses lacked elaboration, in that they simply stated attitude would be considered when issuing a caution. It is therefore unclear whether attitude refers to attitude towards police, attitude towards the CCP, or attitude towards drug use itself. With a lack of elaboration, assumptions can only be made.

According to four uniform participants and one CIU participant other factors that influenced decisions included evidence that other offences had been committed at the time of drug detection and prior offences committed by the offender. Within this group, one uniform participant also stated that the way the cannabis was packed would influence their decision to issue a caution, as particular packaging methods can indicate the cannabis is for sale and not for personal use. Cannabis packaged in smaller individual parcels, even where the amount is less than or equal to 50 grams, indicates to police that the offender intends to sell the cannabis.

Participants were asked if the level of equipment\textsuperscript{24} available at the time of detecting the drug offence influenced their decision to issue a caution in any way. Twenty uniform participants and one CIU participant stated that the level of

\textsuperscript{24} Cautioning notices, evidence bags.
equipment available did not influence their decision. Of the remaining participants, one CIU participant and three uniform participants stated that the level of equipment did influence their decision to issue a caution as they felt that if the equipment was not available the program was unworkable. Of these participants, one uniform member stated that they were also more likely to proceed to prosecution if the equipment needed for the issue of a caution was not available. Of those who took part in the study, three uniform participants did not provide an answer.

As the above responses indicate, some of the participants believed that there is sufficient scope for them to exercise their discretion when dealing with the CCP. On the other hand, some participants believed that their discretion was negated by the decisions and/or actions of higher authorities. Higher authorities included individuals inside and outside Victoria Police. For example, one uniform participant stated:

... if they fit the criteria they’d get it (a caution) every time only because if you don’t want them to get a caution then the sergeant is only going to give them one anyway if they’re eligible.

(Uniform 10)

Another participant stated:

It has been accepted by police members for years that to charge a person for use/possess cannabis has basically been a waste of time. Magistrates have made the penalties issued to offenders
such that it is not worth the time or effort to police these offences.

(Uniform 12)

Offender attitude was also cited as a factor that influences where participants chose to issue a caution, however this was only considered by one uniform participant. Police policy stipulates that cannabis cautions may be issued at the scene where the offence was detected or at the police station. Of those who participated, 16 uniform and two CIU members stated that they preferred to transfer the offender back to the station in order to issue a caution. Of the remaining ten participants, eight uniform members stated that they preferred to issue a notice at the scene. One uniform participant stated they preferred to issue a caution at the station, however if they needed to save time they would consider issuing it at the scene. One uniform participant failed to answer the question.

Of the 18 participants who preferred to issue cautions at the station, nine uniform and one CIU participants did not elaborate on their reasons why. Reasons that were provided included the perceived need to formalise the process in order to illustrate the seriousness of the offence (seven uniform). As stated by one uniform participant:

... bringing them back here to the station, it makes it a bit more formal and that’s what I like. You know that embarrassment of being put in the back of the van in view of the public and being transported as a prisoner. I think that’s a good thing.

(Uniform 10)
Further reasons included the ability of offenders to sign for and witness the investigating member lodge the cannabis in the property book. Also, some participants preferred to issue cautions at the station because it gave them the opportunity to record interviews with offenders.

Other than formalising the process, seven participants stated they preferred to issue cautions at the station so that offender identification could be confirmed. For example, one uniform participant stated:

> At the station you can confirm ID and perform full searches of the person to make sure they don’t have any further drugs on their person and everything is dealt with in a more professional manner.

(Uniform 2)

All participants who preferred to issue a notice at the scene did so because it was perceived to be quicker and less time consuming.

### 4.4.2 Reducing administration time influences decision making

The fact that the CCP helped police save time when it came to dealing with cannabis offenders was an emerging trend throughout the research. In fact 25 uniform and two CIU participants stated they supported the concept of the CCP, however this was rarely for reasons other than reducing police administration time, bolstering police statistics and reducing the strain on court resources. Of the 25 uniform participants that supported the concept of the CCP, eight
supported the program because it not only reduced the number of minor cannabis offences appearing before the courts, but it also reduced the amount of time they were required to dedicate to such matters. This included the amount of time it took to process an offender as well as the amount of time it took to prepare briefs of evidence and attend court.

There was support for the CCP by two uniform participants because it allowed police members to bolster arrest statistics with little effort. Unfortunately both participants believed that the CCP had little other benefit, and that the CCP gave the impression that cannabis had become legalised. It was due to this that these members were leaning towards rejecting the concept of the CCP. There was support for the CCP from one uniform member as it allowed what they considered a social issue to remain out of the courts and thus prevent the issue from becoming a criminal problem. There was only one uniform participant who did not support the concept of the CCP, believing that the courts, not the police, should be responsible for dealing with such offenders.

The reduction in time spent on minor cannabis offences is seen as a strength of the CCP. Of those who participated in the study, 20 uniform and two CIU participants believed that by the CCP reducing the strain on court resources, courts are better able to deal with more serious offences. By the CCP alleviating the strain on court resources, police personnel in turn were also spared because they were no longer required to spend extensive periods of time at court for minor offences. All four police prosecutors stated that they were also spared with fewer briefs of evidence crossing their desks.
The six remaining participants believed the strengths of the CCP were that the program gave first-time offenders a second chance (two uniform), while also deterring offenders and ultimately getting them off drugs (one uniform). Another strength of the CCP was that it could better assist the courts to deal with cannabis offenders once they had received their cautions (one uniform). The CCP was seen as having a positive effect by one uniform participant, however there was no elaboration. One uniform member cited that there were no positive effects.

Of the uniform participants who took part in the study, one participant believed the CCP had the same effect as appearing at court. This participant believed that the courts generally deploy a lenient approach towards cannabis offenders and thus the CCP helps eliminate unnecessary work for the same result. The chance to refer cannabis offenders to a drug treatment agency was also seen as a positive effect by one uniform participant.

Many participants believed that reducing the numbers of cannabis offenders appearing before the courts had a positive effect on the criminal justice system, but one uniform and one CIU participant believed this outcome to be a negative. These participants considered that when offenders did not appear before the courts there was no opportunity for community standards to be communicated to offenders. As a result, offenders could perceive that they are getting off lightly.

Trivialisation of cannabis use was also seen by three uniform and one CIU participant as a negative effect of the CCP on substance abuse. Two participants
did not elaborate on their responses and two believed that the use of the CCP would communicate to the public that the police no longer see cannabis use as a serious offence. One uniform member stated:

The weakness is that it appears that the police are turning a blind eye to the users and only bandaging the problem instead of addressing the bigger issues because we are too busy.

(Uniform 17)

4.4.3 Influences of training on decision making

In general, participants demonstrated a thorough understanding of the legal and administrative aspects of the CCP. This was surprising given the amount of training many participants received in relation to the CCP. Of those who participated in the study, 13 uniform and two CIU members stated that the training they received consisted of a short lecture from their District Training Officer or through undertaking Operation Safety and Tactics Training (OSTT). This training incorporated the criteria that needed to be met and the equipment required in order to successfully issue a caution. Only two of those participants consulted stated that they received training in the CCP at the police academy, however this could be due to most participants having graduated from the academy prior to the CCP being implemented. Interestingly, 11 uniform participants stated that they received no training in relation to the CCP. Despite this however, ten uniform participants stated that although they did not receive any initial training in the program, they did eventually receive training through OSTT, on-the-job experience and via force-wide disseminated e-mails, force intranet, bulletins and gazette articles. The remaining participant stated that they learnt about the CCP through on-the-job experience only.
Of the 17 participants who stated that they did receive initial training in the implementation of the CCP, nine uniform and one CIU member stated that they learnt about the options available to them through other means. Five uniform members stated they learnt through force–wide disseminated e-mails, force intranet, bulletins and gazette articles, while four uniform and one CIU member learnt through on-the-job training only. Of the remaining seven participants who received initial training, five uniform members and one CIU member stated that they did not learn about the CCP through any other means, and one uniform member did not provide a response.

All four police prosecutors reported that they received no training in the CCP, in their role as prosecutors, however two reported receiving training in their previous roles in uniform. All prosecutor participants agreed that training in the CCP was not required as their role was significantly different to that of uniform and CIU members. Prosecutors stated that in their roles as prosecutors, they were not in the position to engage the CCP. Where participants did not receive training in the CCP as a result of their previous duties, prosecutors received an overview of the program and options open to police personnel. This overview was seen to be critical for prosecutors to keep abreast of diversion issues.

Participants generally considered the training they received as sufficiently clear and effective in making them aware of what is required when dealing with the CCP. A total of 19 uniform and two CIU participants perceived the training received to be effective. Only one uniform participant considered the training
they received to be ineffective, however did not elaborate why. Of the remaining participants, six did not provide a response. Of this group, four uniform participants did not provide a response for the following reasons: they did not receive any formal training or participants chose not to provide response. Participants who educated themselves in the CCP through disseminated written material perceived the material to be unclear and needing further clarification. It was perceived, however, that once the CCP had been used for the first time the process was sufficiently clear to enable members to successfully issue cautions to minor cannabis offenders. Notwithstanding this, one uniform member who did receive training in the CCP expressed a desire to have regular refresher training. He thought this was particularly necessary in areas where the CCP was not exercised regularly due to low levels of cannabis use in the community.

Participants were also asked if they were aware of the equipment that was essential to successfully issue a caution notice according to Victoria Police policy. Of those who participated in the study, 23 uniform and two CIU participants stated they were aware of the equipment required, however only four uniform and one CIU participant elaborated and listed what those items were. Of the remaining three uniform participants, two stated that they were not aware of the equipment that was required according to force policy, and one uniform member did not provide a response.

In an attempt to establish whether influencing factors were a result of training received by participants or learnt skills and behaviours through colleague interaction, participants were asked to state whether or not they had been
stationed elsewhere since the introduction of the CCP. Participants were also asked to state what factors influenced members at these stations when deciding to issue a cannabis caution.

Of the participants who took part in the study, 14 uniform and one CIU participant stated that since the introduction of the CCP they had worked in stations other than their current station. All stated that the factors that influence whether or not to issue a caution were the same as those at their current station; namely, whether or not the offender met the cautioning criteria, the offender’s attitude towards police and drug use itself, the offender’s prior criminal history and the existence of any other offences at the time of drug detection. The remaining 12 uniform and one CIU member had not been stationed elsewhere.

4.5 Efficiency of the Cannabis Cautioning Process

Both the literature and research findings show that there are varying views about the impact drug diversion programs are having on crime rates, drug use and law enforcement as a whole. The discussion which follows sets out to explore the efficiency with which police perceive the CCP to be having on crime rates and drug use. It also discusses whether or not police perceive the CCP is achieving what it was set out to do.

4.5.1 Drug related crime versus law enforcement

Uniform and CIU participants were asked to estimate the percentage of crimes they attended on a weekly basis that were drug related. Twenty-one out of 26 uniform participants and both CIU participants believed that 50 percent or
more of crimes they attended on a weekly basis were drug related. The remaining five uniform participants perceived drug offences to account for less than 50 percent of crimes that they attended on a weekly basis.

Of those participants who perceived drug-related crime to account for more than 50 percent of crimes they attended on a weekly basis, nine uniform participants and one CIU participant believed that a majority of burglaries and other property offences were drug related (see Figure 4.1). They stated that these offences fell within the realms of drug-related crime as offenders generally committed the offence in order to obtain drugs or obtain funds for the purchase of drugs. According to two uniform participants:

Between 90 percent and 95 percent of crimes attended by police would be drug related. This would include robberies, burgs, obtain property by deception etc. I believe that it may be even a little higher if you include street offences such as assaults, criminal/wilful damages etc., which are committed by offenders who are drug affected.

(Uniform 20)

Ninety to 95 percent of burglaries attended would have to be drug related. Most offenders in burglaries we deal with have a drug habit and that is why they have broken into the home. They break in to steal items that can be converted quickly into cash for drugs or cash outright.

(Uniform 1)
Fifteen uniform participants and one CIU participant stated that 50 percent or more of crimes they attended on a weekly basis were drug related but did not provide reasoning for their estimations or explore which categories of offences these drug-related crimes fell within.

The perceived notion by participants that 50 percent or more of crimes attended on a weekly basis were drug related was in line with the percentage of drug-related offences police prosecutors estimated were before the courts on a weekly basis. The four prosecutors who participated in the study estimated that at least 50 percent of cases they prosecuted were drug related. The breakdown of estimated percentages between participants can be seen in Figure 4.2.

**Figure 4.2 - Number of participants by drug-related crime attended/prosecuted per week by department**

As can be seen from Figure 4.2, of the four prosecutors who provided responses, one estimated that 80 to 90 percent of crimes prosecuted on a weekly basis were drug related while the remaining three participants perceived that 50 to 79 percent of crimes were drug related. One prosecutor stated:
A very large percentage of crimes are drug related, I’d say the majority of cases we deal with, burglaries and theft specifically, are drug related ...

(Prosecution 2)

As can be seen from Figure 4.3, of the 27 participants who perceived 50 percent or more of crimes attended/prosecuted on a weekly basis to be drug related, 18 participants were stationed within metropolitan areas. The remaining nine participants were stationed in rural areas.

Only two participants located within metropolitan areas and three participants located within rural areas perceived that drug-related crime they attended/prosecuted on a weekly basis to be less than 50 percent.

Figure 4.3 - Number of drug-related crimes attended/prosecuted per week by location

Of the 18 metropolitan participants who considered drug-related crime to account for more than 50 percent of the crimes they attended/prosecuted on a weekly basis, four were police prosecutors. Further, it can be seen that there is little difference in the perceptions of uniform and CIU participants regardless of whether they are stationed in rural or metropolitan areas. As can be seen from
Figure 4.4 below, most metropolitan uniform participants (12 of 14) believed that drug-related crime accounted for more than 50 percent of crimes attended on a weekly basis. Similarly, the majority of rural uniform participants (five) also believed that drug-related crime accounted for more than 50 percent of crimes attended on a weekly basis. An almost equal number of rural (three) and metropolitan (two) participants believed that drug-related crime accounted for less than 50 percent of crime attended/prosecuted on a weekly basis.

Figure 4.4 - Number of crimes attended/prosecuted per week by location and department

Despite general support for the CCP, 12 uniform and two CIU participants saw the CCP as having little or no effect on drug law enforcement. Within this group, six uniform and one CIU participant believed the CCP did little to decrease drug use. Participants were of the belief that cannabis was still freely available on the streets. Easy access to drugs combined with low penalties for drug use informed participants beliefs that there was little incentive for people to quit using the drug. As one uniform participant stated:
I do not believe that it is having any effect on the amount of people using cannabis in the community. Cannabis is still highly available and is widely accepted as a social drug.

(Uniform 20)

Another uniform participant stated:

... I don’t think it is really affecting small-time personal users because they don’t see an impact or consequence.

(Uniform 21)

The remaining seven participants believed that the CCP was having little impact on drug law enforcement, but did not explain why.

In line with this, four uniform participants believed that the introduction of the CCP has had a negative effect on drug law enforcement. Participants believed that the CCP trivialised drug use both in the eyes of police personnel and the public. As one participant stated:

Less offenders are being processed for cannabis use. Members are more likely to take cannabis from a suspect and throw it on the ground rather than stuff around doing a caution.

(Uniform 7)

Another participant stated:

It has reinforced the acceptance of the use of cannabis by authorities. Most offenders that come under the cannabis cautioning program are younger teenagers. They treat the
possession of small amounts of cannabis for personal use as nearly a right.

(Uniform 12)

The remaining ten participants saw the CCP as having a substantial positive effect on drug law enforcement. Of these participants, four uniform participants believed that the CCP had a positive impact on drug law enforcement as it reduced police administrative time, which in turn allowed police to redirect resources towards other duties and offences. It was perceived that the reduction in administrative time would encourage police to target drug possession. As one uniform member stated:

The time required to process an offender for cannabis is now minimal and as a result members are more likely to go looking for drug possession. In the past when prosecution was compulsory, members were less likely to look for drug possession due to the time associated.

(Uniform 6)

Of the remaining six uniform participants who believed the CCP had a positive effect on drug law enforcement, three uniform participants perceived the program to be effective as it gave minor cannabis offenders a second chance. Of the three remaining uniform participants who did not perceive the reduction in administrative time as a positive effect, two believed that there was less cannabis out on the streets. These participants, however, could not say if this was due to drug displacement, or due to the CCP. The third participants did not provide details about why the CCP has had a positive effect.
4.5.2 CCP: Effects on use reduction

In terms of the CCP’s positive effects on substance abuse, 12 uniform members of the 28 participants saw the program as having no positive effects on substance abuse. This ranged from participants actually stating that there were no positive effects, to participants not providing an answer as to what they believed the positive aspects of the program were. Of those who did not address the positive effects of the CCP on substance abuse, it was assumed that this was because they did not see any positive effects.

Of the participants who did explore the positive effects of the CCP on substance abuse, four uniform and one CIU member saw that the program could be used to steer first-time or minor drug offenders away from drug use. It was perceived that this could be done through educating them on the legal, physical and social consequences that can arise out of substance use. One participant stated:

The caution creates a “shock” to the offender in that they are on the edge of the legal system as being labelled a “drug offender”. In accepting this caution the subject makes a conscious decision about whether or not to continue drug abuse/use rather than accepting that it is a community culture.

(Uniform 6)

Similarly, six uniform and one CIU participant believed the CCP gave otherwise law-abiding citizens a second chance. Through implementing the CCP, offenders are given the chance to see the error of their ways and move towards altering their behaviour.
Participants believed that through the referral system offenders could get help for their drug problem, as the CCP was effective in preventing a gateway effect. That is, through the CCP low-level, first-time users could be educated on the effects of the drug and thus possibly prevent their graduation to stronger, more serious illicit drugs. The CCP was also seen as a tool with which police can gain knowledge about the extent of an offender’s drug use.

Of the four police prosecutors who participated in the study, only two saw the CCP as having a positive effect on substance abuse. They commented that the program gave offenders the opportunity to avoid a court appearance while also making them aware of the consequences of their behaviour. Other positive effects of the CCP were also cited by one prosecutor, however these related to the program’s ability to save time when processing offenders. There was no consideration of the positive effects of the CCP on substance abuse. The remaining prosecutor did not explore the positive effects of the CCP on substance abuse.

Many participants did not identify any apparent negative effects on the courts, but 12 uniform participants perceived the CCP to trivialise cannabis use or give the impression that its use had been decriminalised. Within this group, one uniform participant expressed fears that such trivialisation would result in an increase in the number of young people turning to drug use. They stated:

Negative aspects are that if we give the attitude that possessing cannabis is a small and petty matter then it may not be seen as a deterrent to possess it. May therefore see increase in people
being in possession of cannabis. If people are given a caution they may not think twice about doing it again, they may think that they are getting off lightly.

(Uniform 2)

A uniform participant raised further concerns that by the program treating offenders leniently, police personnel would place less importance on the detection of minor cannabis offences.

Weaknesses of the CCP also included the lack of a follow-up requirement within the program. It was perceived by two uniform participants that the lack of such an element placed no onus on offenders to seek treatment or rehabilitation and therefore did not promote use reduction. This perception suggests that the lack of compulsory drug education or counselling for offenders would result in the matter being further trivialised. This in turn could cause an increase in the number of offenders being processed for cannabis use/possession.

Of those consulted, six uniform and one CIU member saw the CCP as having no negative effects on substance abuse. Although the CCP has a drug treatment referral element, five uniform participants saw the fact that attendance at such programs is not compulsory as a negative because there was no incentive for offenders to stop using cannabis. Similarly, five uniform participants saw the CCP as a soft approach towards drug use and therefore did little to deter offenders from using cannabis.

Another negative effect of the CCP on substance abuse was the perception that heavy cannabis users were getting off lightly with a caution. Of those consulted,
three uniform members saw this as a negative, although two of the participants did not elaborate on their responses, one member stated:

If it’s someone that is a heavy user and they’ve not been caught and they’re getting off lightly. It could work negatively in that it encourages people to continue drug use. They don’t see the police taking it as an important matter so why should they.

(Uniform 2)

In most instances a move towards a social welfare approach could be considered a positive effect, but two uniform participants saw the move towards a social welfare approach as having a negative effect on substance abuse. Both participants believed that as the CCP removed any element of reprimand, then there was no incentive for offenders to alter their behaviour. The two remaining uniform participants saw the CCP as having a negative effect on substance abuse in two ways. First, if investigating members fail to refer an offender, the offender learns nothing from the situation and therefore may continue using cannabis. Second, regardless of the existence of the CCP, if an offender truly does not want to quit using cannabis then no amount of coercion will get them to stop using.

Of the four prosecutors who participated, three saw the CCP as having the potential to further trivialise cannabis use. Of these participants, two believed that cannabis use was considered relatively minor among offenders and the introduction of the CCP further trivialised its use. One participant stated that they were generally sceptical when told by offenders that they will give up cannabis use, however with the introduction of the CCP they were less likely to
attempt to stop using, as the CCP treats cannabis use as a minor matter. It was perceived that when considering regular users, the CCP had little influence on the offender’s behaviour. The remaining prosecutor perceived that the CCP had no negative effects on substance abuse.

4.5.3 Public Opinion: CCP saves time, money and resources

Opinion about whether or not the general public appreciate the aims of the CCP appears to be divided. Of those who participated in the study, 12 uniform and one CIU participant believed the general public appreciate the aims of the CCP. Of these participants, five uniform participants perceived that appreciation for the CCP was largely due to the fact that being issued with a caution means avoiding the stigma associated with a court appearance and possibly a criminal conviction. It was further considered that acceptance was due to its ability to provide members of the public with a second chance. One uniform member in particular believed that parents would be the most appreciative as there would be no court conviction to impact on their children. Of the 12 uniform participants, two believed that the public would appreciate the aims of the CCP solely because it would save time, money and resources.

Participants believed that as minor cannabis use is now socially acceptable to many, the continued criminalisation of minor cannabis use is no longer necessary and resources previously dedicated to the policing of minor cannabis offences should be redirected towards other more serious offences. The single CIU participant and another uniform participant, who believed that the general public would appreciate the aims of the CCP, did not state in what ways they believed the CCP would be appreciated. Of the remaining three uniform
members who believed the public would be appreciative of the CCP, all perceived that the change in social acceptance of cannabis use could be seen when dealing with young offenders. Participants stated that young offenders tended to be fairly blasé about being issued with a caution as there is no penalty attached. Participants believed that, in the main, offenders are more concerned with having to surrender their cannabis than having broken the law. This view was also shared by six other uniform members and one CIU member.

A lack of public awareness of the existence of the CCP was cited as a factor in public rejection of the program. A total of nine uniform and one CIU member believed that the public would only be aware and appreciative of the aims of the CCP once they had been exposed to it by being issued with a caution. Two uniform participants believed that the public would not appreciate the aims of the CCP as it would be perceived that the police are going soft on drug users. One uniform member did not believe that the public would appreciate the aims of the CCP, however did not state why. Of those consulted, one uniform member did not know if the public would appreciate the aims of the CCP and one uniform member did not provide an answer.

4.5.4 Improving efficiency: CCP amendments

Participants in the main appear to be very comfortable with the CCP approach to minor cannabis offences and would not like to see it abandoned. Despite this however, participants raised several issues for consideration in the further development and refinement of the current CCP. The main concern raised by participants about the CCP was the lack of a requirement for offenders to attend compulsory drug education or counselling. Of those consulted, ten uniform
participants stated that they would like attendance to be compulsory. Participants believed that this would reinforce the seriousness of drug use and outline the potential detrimental effects of drug use. One uniform participant suggested that once a caution was issued, the offender should be compelled to attend drug education or counselling and only upon this criteria being met would the offender be issued with a caution. If the offender failed to comply then they would have a conviction. Another uniform participant stated that any cautions issued should be admissible in court should the offender reoffend:

It needs to be more than a slap on the wrist. It also needs to be something that is brought up in sentencing a second time an offender goes to court. It should be seen as the same as a prior conviction and therefore the offender shouldn’t automatically be entitled to a bond.

(Uniform 16)

While the Drug Diversion Scheme is seen as an extension of the CCP, two uniform participants wished to see the CCP include other drugs such as heroin. By including heavier substances (white powder substances such as heroin, cocaine etc), participants believed that they would be better equipped to steer offenders towards drug treatment or counselling. Of these two participants, one believed that drug education should be made compulsory.

The redevelopment or refinement of the CCP focused on re-establishing the seriousness of minor cannabis offences. One uniform and one CIU participant suggested that the decision of whether to issue the caution on the street or at the
station should be removed and that it should be made compulsory for all
cautions to be issued at the station. The justification for such a refinement is to
re-establish the seriousness of drug offences and challenge any blasé attitudes of
the offender.

Formalising the process could also occur by removing the responsibility of
administering penalties or treatment from the police and placing it back with
the courts. Of those who participated in the study, one uniform member
suggested that the CCP should be redeveloped to mirror the Intensive
Correction Order system. Under such a scheme offenders would be required to
attend court, where they would be placed on an order compelling them to attend
a treatment program. Should they fail to complete an education or treatment
program then they could be convicted of the original offence. This view was also
shared by another uniform member who believed cautioning should be carried
out at the station in order to formalise the process.

One uniform participant raised the introduction of pecuniary penalties. They
wished to see the introduction of pecuniary penalties as many traffic offences
that are classed as minor offences attract significant monetary penalties, yet
drug offences, which are indictable offences, attract no penalty under the CCP.
By introducing such penalties the CCP would better fall in line with community
expectations while also discouraging offenders from reoffending.

One uniform participant wished to see the CCP process streamlined, however
they did not state how this streamlining would occur. Another uniform
participant wished to see small information kits placed in all police vehicles to
help members with the process of issuing a caution under the CCP. This kit
would also include all equipment required in order to successfully issue a
cautions.

Prosecutors had different views on how the CCP could be further developed. Of
the four consulted, one prosecutor wanted to see the 50-gram prescribed CCP
limit reduced to assist in the control of low-level trafficking. As discussed
earlier, the 50-gram limit was perceived to be generous and opened the doors
for offenders to participate in supply offences while remaining within the CCP
criteria.

Another prosecutor wished to expand the program by introducing compulsory
drug testing. Authorities could determine how drug dependent offenders were
and then direct them towards appropriate rehabilitation, counselling or medical
attention.

One prosecutor believed that there needed to be a more punitive aspect to the
CCP. He supported the redevelopment of the CCP to replace cautions with a
pecuniary penalty. The final prosecutor had no recommendations for the
redevelopment of the CCP.

Of the remaining 11 participants, nine uniform and one CIU member felt that
the program was adequate and had no recommendations for its further
development or refinement. In terms of changes to equipment needed in order
to issue a caution, participants felt that the equipment issued was sufficient and
did not need changing. One uniform member did not provide an answer to the question.

4.6 Prosecution of Cannabis Use and Possession

Although participants supported the concept of the CCP, 12 uniform participants saw the CCP as providing no assistance in the future prosecution of cannabis offenders. Of these participants, nine participants stated that they were aware that once offenders were sent for prosecution, any cautions issued prior could not be admitted into evidence in court. The three remaining participants did not elaborate and therefore it is difficult to know why they believed the CCP does not assist in the prosecution of offenders. Seven uniform participants believed that they were unable to comment on what assistance the CCP would have on the prosecution of an offender as five of the seven had never dealt with a repeat cannabis offender.

Of the remaining nine participants, five uniform and two CIU participants believed that the CCP did assist in the prosecution of offenders. All participants except for one CIU participant did not elaborate on their answers. This CIU participant believed the CCP allowed the courts to decide on whether or not a conviction should be recorded. The remaining two uniform participants did not provide answers.

Of the four prosecutor participants, all believed that once cannabis offences were referred to them for prosecution, the CCP and the number of cautions that an offender has received were no longer an influencing factor. All prosecutors stated that regardless of how minor the referred cannabis offence, all offenders
were treated equally and in most instances prosecutors would not be aware of whether or not an offender had been issued with a caution for cannabis offences. Prosecutors stated that they would not be aware of any cautions issued as they are not a part of an offender’s criminal history and are therefore not attached to the brief of evidence. Two prosecutors stated that in most instances magistrates would assume that, where possible, offenders have already received a caution for their offence prior to being prosecuted. According to a third prosecutor, the existence of sufficient evidence to prove a prima facie case was the main factor in the decision to proceed with prosecution. Providing this element is established, then an offender will be prosecuted. The fourth prosecutor simply believed that the CCP was designed to alleviate court time.

Prosecutors were asked to comment on the reaction of offenders who had received a caution, yet were prosecuted for subsequent cannabis offences. All four prosecutors reported that offenders generally appeared unaffected by the court experience. All prosecutors perceived that this was largely due to the fact that the penalty handed down by the courts for such offences is relatively lenient. All participants stated that in most instances offenders received a bond, which was considered very low on the punitive scale. Participants were of the belief that offenders were inclined to be resigned to the fact that they had been caught, however it was considered that lenient court-imposed penalties affected offenders’ attitudes towards drug use.

It can be concluded from the number of participants who believe the CCP assists in the prosecution of minor cannabis offenders that some police personnel are unaware that a caution of any kind is not admissible as evidence in court. Their
answers further suggest that members are of the opinion that the court could take into consideration the fact that the defendant has previously been cautioned when handing down a sentence. This demonstrates that members are not fully aware of the purpose of the CCP and its intended aims and objectives.

Coinciding with the often blasé attitude of young offenders and the general public perception that police are going soft on drug users, participants were asked to state whether or not they saw that the CCP could be open to abuse by the public. Opinion was divided. A total of nine uniform and one CIU participants saw no opportunity for the public to abuse or manipulate the CCP for their own gain. This was largely attributed to the fact that the decision to issue a caution lay with the investigating member.

In contrast, 15 uniform and one CIU participant perceived that the CCP was open to abuse by offenders to some degree. Within this group, 11 uniform and one CIU participant believed that the CCP was open to abuse because the program allowed for the issue of up to two cautions before the offender was prosecuted. Participants believed that the program encouraged offenders to blatantly possess and use drugs in the knowledge that they will be dealt with leniently.

As one uniform participant stated:

The knowledge that they won’t get prosecuted first time means a user can carry 50 grams with him all the time until he is caught
Also within this group, a further uniform participant stated that they believed the CCP was open to abuse, but did not provide reasons for this belief. Of the remaining three uniform participants who believed the CCP was open to abuse, one believed the CCP allowed experienced offenders to assume another identity and trick inexperienced police members into issuing a caution, when they are not entitled to one. A further uniform participant believed that offenders would agree to being issued a caution for the sake of avoiding a court appearance, but would have no intention of seeking help to address their drug issues. One uniform participant believed that the CCP was more open to abuse by cannabis traffickers than by the low-level user. This participant perceived that traffickers who are aware of the program criteria would be able to go about their trafficking activities, simply by carrying less than 50 grams on their person. Through doing this, any trafficker caught in the possession of cannabis would be eligible for a caution. This of course would be dependent on previous criminal history. Of the uniform participants who participated in the study, two did not provide a response to this question.

Two prosecutor participants also raised fears that heavy users of cannabis, that is, those who use two or three times a day, could claim the small amount in their possession could make them eligible for a caution. The remaining two prosecutors perceived that first-time offending would increase due to the
leniency of the CCP, which provided little incentive for offenders to change their behaviour or reconsider their drug use.

In general, participants demonstrated a thorough understanding of the legal and administrative aspects of the CCP. This was surprising given the amount of training many participants received in relation to the CCP (see discussion 4.4.3).

4.7 Conclusion

As can be seen from the themes discussed, the CCP in general is supported by those charged with its enforcement. Interestingly, support for the program was because it reduced the workloads of police and court personnel rather than because the program assisted drug offenders to reduce their drug use. Police were happy to provide offenders with a caution for cannabis use, however, an offenders attitude and the sanctions imposed on offenders by the courts greatly influenced their decision to issue a caution. While some members maintain the hard line, many have simply resigned themselves to the fact that cannabis is increasingly becoming viewed as a minor offence. Members therefore often issue a caution to avoid unnecessary work for what they believe will inevitably result in a lenient sanction. Resigned to the fact that the CCP is here to stay, one of the biggest concerns for members appeared to be the lack of a requirement for offenders to attend compulsory drug education or counselling. Police felt that the legal, social and health consequences of cannabis use were not evident to offenders and therefore compulsory drug education was a necessary element of the CCP. Despite this however, it can be seen throughout the themes that members appear to be relatively comfortable with the process of the CCP, both in terms of philosophy and general practicality. Many stated that they received
no initial training in the process of the CCP, but most seemed confident that they could effectively implement the system out on the street.
CHAPTER FIVE

Influencing Factors on Police Decision Making

The only time I wouldn’t do it (issue a caution) would be when the offender had a very poor attitude, and I believed the court experience would be beneficial or that the removal of the cautioning step would bring on a more punitive and or rehabilitative sanction that little bit earlier.

Uniform 13

5.1 Introduction

Chapter Five will analyse the findings of the research. The first theme examines police perceptions that the CCP was introduced to reduce the burden placed on police and court resources rather than to reduce the harm associated with drug use. The second theme discusses the perceived efficiencies police believe the CCP possesses. The third theme explores police practices in relation the CCP with particular emphasis on what influences police to issue a caution or proceed to prosecution. While the number of police participants in the research was small, many of the responses (whether interview or written) provided were consistent with the literature as the analysis will show.

5.2 Purpose of the CCP

The purpose of introducing the CCP, according to Comrie (1999:49 & 52), was not to decriminalise the use and possession of cannabis, but rather to minimise the harms associated with its use.
As the literature (Victoria Police, 1996:i; Victoria Police, 2000a:A38) shows, police can now caution and refer offenders to a drug assessment centre in order to seek assistance, therefore effectively giving them a second chance.

Eleven of the research participants believed the introduction of the CCP was a means of giving first-time minor cannabis offenders a second chance. This is consistent with the reasons Comrie (1999:52 & 51) cites for the introduction of pre-court drug diversionary strategies in Victoria. However, despite the underlying principle that the CCP was introduced as a tool directed towards harm minimisation, drug education and rehabilitation (Victoria Police, 1996:i), only a small number (nine uniform) of participants perceived the purpose of the CCP as a mechanism for addressing these issues.

As demonstrated in chapter 4.3, a significant number\textsuperscript{25} of participants perceived that the purpose of the CCP was to reduce the burden placed on police and court resources. Of particular interest to participants was that cautioning reduced the time spent in dealing with minor cannabis offenders, particularly preparing paperwork and attending court.

As indicated by Comrie (1999:52) this was not the intention of the program, but rather was an approach whereby police could focus on ‘real’ criminals such as manufacturers, distributors and growers. The intended purpose of the program was also to divert minor drug offenders away from the criminal justice system and towards health services (Comrie, 1999:52). Notwithstanding the intention

\textsuperscript{25} See Figure 4.1 in Chapter Four
of the CCP the unintended consequences was particularly important to participants who are required to juggle administration work and patrol work.

According to all participants the primary benefit of the CCP was the time saved having to attend court and complete paperwork. According to the literature (Victoria Police, 1996), reducing the burden on police and the courts was not considered by Victoria Police command as part of the purpose for introducing the CCP. Although operational police views and perceptions did not mirror those of police command, there is merit in participants responses, as according to Popovic (2001 cited in Porter, 2001:8), drug offences are so prevalent that drug courts have had to be established to deal with the ever-increasing drug cases that appear before the courts.

The ability of the CCP to alleviate the strain on court resources was seen by participants as a strength. Most participants (21 uniform and two CIU) thought that a large percentage of crimes they attended on a weekly basis were drug related, and included property offences committed in order to steal items to sell for the purchase of drugs. This is consistent with what Popovic (cited in Porter, 2001:8) states are the reasons for introducing drug diversionary strategies in Victoria. Drug diversionary strategies, according to Popovic (cited in Porter, 2001:8), were employed to reduce the overwhelming number of drug-offenders appearing before the courts. Although Popovic is specifically referring to the implementation of drug courts, the harm minimisation principles behind the drug courts and the CCP are very similar (Makkai, 2000:81; Flaherty & Jousif, 2002:7; King et al., 2004:53). Given the common philosophy between the two programs it is reasonable to consider that they will have a similar effect on the
number of drug offenders appearing before the courts. This is supported by Brereton (2003:93–94) who states that drug diversion strategies such as the CCP are responsible for fewer cannabis offenders appearing before the courts.

Police support for the CCP was also mirrored by South Australian (SA) police personnel who supported the CEN not because it benefited the offender, but because it addressed otherwise time-consuming administration issues. SA police personnel also found the prosecution of minor cannabis offenders to be extremely time consuming (Sutton & McMillan, 1999:13). This indicates that the issues associated with minor cannabis offences are not limited to one particular police force or geographical area and therefore further illustrates the notion as suggested by prominent researchers (Zimmer & Morgan 1997 cited in Iversen, 2000:227; Fergusson & Horwood 2000 cited in Fergusson et al. 2006:3; Fergusson et al. 2006:3; Kandel et al. 1992 cited in Fergusson et al., 2008:3; Kandel and Yamaguchi 2002 cited in Fergusson et al., 2006:3; Golub and Johnson 2002 cited in Fergusson et al., 2006:3) that a person’s decision to take or continue to take drugs is a natural transition of events which is often precipitated by socioeconomic circumstance and primary socialisation (Kandel et al., 1996 cited in Iversen, 2000:227-228; Fox & Mathews, 1992:13; Oetting et al., 1998 cited in Durrant & Thakker, 2003:172-173; Hayatbakhsh et al., 2007; Durrant & Thakker, 2003:172-173). It further suggests that the police who participated in this research are not unique in their views.

Only one participant considered that the CCP was introduced due to society’s growing acceptance of cannabis use. There was little consideration by all participants about the impact societal attitudes can have on law reform and
therefore its influence in effecting change with relation to the CCP. As society’s attitudes towards particular issues change, they can often have an impact on the way the law deals with particular offences.

Interestingly, participants did not believe that the CCP was introduced to reduce drug use. Drawing on Skolnick (1966), Goldstein (1968) and Neiderhoffer (1969, cited in Findlay, 2004:101) who theorised that early education can influence the way we think, the fact that participants did not consider the CCP as a use reduction tool suggests they saw no evidence of its influence in use reduction. Further these issues were not communicated through CCP training. This is supported by the level of training participants reported receiving in relation to the CCP (see Chapter 4.4.3).

5.3 Police Reflection on Efficiency of the Cannabis Cautioning Process

There are a number of elements which drug diversion strategies such as the CCP are said to address. This includes their ability to reduce cannabis crime rates through use reduction and drug education. The discussion which follows explores these elements and determine whether the CCP is successful in effecting impact in these areas. Public appreciation and potential amendments provide an avenue for assessing the efficiency of the CCP.

5.3.1 CCP effect on drug crime rates unclear

As indicated in Chapters 2.5 and 2.6, the issue of decriminalising minor cannabis offences has been controversial. Decriminalisation involves the lessening of penalties or the total legalisation of cannabis use and possession (Victoria Police, 2000a:A38; Hall & Pacula, 2003:220). Opponents of
decriminalisation argue that lessening penalties communicates the wrong message to society (MacCoun, 2000:123). The majority of participants (25 uniform and two CIU) generally supported the introduction of the CCP, but almost 50 percent (12 uniform) thought it trivialised or sent the wrong message about cannabis use. They thought that the CCP would result in an increase in the number of young people turning to cannabis use. Consistent with this, police personnel in SA also feared that leniency towards cannabis offences would lead to an increase in use (Sutton & McMillan, 1999:1).

Where research analysed programs (Donnelly et al., 1999:11; DuPont & Voth, 2000:139; Laslett & Rumbold, 2002:39), as opposed to police perceptions, it was found that there was a general increase in cannabis use in areas that had implemented programs of ‘decriminalisation’ both in Australia and overseas (Donnelly et al., 1999:11; DuPont & Voth, 2000:139). This is consistent with the NDSHS findings for 2001, 2004 and 2007 which show that cannabis use in Australia is still significantly prevalent across all age groups despite the introduction of drug diversion programs being implemented throughout the country (AIHW, 2003, 2005 & 2008). While there were participants who believed the CCP would increase cannabis use among young people, this was not supported by the National Drug Strategy Household Surveys (2001, 2004 & 2007). These surveys show the highest level of cannabis use is in fact among those over 20 years of age rather than teenagers.

In contrast, however, Laslett and Rumbold (2002:39) suggest that prior to drug diversion being implemented in all states of Australia there was no greater use of cannabis in states that practised ‘decriminalisation’ compared to those that
practised strict prohibition. It could therefore be suggested that the effect that drug diversion strategies has had on cannabis use is unclear. It could therefore be further suggested that authorities have no real concept of how much drug use, let alone cannabis use there is throughout the country and what initiatives or actions will have a real significant impact on use reduction.

As discussed in Chapter 4.5, there was a considerable variance in the number of offences participants perceived to be drug related. Half of the participants (16) perceived drug-related crime to account for 50 percent or more of crimes attended/prosecuted on a weekly basis; others believed it accounted for as much as 100 percent (11 police) or as little as 30 percent (three police). The differences in perception could possibly be attributed to the geographical area in which police were stationed. For example, as can be seen from Figure 4.3, three of the five participants who perceived drug-related crime to account for less than 50 percent of crimes attended on a weekly basis were stationed in rural areas. The significance of geographical and socioeconomic factors in drug-related crime is not entirely clear, as can be seen in the arguments of Fox and Mathews (1992:12), Kandel et al. (1996 cited in Iversen, 2000:227), Oetting et al. (1998 cited in Durrant & Thakker, 2003:180–181) and Zimmer and Morgan (1997 cited in Iversen, 2000:173).

A person’s socioeconomic circumstances and the geographical area in which they live influence not only a person’s decision to take drugs but also to continue taking drugs and the amount they take (Fox and Mathews, 1992:12; Kandel et al., 1996 cited in Iversen, 2000:227). In contrast Kandel et al. (1992 cited in

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26 See Chapter Four
Fergusson et al., 2008:3), Zimmer and Morgan (1997 cited in Iversen, 2000:173), Golub and Johnson and Kandel and Yamaguchi (2002 cited in Fergusson et al., 2006:3) and Fergusson et al. (2006:3), believe that a person’s decision to commence or continue drug use has nothing to do with their geographical or socioeconomic circumstance, rather it is a natural transition of events where cannabis is used prior to the onset of using other drugs and therefore increases the likelihood of the use of other drugs.

At present current initiatives which include education through various medias appear to be having no real impact on drug use or a person’s decision to commence drug use. With official cannabis prevalence rates remaining unclear it is unrealistic to expect police to accurately estimate offence rates. The difference in cannabis prevalence rates, both in the literature and those estimated by the participants, can be attributed to social reality and how individuals define it (Neuman, 1997:69). As stated by Neuman (1997) “social reality is based on people’s definitions of it” (Neuman, 1997:69), therefore how police personnel define drug related crime ultimately determines how they react and give meaning to it (Berg, 1989:8; Neuman, 1997:69; Sarantakos, 2005:44). Participants fears that drug use would increase through the CCP indicate that they consider the prevention of drug use as an essential part of their role as law enforcement officers and may consider the CCP is an inappropriate way of trying to encourage use reduction. It also perhaps indicates that police on the street do not have a real understanding of the factors which contribute to a person deciding to commence or continue taking drugs. It further indicates that there is a significant gap in police training when it comes to drug offences.
Despite participants perceiving that the CCP trivialises cannabis use, there was still significant support for the program as a whole. However, very few participants supported a harm minimisation approach for reasons other than alleviating the strain on court resources. Given that social environment and social issues are considered by some researchers (Fox & Mathews, 1992:13; Kandel et al., 1996 cited in Iversen, 2000:227; Durrant & Thakker, 2003:180–181) as influencing factors in a person’s decision of whether or not to commence or continue drug use, it was surprising to see so few participants consider this relevant to the overall drug issue. This raises questions of whether or not drug diversion programs can assist in addressing social issues such as homelessness, poverty and unemployment, which in turn removes the catalyst for people beginning or continuing drug use.

Further literature (Fox and Matthews, 1992:13; Kandel et al., 1996 cited in Iversen, 2000:227; Goode, 1997:37; Oetting et al., 1998 cited in Durrant & Thakker, 2003:180-181) indicating a persons interaction with others can not only determine whether or not we use drugs, but social issues such as homelessness and a lack of prospects can create a psychological dependency where individuals turn to drugs in order to escape the reality of what can often appear to be a hopeless situation. By addressing socioeconomic factors drug use can be curbed. As the majority of participants did not identify the CCP as a means of addressing social issues linked to drug use, it suggests that participants may not be fully aware of all the issues surrounding drug use or they do not perceive these issues as relevant to the policing of drugs.
The significance of the variance in the number of offences participants perceived to be drug related is that different geographical and socioeconomic areas can be affected by different crimes. That is, drug use may be more prevalent in some areas, which accounts for the different perceptions of participants. Police recognise that differences occur between communities and therefore employ local priority policing methods to identify and address the issues of these communities (Roberg et al., 2005:124).

5.3.2 CCP: Effects on use reduction

Harm minimisation is predominately concerned with reducing the harms associated with drug use and not with reducing the use of illicit drugs themselves (Dietze, 1998:188; Dupont & Voth, 2000:139; Roche & Evans, 2000:153). According to Comrie (1999:49 & 52), the CCP is designed to reduce the harms associated with drug use. Although harm minimisation strategies are not focused on use reduction (Dietze, 1998:188; DuPont & Voth, 2000:139), five participants saw the CCP as a tool whereby first-time minor cannabis offenders could be directed away from drug use. In contrast, almost half of those who participated in the study saw the CCP as having no positive effect on substance abuse. In fact, some participants perceived that the CCP has the potential to encourage cannabis use among the young. Assumptions can be made that such contrasting views stemmed from personal belief systems, rather than organisational influence. As discussed by Skolnick (1966), Goldstein (1968), and Neiderhoffer (1969 cited in Findlay, 2004:101), Grant and Terry (2005:223); Roberg et al., (2005:272) police are influenced by organisational attitudes, but they also bring with them their own norms, values and beliefs as members of society. A conclusion can therefore be drawn that although
organisational teachings did not necessarily draw a link between the CCP and use reduction, learnt community values did.

The majority of participants perceived that those most likely to benefit from the CCP were first-time minor cannabis users. Most participants appeared to consider most cannabis users or first time users as experimental users, who once cautioned were less likely to be processed again for cannabis use. This is consistent with Comrie’s (1999: 50 & 52) support for a harm minimisation approach to deal with minor cannabis offences and why this strategy is best suited to the framework of Victoria Police. A lack of consideration of environment and socioeconomic circumstances as influencing factors in drug use could perhaps be attributed to police labelling cannabis users as first time or experimental users.

A variety of opinions were expressed about the negative effects the CCP had on substance abuse. Seven participants considered there were no negative effects in particular about its perceived inability to effect use reduction. In contrast one police member saw the drug referral element of the CCP as a positive towards use reduction; however, five participants saw this element as a negative because it was not compulsory. This combined with the perceived trivialisation (four participants) of drug use gave offenders no incentive to offenders to cease or reduce drug use and therefore presented the potential for heavy cannabis users to get off lightly.

Interestingly, participants did not appear to distinguish between the effects of the CCP on substance abuse and on drug law enforcement. When asked to
consider the effects of the CCP on drug law enforcement, participants tended to focus on the prevalence of cannabis use. Half of those who participated in the study saw the CCP as having little or no effect on drug law enforcement and this was in part due to the perception that the CCP did little to reduce cannabis use or the amount of cannabis available on the streets. In contrast, two participants saw the CCP as having a substantial effect on drug law enforcement, as they perceived there to be less cannabis available on the streets. As discussed in section 5.3.1 cannabis use rates are still relatively high Australia despite the introduction of programs such as the CCP.

5.3.3 Public opinion on cannabis use

The term decriminalisation, as discussed in Chapter 2.5, is problematic when used to define programs such as the CCP. Through their interaction with cannabis offenders participants found there was the general perception that the CCP legalised cannabis use and possession. This is despite Victorian legislation that proclaims cannabis use and possession as illegal (*DPCS Act 1981*, Sections 73 & 75). Participants saw that lenient penalties in turn made cannabis use more socially acceptable among the community. Arguably however, as suggested by Goldberg (2003:86), society’s growing acceptance of cannabis use can be attributed to a belief that it is unfair to force people to give up a practice that they find enjoyable. The introduction of the CCP and the lenient penalties (*DPCS Act 1981*, Section 76; *Sentencing Act 1991*, Section 75) handed down by the courts perhaps communicate an acceptance of such practices.

In line with the philosophy behind harm minimisation strategies, participants believed that the public appreciated the aims of the CCP because it allowed
minor cannabis offenders to avoid the stigma associated with a court appearance and possible criminal conviction. These perceptions indicate that participants are increasingly aware of the community’s acceptance of cannabis use. It also indicates that police are aware of the influences that peer groups (Kandel et al., 1996 cited in Iversen, 2000:227-228; Fox & Mathews, 1992:13; Oetting et al., 1998 cited in Durrant & Thakker, 2003:172-173; Hayatbakhsh et al., 2007; Durrant & Thakker, 2003:172-173) may have on an individual’s willingness to experiment with drugs and that this experimentation may lead to encounters with the law. Participants are willing to give otherwise law-abiding citizens a second chance.

With cannabis use becoming progressively accepted by society, participants saw that the public would appreciate that the CCP allowed for money, time and police resources to be redirected towards more serious issues. Participants believe that members of the public would be appreciative of the CCP as it reduced the amount of time and resources needed to monitor cannabis offences. As discussed in Chapter 2.3, the increasing acceptance of cannabis use and its cognitive effects has led to other forms of monitoring (Hall et al. 1999:95; Hall & Pacula, 2003:38). With cannabis and other drugs becoming increasingly used on a recreational basis, police have had to direct resources towards the detection of their use. For example drug buses have been employed in order to detect those driving while under the influence of drugs including cannabis. Regardless of where they are directed, police resources are still needed to detect cannabis use, particularly where the use may directly impact on members of the community.
As discussed in section 5.3.1 youth cannabis consumption rates are not as high as what would perhaps be expected, however research (AIHW, 2005:25) shows that more and more teenagers are turning to alternative drugs such as ecstasy. A change in youth culture and the development of the ‘rave scene’, according to Laslett and Rumbold (2002:40), show a typical response to the influences an individual’s environment and socioeconomic circumstances can have. The perceived lower levels of cannabis use can, as suggested by the participants, be due to crime displacement whereby users have graduated to other, possibly more serious drugs.

A positive experience created through drug use can result in an increase in drug use. The need for a bigger and better experience can therefore also lead to users graduating to other harder drugs (Bloomquist, 1971:46, Bretteville-Jensen, Melberg, & Jones, 2006:3). Approximately one-third of participants considered that compulsory drug treatment or education should be part of the CCP in an effort to reduce the physical, social and legal harms associated with cannabis use. The literature shows that there are many harms associated with cannabis use and that these are not limited to the physical consequences (Fox & Mathews, 1992:12; McMurran, 1994: 40; Hall et al., 1999:96–96; Lenton et al., 1999:35; Sutton & McMillan, 1999:4; Iversen, 2000:188; Upfall, 2002:104–105; Hall & Pacula, 2003:38; Lenne et al., 2004:3; Stough et al., 2006:7; Budney et al., 2007: 13; Budney et al., 2008:2; Goldberg, 2009:247; Stough & King, 2010:5). Convictions for cannabis use and possession have precluded many individuals from maintaining employment, obtaining employment and, in some cases,
Participants believed that young offenders may not be fully aware of the consequences of cannabis use, particularly in the long term. Participants felt that many cannabis offenders only consider the present day consequences and give little thought to what the consequences may be in the future. Studies and research (Tashkin 1997 cited in Tashkin 1999:323; Tashkin 1997 cited in Iversen, 2000:199; Tashkin 1997 cited in Hall et al., 1999:102; Wu et al., 1988 cited in Hall & Pacula, 2003:63; Wu et al. 1988 cited in Iversen, 2000:193, Hall & Pacula, 2003:135) have shown that cannabis smoking can have the same effects on the body as tobacco smoking in heavy users. These include respiratory diseases, cancer of the aerodigestive tract (Hall & Pacula, 2003:135), damage to the wall lining of the airways and pathological changes in the lungs (Goldberg, 2009:248). These long-term effects support the participant perception that the CCP needs to include compulsory drug education. It is probable that most cannabis offenders, whether minor or heavy users, would not be aware of these adverse effects. Given that cannabis use is only now becoming increasingly widespread the full range of long-term effects is still unknown (Zimmer & Morgan 1997 cited in Iversen, 2000:200). Participants perceived that education could make offenders fully aware of the known adverse effects, which in turn would perhaps discourage offenders from continuing use. Compulsory drug education could effectively reduce the likelihood of a gateway effect or what Kandel et al. (1992 cited in Fergusson et al., 2008:3), Zimmer and Morgan (1997 cited in Iversen, 2000:227), Fergusson and Horwood (2000 cited in Fergusson et al., 2006:3), Golub and Johnson (2002 cited in Fergusson et al.,
2006:3), Kandel and Yamaguchi (2002 cited in Fergusson et al., 2006:3) and Fergusson et al. (2006:3) consider as a natural transition to ‘harder drugs’.27

Environment and socioeconomic circumstances are contributing factors in drug use, but these were not considered by those who participated in the study. This is significant given that so much of the literature (Fox & Mathews 1992:13; Kandel et al., 1996 cited in Iversen, 2000:228; Oetting et al., 1998 cited in Durrant & Thakker, 2003:173 and Hayatbakhsh, et al., 2007:592-598 indicates that our interaction with others can not only determine whether or not we use drugs but what drugs we use and in what circumstances. A lack of employment opportunities, homelessness and a lack of prospects can create a psychological dependency where individuals turn to drugs in order to escape the reality of what can often appear to be a hopeless situation (Fox and Matthews, 1992: 13; Goode, 1997:37; Durrant & Thakker, 2003:180–181).

‘Primary socialisation’ (see Fox & Mathews, 1992:13; Kandel et al., 1996 cited in Iversen, 2000:227-228; Oetting et al., 1998 cited in Durrant & Thakker, 2003:172 and Hayatbakhsh et al., 2007:592-598) in the form of parental and peer influence can explain why people involve themselves in the drug world. Through counselling, offenders can assess their situation and with assistance determine what needs to be changed in order to turn their lives around. This could be as simple as changing the group of friends with which they interact or moving out of a home environment that promotes drug use. For these reasons a welfare approach is necessary in tackling drug issues. Participants felt that that

27 Given the growing acceptance of cannabis use among the community, cannabis is often referred to as a soft drug. Harder drugs therefore most commonly include substances such as heroin, cocaine and ecstasy.
the CCP took too much of a welfare approach and that this approach was not part of the role of police.

As discussed in Chapter 2.7.1 (Victoria Police, 2000a:A38; Commonwealth Department of Health and Ageing, 2002:9), through the CCP police can now refer offenders to drug assessment centres, however there is no requirement for offenders to attend (Commonwealth Department of Health and Ageing, 2002:5). Participants felt there was a need to re-establish the seriousness of cannabis offences. Participants suggested making it compulsory for offenders to be formally processed and then once at court should be placed on an undertaking to attend drug education/treatment sessions. Participants felt that cautions should only be issued after an offender successfully attended treatment and if they failed to comply they should receive a conviction. This suggested process can be likened to a drug court order (Flaherty & Jousif, 2002:8; Lind et al., 2002:8; Taplin, 2002:12; Passey (ed) et al., 2003:2; WA Department of Justice, 2003:53; King et al., 2004:91), which sets out to protect the community from drug-related crime while also reducing recidivism and re-arrest through drug education and rehabilitation (Flaherty & Jousif, 2002:7; WA Department of Justice, 2003:1). Participants suggested that the drug court system is considered more appropriate for dealing with drug offenders than a caution program, particularly where a drug treatment phase is concerned.

This view was supported by Baker and Goh (2004:4) who state that voluntary attendance at drug education sessions through the CCS (NSW) was largely unsuccessful. This is interesting as the CCS has a very similar framework to that of the CCP (Mundy, 2000:19; Rickard, 2001–2002:35; Baker & Goh, 2004:3).
It could therefore be suggested that voluntary attendance in Victoria may be having similar results.

As can be seen from the literature (Mundy, 2000:20; Rickard, 2001–2002:35; Working Party on Drug Law Reform, 2002; A17; Hales et al., 2003:3–4; Baker & Goh, 2004:5), compulsory drug education is not an unachievable or unrealistic goal. Tasmania, NSW and QLD (Rickard, 2001-2002:35; Working Party on Drug Law Reform, 2002:A16 & A17; Mundy, 2000:18-20; K Lane [Tasmania Police] 2008, pers. comm., 25 April; Hales et al., 2003:4; Police Powers & Responsibilities Act 2000, Schedule 6; Drugs Misuse Act 1986, sections 10 (1)(2), 379 (1)(f)(2)) all have some form of compulsory education as part of their cannabis cautioning programs. Depending on the jurisdiction, offenders can expect some form of reprimand for failing to attend education. Reprimands range (in NSW) from recording of non-compliance for consideration in any future offences (Baker & Goh, 2004:5) or being charged (in QLD and TAS) with the original offence and therefore requiring attendance at court (Hales et al., 2003:3–4; K Lane [Tasmania Police] 2008, pers comm., 25 April). The same can also be said for programs in SA, the ACT, NT and WA. These programs issue fines for minor cannabis offences. Failure to pay the prescribed fine, however, can lead to arrest, appearance at court, conviction or suspension of driver licence (Drugs of Dependence Act 1989, Section 171A(3)(c); Mundy, 2000:22; Rickard, 2001–2002:36; Working Party on Drug Law Reform, 2002:A14; Drug and Alcohol Office and WA Police Service, 2004:2). A comparison of the CCP with other state programs indicates that the CCP is relatively lenient. Victoria is the only state in Australia where there are no consequences for non-compliance.
Supporting the participants proposal to introduce a compulsory drug education element into the CCP is the implementation of the DDP. The DDP, which is seen as an extension of the CCP (Commonwealth Department of Health and Ageing, 2002a:9; Victoria Police, 2002:8), requires offenders to attend drug treatment (Victoria Police, 2002:8). The fact that one program requires offenders to attend drug treatment, but the other does not appears to be contradictory. How can education be considered necessary for harm minimisation in one instance but not another? This is particularly significant given the prevalence of cannabis and other drug use in Australia (AIHW 2003; 2005; 2008). It is interesting to note that other police forces within Australia see a need for minor cannabis offenders to attend treatment, yet Victoria does not.

At present only offenders who are charged with drug offences (other than cannabis offences) that are punishable by imprisonment are referred to the drug court. Minor cannabis offences (50 grams or less), which proceed to court under Section 76 of the DPSC Act 1981, are most likely to be dealt with via a GBB, particularly where the offender has not been charged with any previous offences under the Act (DPSC Act 1981, Section 76). The Act allows a trial judge to place an offender on an undertaking for minor cannabis offences (50 grams or less), but there is nothing to compel the judge to make drug education or rehabilitation a part of that undertaking. Interestingly, however, where offenders are charged with drug offences other than cannabis and the court sees fit to place them on an undertaking, Section 76 (1A) of the DPCS Act 1981 compels the trial judge to make offenders attend a drug education and
information program as part of the undertaking (*DPCS Act 1981*, Section 76 (1A)).

For a court to place a minor cannabis offender on an Intensive Correction Order (ICO), as suggested by participants, a trial judge would need to consider sentencing the offender to a term of imprisonment of not more than one year and for that year to be served in the community. A court must not make an ICO if the sentence of imprisonment by itself would not be appropriate in the circumstances (*Sentencing Act 1991*, Section 19). Given the nature of minor cannabis offences under the CCP, it could perhaps be suggested that it is unlikely that a trial judge would place a minor cannabis offender on an ICO as there are other avenues available that would perhaps be considered more appropriate and proportionate to the offence. The implementation of such processes as discussed above goes against the principles of drug diversion. It can be assumed that the introduction of court-based processes will reinstate the burden placed on court and police resources. A restraint the CCP, DDP and drug courts is said to address. A move towards re-instating the seriousness of cannabis offences by putting offenders before a drug court and ultimately placing them on a ICO appears more appropriate actions by participants.

Participants did not appear to want to see minor cannabis offenders jailed for their offences, but they did appear to want to see them inconvenienced in some way. Participants expressed concerns that a caution for cannabis use or possession did not reflect the crime committed and therefore suggested that pecuniary penalties combined with compulsory drug education would be more appropriate. The rationale behind this is that some summary offences such as
traffic offences attract high pecuniary penalties, yet cannabis offences which are
indictable offences only attract a caution. Participants therefore perceived
cautions for cannabis offences as too lenient. The perception that cannabis
offenders were treated too leniently was shared by SA police, however in
contrast they perceived the fines associated with the CEN system as too lenient
(Sutton & McMillan, 1999:13–14). This indicates that while participants would
like to see pecuniary penalties introduced as part of the CCP, they would need to
be significant enough to deter people from using again and would have to be
proportionate to those issued for summary offences.

5.4 Police Practices Relating to the CCP

There are a number of elements which impact on police decisions of whether or
not to issue a cannabis offender with a caution. This includes training afforded
to police personnel and offender and organisational attitude. The discussion
which follows sets out to explore these elements.

5.4.1 Influencing factors: Offender attitude

Participants perceived their discretionary powers as essential in being able to
perform their duties related to the CCP, however there were varying views about
whether or not the CCP allowed for the use of police discretion. Although many
of the participants (20 uniform and two CIU) stated they were willing to issue
cautions to offenders providing they met the caution criteria, some only did so
not because they believed that the offender should be issued a caution, but
because they felt compelled to do so. This pressure occurred because
participants believed that if they decided to prosecute their immediate
supervisor (Sergeant) would override their decision. Factors such as the
amount of time it would take police to prepare the paper work and attend court and the likelihood of securing a conviction would all be taken into consideration when deciding whether to proceed with prosecution. The perceived pressure to issue a caution perhaps indicates that under the CCP police cannot always legitimately use their discretion, as stated by Comrie (1999:50). Similarly, participants also felt compelled to issue a caution, were those prosecuted were likely to receive a lenient penalty from the courts. As discussed in Chapter 2.5.1 the *DPCS Act 1981* (Section 76) shows that a typical penalty handed out by the courts in response to those prosecuted for possession of 50 grams or less of cannabis is a GBB. Participants therefore felt that the sanction handed down by the courts was similar to that of a caution and saw little incentive in not issuing a caution under the CCP. The CCP was perceived to eliminate unnecessary work for the same result. The perceived leniency of cautions for cannabis offences is supported by Sutton and McMillan (1999:13–14) who, in a study of SA police, reported that lenient penalties attached to cannabis offences affected police morale. SA police saw the enforcement of minor cannabis offences as fruitless.

One police member supported the CCP because it allowed police to bolster statistics with little effort. Police were able to target minor cannabis offenders in order to lift their target ratios, without having to endure time-consuming administrative issues and court appearances. Increased cannabis arrest figures reported in a 2005 AIHW study (2005:77) support this notion, but care needs to be taken when interpreting these figures as increased arrest rates may not necessarily be due to police practices. The increase in cannabis arrests may be attributed to an increase in the acceptance of cannabis use among the
community, which could further result in an increased willingness to report or admit use (Laslett & Rumbold, 2002:32).

When asked to state what influences their decision to caution an offender or proceed straight to prosecution, it was interesting to note that other than satisfying the CCP criteria, offender attitude was a significant influencing factor. As discussed in Chapter 2.9, Lundman (1980:192), Findlay (2004:114), Grant and Terry (2005:219) and Roberg et al. (2005:287) theorised that the way we treat others can in turn directly affect the way we are treated. This is an extremely significant concept and one that needs careful consideration when analysing the functionality of the CCP. As can be seen in chapter 4.4, of those who participated in the study, 24 stated that an offender’s attitude would influence their decision. Many participants did not stipulate in what way attitude was an influencing factor, but a small percentage stated that offender attitude towards drug use itself and offender attitude towards police would determine whether or not to issue a caution. One police member stated that abusive and rude behaviour towards police would preclude them from issuing a caution to an offender. This is a typical response to what Lundman (1980:192), Findlay (2004:114), Grant and Terry (2005:219) and Roberg et al. (2005:287) consider as a challenge to an officer’s authority. Challenging the officer’s authority and functionality breeds contempt and the offender, as indicated by the participants in this research, is less likely to be treated leniently.

Poor offender attitude towards drug use itself also resulted in police deciding to prosecute. There was the belief by some participants that offenders often did not comprehend the seriousness of drug use and therefore through prosecution
the rehabilitation process would be expedited. In effect the shock of being prosecuted and dragged through the criminal justice system would make them see sense. This view, however, is not supported by Dietze (1998:189), who suggests that informing people of the pharmacological, psychological and legal consequences of drug use is required as this response is likely to succeed where shock tactics have failed to work. This is consistent with participant views that drug education/treatment programs should be incorporated into the CCP, however police also admitted to using shock tactics when dealing with CCP offenders, in order to ‘formalise’ the process and communicate to offenders the seriousness of drug use. As discussed in chapter 4.4, placing offenders in the back of a van and transporting them to the station not only formalised the process but also caused embarrassment to the offender. By formalising the process participants perceived that they were more likely to get through to the offender.

The existence of other offences at the time of drug detection and prior convictions of the offender were also considered when deciding whether or not to issue a caution. As indicated by the literature (Victoria Police, 2000a:A-38; Victoria Police, 2000b:12; Rickard, 2001–2002:35; Commonwealth Department of Health and Ageing, 2002a:5), offenders must not have any prior drug offences recorded against them. Other offences detected at the time must also be able to be dealt with by way of caution or infringement notice before they will preclude the offender from being eligible for a caution. As the research shows participants would issue a caution providing the offender satisfies the CCP criteria. This indicates offenders satisfying the CCP criteria is more
important and overrides the influence of offender attitude. Police would offer a caution if CCP criteria was met notwithstanding poor offender attitude.

5.4.2 Influencing factors: Organisational attitude

Organisational attitudes can influence the way in which participants perceive offenders (Van Maanen, 1978 cited in Chan, 1997:44; Chan, 1997:44). Through police training, organisational beliefs and norms are instilled and with these can come stereotyping. For example, police carry out their duties with the organisation’s view of who is considered a drug addict, an experimental or casual user, and a drug dealer or trafficker in mind. As discussed in Chapter 4.3, participants perceived the purpose of introducing the CCP as a means of diverting first-time minor cannabis offenders away from the criminal justice system. The significance of this is that the research findings show that participants generally appear to consider those caught for the first time with 50 grams or less of cannabis and who do not have any prior drug associations as minor cannabis offenders. The way in which the cannabis is packaged however, can greatly influence the labelling of offenders and ultimately effect whether or not participants issue a caution (see Chapter 4.4.1). With these stereotypes in mind, police assess offenders and use their discretion to determine whether or not an offender should be issued with a caution or prosecuted. This confirms Van Maanen’s (1978 cited in Chan, 1997:44) and Chan’s (1997:44) theory that organisational attitudes can affect an individual’s way of thinking. In this instance, the offender no longer fits the stereotype of a minor cannabis user but rather that of a trafficker or dealer. The decision to prosecute rather than caution can therefore be determined by organisationally instilled stereotypes (Chan, 1997:44).
Police colleague influence does not appear to play a part in participants decision of whether or not to issue a caution, however organisational attitudes, values and demands do (see Skolnick 1966; Goldstein 1968; and Neiderhoffer 1969 cited in Findlay, 2004:101; Grant & Terry, 2005:223; Roberg et al., 2005:272). As noted earlier participants decisions were mainly influenced by whether the offender satisfied the caution criteria, offender attitude, other offences detected and offender criminal history, factors which are not dictated by legislation but internal policy.

Organisational attitudes and influences on participants is demonstrated through their willingness to use the CCP despite their personal views. Participants may not have necessarily accepted the CCP from a personal perspective, however the fact that they used the program regardless indicates the influence organisational attitudes, beliefs and norms can have. It can be as simple as stating that they have been told to make use of the CCP when dealing with minor cannabis offenders and they (the police) are doing what they are told. Fourteen police members who had been stationed elsewhere within Victoria, all stated that the influencing factors in deciding whether or not to issue a caution were consistent between stations. Organisational attitude combined with CCP training are major influencing factors in police decision making.

Despite participants scepticism about the message the CCP was communicating to the community, there appeared to be a realisation that offenders were not necessarily aware of the harms associated with cannabis use and therefore a harm minimisation strategy was needed. This can be seen directly through
participants perceiving the need for compulsory drug education. The organisational belief that a harm minimisation framework was best suited to Victoria was realised (Comrie, 1999:52), however there were differences of opinion in how this was best achieved. For example, despite a consensus among participants that drug education was paramount, a small number of participants believed that the courts, not police, should make drug treatment referrals.

As discussed changing organisational attitudes and the introduction of the CCP have influenced the way in which participants view drug offenders. As the research has shown, participants in the main consider cannabis offenders to be minor or experimental users. As a result of these changing attitudes police are now less likely to label those detected in possession of or using cannabis as drug addicts. This is consistent with the Dutch model where a decision by authorities not to prosecute cannabis offenders has led to a change in the way police refer to cannabis offenders. As a result of the change in policy, offenders are now referred to as 'Dutch citizens who use drugs' (Goode, 1997:79; Rohl, 2000:129).

The term addict, as discussed by Fox and Mathews (1992:10), is problematic as it often labels both casual and heavy users under the one umbrella, despite the adverse effects of cannabis use being more commonly associated with continuous heavy doses rather than casual or recreational use (Fox & Mathews, 1992:13; Hall et al., 1999:97). Participants appear to consider cannabis users as minor or casual drug users and their support for compulsory drug education sessions (see section 5.3.4) is more about education on the harms of drugs. Participants consider those who fall under the CCP are not addicts or drug dependent. This is supported by the American Psychiatric Association
definition of substance dependent, which most CCP offenders would not fit.

Most participants appeared to consider most cannabis users or first time users as experimental users, who once cautioned were less likely to be processed again for cannabis use. This is consistent with Comrie’s (1999: 50 & 52) support for a harm minimisation approach as discussed in section 5.3.2. A lack of consideration of environment and socioeconomic circumstances as influencing factors in drug use could perhaps be attributed to police labelling cannabis users as first time or experimental users.

5.4.3 Influences of training on police understanding of the CCP

Despite the majority of participants indicating that CCP training and written material was sufficient to understand and implement the program, some participants appeared to be confused about the basic principles and elements of the CCP. Some participants were of the belief that offenders could only be issued with one caution before an investigating member was obligated to prosecute the offender.

The varied responses received in relation to training were not surprising given the different levels of training received by participants. Responses revealed that there appear to be inconsistencies in the training participants receive in relation to new police policies. Some participants received training in relation to the CCP while others received no training at all. One participant stated that they learnt about the CCP through training at the academy. Other responses suggest that training for longer serving members is lacking. As discussed in Chapter
Four training ranged from a short lecture to police having to educate themselves on the process of the CCP through disseminated documentation.

Participants stated that training and written material is sufficient to enable police to issue cautions yet issues raised by police suggest otherwise. A direct relationship can therefore be made between the training process and the varying degree of police knowledge.

It is interesting to note that some participants believed that a caution was admissible in court and would therefore assist in the prosecution of an offender. It can therefore be assumed that CCP training and perhaps other police training is not as comprehensive as thought. This is further supported by participants who stated that as they had not dealt with repeat cannabis caution offenders, they could not comment on whether or not the CCP assisted in the prosecution of offenders. Questions could be raised about the lack of police training on these issues. Participants comments of the role cautions can play in the prosecution of offenders is surprising given it was assumed that police would be aware of the weight a caution holds in the legal system.

According to Victoria Police policy, the introduction of District Training Officers (DTO) was designed to ensure that all currently confirmed police are provided with the necessary training to effectively carry out their duties. The process aimed at providing consistent training to police across the state perhaps needs refining as suggested by participant responses in Chapter Four. The appointment of DTOs assists in informing police of new policies and practices implemented by Victoria Police, but a lack of uniformity in the way such
information is delivered contributes to the varied degree of knowledge held by participant.

5.5 Conclusion

The analysis presented has shown that although police generally support the concept of cautioning minor cannabis offenders, there is little support for the CCP other than for its ability to reduce the strain on police and court resources. There was the general perception among police while they were happy to see minor cannabis offenders given a second chance, offenders still needed to be reprimanded in some way. There was strong support from police for there to be a compulsory drug education element within the CCP. This was perceived to be essential in educating offenders in the seriousness of drug use from a legal, social and health perspective.

Offender attitude played a major role in police deciding whether or not to issue a caution. Offender behaviour in some instances would preclude police from issuing a caution. In a majority of instances however the knowledge that the offender would receive a lenient penalty once at court often encouraged police to issue a caution despite believing they should be prosecuted. Police saw little benefit in prosecuting offenders when they were likely to get off lightly, with low level penalties often handed out by the courts.

Training received by the police in relation to the CCP appeared inconsistent across the state. This has led to confusion about the purpose of introducing the CCP, the criteria of the CCP and the role the CCP and police discretion can play. Despite this however, police still possessed the skills to implement the program.
There is consensus that the community would accept the aims of the CCP. The program’s ability to allow first-time minor cannabis offenders to avoid a court appearance and receive a second chance was perceived to be the main reason the community would accept the concept of the program. The parents of young minor cannabis offenders were perceived to be those most likely to appreciate the aims of the program. This acceptance was attributed to the fact that any criminal conviction, let alone a drug conviction, can cause an offender to be terminated from employment and can preclude an offender from gaining employment or entering certain occupations.
CHAPTER SIX

Strengths, Weaknesses and Future Development

As a condition of the caution offenders should be required to attend at least one counselling session. This session would be educational as to the dangers etc of drug use.

Uniform 20

6.1 Introduction

This chapter will outline how the research questions have been answered and the varying degrees to which the research questions have been met given the methodology used. It will further outline how the theoretical framework might affect the interpretation of findings. As will be shown, the research objectives have been achieved despite changes to the methodology and limitations identified during the data collection process. This chapter will discuss areas for future research and policy development.

These areas should be understood within the context of the strengths and limitations of the research discussed below.

6.2 Strengths and Limitations of the Research

6.2.1 Strengths

A number of strengths in the research can be found:
1. The importance of examining police perceptions in relation to the CCP is clear. Examining police perceptions not only gave richness to the findings, but also identified many issues for the further development of the CCP. Although police generally accepted the concept of the CCP, the research showed police considered there to be limitations of the CCP and police policy as a whole. The study did not set out to identify limitations within the CCP process, however the exploration of police perceptions revealed their concerns with the program.

2. The use of qualitative methods allowed the researcher to gain an autobiographical insight into the experiences and attitudes (Berg, 1989:6; Holloway, 1997:93; Oliver, 1997:17) of police in relation to the CCP. These methods helped establish the influences on police decision making and explored any potential prejudices as a result of police discretion.

3. Research methods used allowed the researcher to examine the CCP policy intentions while also exploring police competencies in the theory of harm minimisation. Through the use of face-to-face, telephone interviews and written responses the researcher was able to identify what appear to be lapses in police training. Police appeared to have little concept of harm minimisation and the official intended purpose of introducing the CCP. A connection has been drawn between this and the manner in which Victoria Police communicate new policies to personnel. The research was able to establish that once police graduate from the academy the training process is, in some instances, non existent. Where personnel did receive
regular training updates from their District Training Officer, training was found to be lacking in uniformity between regions.

4. While there were limitations to the size of the sample and the way the data was collected (see below) the responses provided by participants were consistent with the literature and allowed for detailed analysis and responses to the research questions.

6.2.2 Limitations

A number of limitations in the research can be found:

1. Sample size – as discussed in Chapter 3, face-to-face interviews (3), telephone interviews (6) and written questionnaires (23) provided the overall number of participants. Thirty two participant responses was a very small sample of the overall police population. In addition 12 of the selected stations choose not to participate in the research (see Chapter 3).

2. Unforseen changes to data collection phase – as shown in Chapter 3, as difficulty arose in obtaining face-to-face interviews. This resulted in the researcher interviewing some police participants by telephone. This method reduced the depth of the information collected as it restricted the researchers ability to observe participants non-verbal behaviour. When neither face to face nor telephone interviews were possible the researcher forwarded the questions for written responses. Sometimes the responses received were quite limited as the researcher was not able to encourage greater input. Revisiting and formulating the interview schedule into a survey instrument may have encouraged greater input and allowed
greater clarity in the questions asked. Despite the limitations identified valuable information was gathered.

3. OIC knowledge of personnel participation was essential in gaining access to members, but there was the potential for this knowledge to cause bias within the data. Although there is no evidence of OIC influence, the potential for OIC to steer participants towards the corporate ideal was feasible. There was also the possibility of OIC selecting participants they knew would support the corporate ideal, rather than express their own ideas.

OIC knowledge of research participants could also cause participants to be guarded with their opinions about the CCP, which would affect the information gathered. As noted in Chapter 3, while OIC knowledge of participants was considered a limitation, access to participants would not have been possible without the involvement of the OIC and the RCC.

6.3 Addressing the Research Questions

6.3.1 What do police perceive as being the impact on law enforcement and what possible difficulties do they see arising when it does come to prosecution of offenders?

The literature has shown that there has been a steady increase in the number of people using cannabis in the years during and post introduction of cannabis cautioning/infringement programs in Australia. The reason for this increase, however, is divided. The increase has not only been attributed to a change in youth culture but also to the perception that cannabis is ‘harmless’ or a ‘soft drug’. Cannabis consumption has increasingly become an acceptable practice. Laslett and Rumbold (2002:32) suggest that higher reporting rates are due to
increased acceptance of cannabis use and new technologies that allow for more accurate record keeping.

Participant responses showed that some police believe the CCP has caused cannabis use and possession to increase, due to the low-level penalties attached to cannabis offences. Some participants saw the CCP as having a negative impact on drug law enforcement as the lack of consequences for minor cannabis offenders resulted in the trivialisation of such offences. It was seen that the CCP would encourage offenders to use and possess cannabis because the potential to be prosecuted is minimal.

Participant responses revealed that police attitudes towards minor cannabis offenders appear to be changing in that they seem more willing to adopt a harm minimisation approach, however the reality is some participants do not see the CCP having a positive effect on the level of drugs available. It can be suggested that this perception is due to police interaction and experiences with minor cannabis offenders, as dictated by the research theoretical framework.

Other evidence from the research shows that a positive effect of the CCP on drug law enforcement is that it allows for police to turn their attention to other more serious offences.

The research has shown that participants seem confused about the role of the CCP in prosecuting cannabis offenders. Participant responses revealed that one of the difficulties with the CCP and the prosecution of offenders is that cautions received by offenders are not admissible in court. In recommendations for the
future development of the CCP, some police wished to see all CCP cautions admissible in court as prior offences so cannabis offenders could be more readily identified and prosecuted for re-offending.

Other evidence shows that police were not sure what difficulties would arise out of prosecuting CCP offenders as many had not dealt with repeat offenders. Some police believed that cautions were admissible in court and that cautioning an offender allowed the courts to decide whether or not to convict an offender.

In conclusion, the research addresses and provides responses to the first research question. The analysis shows that the CCP does not appear to reduce the amount of cannabis available on the streets or the number of people found using cannabis. The low-level penalties trivialised and ultimately encouraged cannabis possession and consumption.

6.3.2 Do police personnel believe that the CCP provides them with sufficient discretion for issuing a caution for cannabis use/possession?

As the research has shown, in the main participants believe there is enough scope for them to exercise discretion when dealing with the CCP. There are, however, factors such as offender attitude, which influence police decisions to issue a minor cannabis offender with a caution. Offender attitude includes both attitude towards drug use and possession or towards police. The research and the literature show that a poor offender attitude towards drugs and the police can preclude police from treating offenders leniently.
The existence of other offences at the time of drug detection also influences participants' decisions to issue a caution under the CCP. As the literature shows (Victoria Police, 2000a:A-38), detecting other offences does not preclude an offender from receiving a caution providing those offences can be dealt with by way of caution (for example shop theft). The nature of the offence can therefore become the deciding factor in whether police will issue a caution. Other than these factors, the research has shown that police will generally issue a caution provided the offender meets the cautioning criteria.

The research has further shown that a small number of police felt compelled to issue a caution regardless of whether offender attitude warranted such leniency. Participants felt that discretion was negated by the actions of their superiors overriding their decision or through the courts handing down lenient sanctions to those offenders prosecuted. Section 76 of the *Drugs, Poisons and Controlled Substances Act (VIC)* shows that persons are likely to receive a GBB when charged with a minor cannabis offence. As a result of such court-imposed sanctions, participants perceived that there is little incentive to move away from the CCP, as it helps eliminate unnecessary work for the same result. This further supports the notion that there are fewer minor drug offenders appearing before the courts as a result of the CCP (Porter, 2001:8; Brereton, 2003:93-94).

While the data showed some willingness by participants to issue a caution providing offenders meet the cautioning criteria, there are influencing factors which help them with their decision making process. The way in which organisational norms and values influences police discretion and ultimately their “social reality” is discussed in Section 6.3.5.
A link between police culture and police decision making was able to be
discredited, as police were rarely influenced by the attitudes of colleagues.
Rather, the research established the complexity of police decision making as
organisational values and attitudes often influenced decisions of whether or not
to prosecute or caution offenders.

In conclusion, the analysis addresses and provides responses to the second
research question. The analysis showed that participants believed there is
enough scope for them to exercise their discretion while working within the
realms of the CCP. Organisational attitudes and norms have influenced the way
in which minor cannabis offenders are viewed. With attitudes towards minor
cannabis offenders changing, sanctions handed down to offenders are also
changing. The research has shown that the ‘reality’ for police is that minor
cannabis offenders who appear before the courts are likely to receive a GBB.
With GBBs being viewed by police, as sanctions similar to that of a caution,
police will caution an offender to save them administrative time.

6.3.3 What do members perceive the public acceptance
level of the CCP to be?

The research has shown that the perception of public receptiveness to the CCP is
divided. A lack of awareness of the existence of the CCP was attributed to the
public remaining unappreciative of the aims of the CCP. This notion can be
linked directly to the amount of literature available on cannabis cautioning and
infringement programs. Given the amount of debate that has surrounded
cannabis cautioning and or decriminalisation, it would be expected that a
greater amount of literature would be available on the program’s implementation throughout Australia.

What did emerge from the literature, however, was the notion that the introduction of programs such as the CCP communicated to the public that authorities were going soft on drugs. Some participants perceived the public did not accept the CCP for this reason.

Notwithstanding this, the literature shows that the CCP was introduced as a means of not only reducing the harms associated with cannabis use but also as a means of allowing first-time minor cannabis offenders to avoid the stigma associated with a court appearance. The research has shown that some participants perceived that the community accepted the CCP because it allowed minor cannabis offenders to avoid prosecution, therefore effectively giving them a second chance.

The growing acceptability of cannabis use, as seen through the literature, was also attributed to community acceptance of the CCP. With reported higher levels of cannabis use and lower penalties, some participants perceived the community would accept the CCP for its time and resource-saving capabilities. The leniency of the CCP towards minor cannabis offenders resulted in such offenders portraying an often blasé attitude to being caught using or in the possession of cannabis.

Participants experience with minor cannabis offenders has caused them to perceive that cannabis use and possession is no longer considered taboo within
the community. As discussed previously, offender attitudes greatly influenced participants decisions about whether or not to caution. It can be suggested that offender attitude also influences police experience with young minor cannabis offenders, which alters police perceptions of reality. Their perception of reality is that, as a result of the CCP, cannabis use and possession is no longer considered unacceptable behaviour within the community.

Participants experience with minor cannabis offenders and the parents of offenders has also contributed to the changing definition of what police consider to be reality. Minor offenders (and their parents) express gratitude and relief when they are not prosecuted for cannabis offences, illustrates police experiences and perceptions of what is now “social reality”. That is the community accept the concept of the CCP for its ability to give first time minor cannabis offenders a second chance.

In conclusion, the analysis addresses and provides responses to the third research question. Participants believe that the community accepts the concept of the CCP, however reasons for acceptance can differ. It can be suggested that parents of offenders are grateful for the opportunity to give their children a second chance and avoid the stigma of a court appearance. It could also be argued that some offenders would also be grateful for a second chance, perhaps to avoid the inconvenience of a court appearance.
6.3.4 What do operational police perceive as being better - a system of strict prosecution or one of cautioning?

The literature presented in Chapter Two shows that there has been a change in the way law enforcement agencies and the community as a whole view minor cannabis use and possession. Although opinion about the perceived decriminalisation of minor cannabis offences remains divided, law enforcement agencies have taken steps to reduce the penalties associated with these offences. As has been shown through other studies conducted into the CEN in SA, there is little literature that focuses on law enforcement personnel and their perceptions of Australian ‘decriminalisation’ policies. That is, despite police policy that reduces penalties, there has been little consultation with those entrusted to put this policy into practice.

As has been shown, police participants were, in most instances, willing to give first-time minor cannabis offenders a second chance by allowing them to avoid prosecution, however many also believed that such policies trivialised cannabis use and possession. Participant responses show that in order to remove the perception of trivialisation but maintain a system where offenders can receive a second chance, a more formal system should be in place. The research shows that police would prefer to see a compulsory drug education element introduced into the policy, where offenders receive a caution only after successfully completing drug education sessions. Some participants perceived that the best way to implement such a policy change would be to prosecute offenders in the normal process and leave it to the courts to place offenders on an undertaking to complete drug education.
As the literature shows, minor cannabis offenders who are prosecuted generally receive a GBB as way of punishment for their offences and it is for this reason that participants support the concept of cautioning offenders. Police support the program, because it saves them time when processing offenders, not necessarily because they believe offenders should be cautioned.

It can be argued from the research that the “social reality” (Neuman, 1997:69) of police has changed with the introduction of the CCP. With organisational attitudes and norms moving towards a harm minimisation approach for minor cannabis offenders, the way police view these offenders has also changed. Minor cannabis offenders are no longer labelled as serious drug addicts, rather they are more likely to be viewed as experimental users. The shift in “social reality” (Neuman, 1997:69) can be linked to the behaviour displayed by minor cannabis offenders in interactions with police. The attitude expressed to police by offenders ultimately determines whether police consider they will re-offend and how police will deal with them.

In conclusion, the analysis addresses and provides responses to the fourth research question. The data demonstrates that the CCP’s harm minimisation approach when dealing with minor cannabis offenders was successful, as police attitudes towards drug offenders appear to be changing. Police appear more willing to give minor cannabis offenders a second chance. Having said this however, the time saved in processing minor cannabis offenders through the CCP also plays a major part in whether police decide to caution. It is therefore fair to say that harm minimisation strategies are perhaps not at the forefront of
police decisions about whether or not to caution and further training in harm minimisation philosophies may be needed.

6.3.5 How have police been instructed to deal with the program and what training has been provided?

The research has shown that police training in relation to the CCP was inconsistent. The research has indicated that a CCP component is now incorporated into academy training, however the number of participants who had access to this training was minimal. Longer serving police members who had left the academy prior to the introduction of the CCP received little training in the program. Some police received a short lecture from the DTO or through undertaking OSTT, while others did not receive any training at all. It was revealed through the research that a majority of participants learnt about the CCP through on the job experience, force-wide disseminated e-mails, force intranet, bulletins and gazette articles. The research has therefore shown that there are no uniform training guidelines for informing police about the CCP and the options available to them. Despite this however, information on the CCP that is available to police, outlines the processes police need to take in order to issue a caution to offenders.

As the literature shows, organisational values and attitudes can greatly influence an individual’s decision-making process. The research has shown how influential police values and attitudes are on individual police decisions to issue a caution for cannabis use and possession. Police policy stipulates that where an offender meets the CCP cautioning criteria, the investigating member should issue a caution rather than prosecute. It is not surprising then that the research
showed that where an offender meets the cautioning criteria, police would issue a caution. As discussed in Chapter Four however, there are other factors that may influence the decision to caution.

As discussed earlier, it can be argued from the research that the “social reality” (Neuman, 1997:69) of police has changed with the introduction of the CCP. It can be suggested through the research that the “social reality” of those who participated in the study has changed as a result of the impact of organisational attitudes and norms. The influence of these attitudes and norms also changes the shared “meaning system” (Neuman, 1997:69) police have been exposed to. Although police may not necessarily believe an offender is worthy of a caution, it is now legitimate and acceptable practice to caution an offender for minor cannabis use and possession. This is despite the fact that cannabis use and possession remains an illegal activity. Having said this however, the “meaning system” (Neuman, 1997:69) has only changed in part. Participants still consider minor cannabis offenders as law breakers and depending on the attitude expressed by offenders are still willing to prosecute. The “meaning system” (Neuman, 1997:69) of police has not changed so dramatically that they will overlook a direct challenge to their authority as law enforcers. The “social reality” (Neuman, 1997:69) of police is that anyone who directly challenges their authority or has a blatant disregard for the law is less likely to be treated leniently. The shared “meaning system” (Neuman, 1997:69) and social environment shared by police allow them to interpret this behaviour as legitimate.
Police command consider that the CCP allows police to exercise their discretionary powers, but the research shows that some police feel obliged to issue a caution for fear of having their decision overturned by their superiors.

In conclusion, the analysis addresses and provides responses to the fifth research question. The data demonstrates that police participants have willingly accepted instruction to caution minor cannabis offenders providing they meet the caution criteria. The analysis further shows however, that through their discretionary powers police are willing to move away from the CCP, particularly where offenders express a poor attitude towards police or the law in general. Willingness to move away from the CCP and prosecute offenders does not undermine the principles of the CCP, as police can exercise their discretionary powers if the need arises.

6.3.6 Do members believe that the training they receive is sufficient for putting this policy into operation or do they believe it needs updating?

As discussed above, the research has shown that there are inconsistencies in the level of CCP training police have received. Despite this however, participants reported that the training they did receive, which included self education through written material, was sufficiently clear for them to put the CCP policy into practice. The research also showed that, despite this perception, many police participants appeared confused about the basic principles and elements of the CCP.

The lack of basic training guidelines has resulted in police having little understanding of the purpose of introducing the CCP and thus little
understanding of the principles of harm minimisation. The research revealed that police need greater training in harm minimisation and how the CCP uses this approach. The research has also shown that police need greater training in the use of discretion, particularly where harm minimisation strategies are used.

Through the research it can be seen that part of the reason police accepted the concept of the CCP was because it saved time and resources. When discussing the CCP, police rarely focused on the program’s harm minimisation approach. It can be suggested that if police received greater training in harm minimisation and the use of police discretion, the “social reality” (Neuman, 1997:69) of police would change their way of thinking about such issues. Further, comprehensive training would result in a change in the way police view the program as a whole. Police would possibly have a better understanding of the CCP’s benefits other than those relating to time and resources.

In conclusion, the above information provides responses to the sixth research question. The analysis shows that despite police participants believing that the training they received was sufficiently clear for them to put the CCP in practice, the training in fact needs updating or, at least, consistent delivery to police.

6.4 Future Recommendations

As a result of the research a number of future research recommendations can be made. There are also a number of potential policy changes which have been identified which may be beneficial to the CCP.
6.4.1 Future Research

Research in the following areas would be worthwhile and would provide greater understanding of the issues which surround cannabis use and why programs such as the CCP are considered necessary:

1. Given the limited size of the sample of participants, research using a larger research sample to explore the attitudes and perceptions of police personnel in relation to the CCP is required. This will expand on this research and provide a greater understanding of police perceptions in relation to drug diversion programs.

2. It would be valuable to conduct research on environmental and socioeconomic factors and their impact on an individuals tendency to commence and therefore continue using cannabis.

3. Research related to community attitudinal change regarding cannabis use is important to determine community understanding about the harms associated with cannabis use including effects on:
   - driver capability
   - cognitive behaviour

4. Research is required on police training regarding the CCP to determine the gaps in initial and refresher police training so that training can be comprehensive and consistent across the state.

5. Research that includes offender interviews and surveys which looks at offenders attitude towards cannabis use and possession and ultimately the CCP.

6. Research is required into the CCP and its perceived low level penalties and how this encourages, if at all, an individual’s willingness to take risks.
Emphasis should be focused on cannabis users attitudes towards driving whilst under the influence of cannabis.

6.4.2 Policy Recommendations

The following policy amendments are recommended to enhance the usability of the CCP for police personnel and to provide an element where the social, physical and legal consequences can be effectively communicated to offenders. It is recommended that:

1. Compulsory drug education sessions are introduced into the CCP process
2. The cannabis cautioning process be altered to allow offenders to only receive a caution for cannabis use and possession once they have successfully and satisfactorily completed a education session.
3. Legislation and policy be reviewed to consider changes to be made to allow for cannabis cautions to be admissible in court for future prosecution of cannabis repeat offenders.
4. The DTO scheme currently underway in Victoria Police be reviewed to ensure that training received by police personnel is consistent across the board, allowing for long term serving members and new members to receive uniform training on CCP.

6.5 Conclusion

While the research sample was small the research has shown general acceptance for the CCP and its aims and objectives. It can be concluded, that police support generally focuses on the program’s ability to assist them rather than the offender in the first instance. Police generally consider the purpose of
introducing the CCP as a means of alleviating the strain on police and court resources. Having said this, however, the philosophy of harm minimisation is in part embraced by police, with many citing the program’s ability to give first-time minor cannabis offenders a second chance as a strength. Participants further accepted the concept of the CCP, as it is perceived as a way by which young offenders in particular can be educated about the social, legal and health consequences of cannabis use.

It is evident from the research that police participants believe cautions are too lenient and that there is a need to return to a more formal process for dealing with offenders. Although police are willing to maintain a cautioning program, they perceived that offenders should only receive a caution after successfully completing drug education. A redeveloped program would encourage police to once again seek out cannabis users in the knowledge that they would face the inconvenience of being processed by police and possibly receive a court appearance, reinforcing the seriousness of their offence. By the process including an education element offenders would also be made aware of the consequences of drug use.

Issues presented in the research show that a review of police training in relation to the CCP is perhaps warranted. This is particularly relevant to police personnel who attended the academy prior to the introduction of the CCP. Training across the police regions appeared to be inconsistent.

As has been shown, the aims and objectives of the research have been achieved. The research provides a practical contribution to the CCP and issues
surrounding the implementation, ongoing enforcement and future development of such programs.
References


Australian Drug Foundation 2005, ‘Cannabis and driving’, Fact Sheet No. 3.16, Victoria.


Berg, B 1989, Qualitative Research: Methods for Social Research, Allyn and Bacon, United States of America.


Cannabis Control Act 2003 (WA).

Cannabis Control Regulations 2004 (WA).


Controlled Substances (Expiation of Simple Cannabis Offences) Regulations 2002 (SA).

Controlled Substances Act 1984 (SA).


Drugs Misuse Act 1986 (QLD).

Drugs of Dependence Act 1989 (ACT).

Drugs, Poisons and Controlled Substances Act 1981 (No. 9719) (Vic).


Durrant, R & Thakker, J 2003, Substance Use and Abuse: Cultural and Historical Perspectives, Sage Publications, United States of America.


Excise Act 1901 (Commonwealth).


Information Privacy Act 2000 (No. 98) (VIC).

Inglis, B 1975, The Forbidden Game: A Social History of Drugs, Hodder and Stoughton Limited, Great Britain.


Lane, K [Tasmania Police], 25 April 2008, personal communication


Lenne, M, Triggs, T, Regan, M 2004, Cannabis and Road Safety: A Review of Recent Epidemiological, Driver Impairment and Drug Screening Literature, Monash University Research Centre, Victoria, Australia.


Merriam-Webster's, 2005, Merriam-Webster Medical Desk Dictionary, USA.


Misuse of Drugs Act 1990 (NT).


Police Powers and Responsibilities Act 2000 (Qld).


Rice, P and Ezzy, D 2000, Qualitative Research Methods: A Health Focus, Oxford University Press, Australia.


Road Safety Act (No.127) (VIC).


Sentencing Act 1991 (No. 49) (Vic).


Stough, C and King, R 2010, Drugs and Driving: The Role of Alcohol and Other Drugs in Road Deaths and Serious Injuries, Australian Drug Foundation, Victoria, Australia.


Tobacco Act 1987 (VIC)


Victoria Police 1959, Victoria Police Standing Orders, Number 311, Victoria.

Victoria Police 1996, Cannabis Cautioning Notices-Project Proposal, Policy and Research Unit, Corporate Policy, Planning & Review Department, Melbourne.

Victoria Police 2000a, Evaluation of the Cannabis Cautioning Program Pilot, Victoria Police Strategic Development Department, Victoria.


Western Australian Department of Justice 2003, *Evaluation of the Perth Drug Court Pilot Project-Final Report*, The University of Western Australia.


Appendices
Appendix One

Cannabis – A Long History in Brief
Cannabis – A Long History in Brief

Cannabis has been known and used for hundreds if not thousands of years, right around the world (Ausubel, 1958:95; Lang, 2002:1; Iversen, 2000:232). For centuries cannabis has been ingested or smoked for its medicinal, social and euphoric properties, particularly by holy men within the Muslim and Hindu nations (Durrant & Thakker, 2003:66-67; Ausubel, 1958:92-93; Lang, 2002:9). Given its religious connections, cannabis use within these cultures was considered acceptable and therefore its use was quite prevalent. The ability of cannabis to allow people to enter a state of nirvana, removed any notion of harm which may be caused by its use (Iversen, 2000:233; Durrant and Thakker, 2003:67).

During the 1840’s cannabis use became popularized in France, the United Kingdom and the USA as a result of the literary accounts of a group of writers, painters and sculptors. The group’s account of their experiences with the drug was held responsible for the widespread recreational use of cannabis among upper-class society (Lang, 2002:9). Medical use of cannabis became prominent during this time when Army surgeon Dr. W. O’Shaughnessy reintroduced the drug to England after serving in India (United Kingdom Parliament, 1997-1998:3). A lack of understanding and knowledge into the adverse effects of cannabis resulted in it becoming the base of many patent medicines28 in the UK. This was made possible due to the lack of restrictions on testing, advertising, labelling or the requirement to list the contents of products (Lang, 2002:9; Campbell, 2001:393).

28 Patent Medicines are a packaged non-prescription drug which is available to the general public without a prescription, but which is protected by a trademark and whose contents are incompletely disclosed (Merriam-Webster, 2005:608; Harris, P (ed) et al., 2006:1410).
Cannabis was widely used for a number of medical ailments including menstrual cramps, rheumatism, convulsions, headaches, diarrhoea, rabies and was also used to promote contractions in childbirth (Durrant & Thakker, 2003:68; Belenko, 2000:128; United Kingdom Parliament, 1997-1998:3).

The substantial increase in the recreational use of cannabis during the latter part of the 19th Century redefined the ‘drug’ problem as a ‘social’ problem (Lang, 2001:9; Campbell, 2001:396). This subsequently lead to cannabis being demonised by anti-drug campaigners paving the way for international drug control legislation, which was predominantly lead by the US (Lang, 2001:10). The ‘war on drugs’ did not occur until the 1920’s and 30’s when the Federal Bureau of Narcotics (FBN) in the USA campaigned against the ‘killer weed’ (Lang, 2001:9). The FBN targeted Mexicans as those responsible for introducing the ‘demonised’ drug to the youths of America (Durrant & Thakker, 2003:109; Belenko, 2000:133). Mexican labourers were said to use marijuana as a form of relaxation after a hard days work. Their use of the drug allegedly lead to criminal activity, violence and a close relationship with young Anglos seeking an escape (Morgan, 1981:138; Miller, 1991:99). Miller (1991:98), Lang (2002:9) and Durrant and Thakker (2003:109) suggest however that Mexicans were targeted not for their drug habits, but because of concerns surrounding the willingness of Mexicans to work as cheap labour, during the Great Depression.

The term ‘war on drugs’ was coined in the 1980’s when US President Bush committed $US1 billion towards the interception of smuggled drugs into the USA. The ‘war on drugs’ was born as it was believed that Americans spent $US49 billion on illicit drugs and the US government spent $US30 billion on supply and reduction initiatives. The social cost of drug related crime was believed to be $US67 billion. The ‘war on drugs’ was considered largely ineffective as it focused on incarcerating drug users, rather than providing users with health options for dealing with their drug use (Durrant & Thakker, 2003:162; Roche & Evans, 2000:158; McFarlane, 2000:36). The term ‘war on drugs’ can be used to refer to strategies aimed towards drug lords and dealers, however is also used to describe strategies implemented to combat casual drug use and dependence related use (Dietze et al., 2002:276).
Through criminalising marijuana use, Mexicans were jailed for their cannabis use, therefore effectively removing the threat against Anglo jobs. This lead to a push for laws against marijuana and by 1931 anti cannabis legislation had been enacted by several US states (Durrant & Thakker, 2003:80; Campbell, 2001:409; Morgan, 1981:141). By 1937 the USA had passed the Marijuana Tax Act, making cannabis illegal throughout the entire country, except for medical and scientific purposes (Campbell, 2001:410; Durrant & Thakker, 2003:81; Belenko, 2000:133; Ausubel, 1958:96). So successful were these USA lead campaigns that the rest of the world viewed cannabis as a highly dangerous drug, a status which has been maintained to present day (Lang, 2002:10).

The late 1930’s and 1940’s saw an emergence of studies on the medical effects of cannabis. The La Guardia Committee (1939) was established in New York to investigate the effects of marijuana use (Inglis, 1975:186). Despite claims by the FBN that marijuana was responsible for criminal behaviour, the La Grand Report (1944) reported that there was no direct link between marijuana use and aggressiveness, violence or a propensity to commit crimes. The La Guardia reported that “Marijuana does not change the basic personality structure of the individual” (Inglis, 1975:187). In fact in a study of 200 subjects, only nine psychotic episodes were identified. Of these subjects a majority where found to have pre-existing psychotic personalities (Campbell, 2001:410; Iversen, 2000:243). This suggesting, that cannabis would only cause psychosis to manifest in individuals with a pre-existing history of mental illness. Where mental illness did not exist, cannabis was perceived as a relatively safe drug. As Colonel J.M Phalen (1943) editor of the Military Surgeon declared “the smoking of the leaves, flowers and seeds of cannabis sativa is no more harmful than that
of tobacco” (Campbell, 2001:411). Emphasizing not only how little was known about cannabis and its effects, but also how little was known about other drugs which in today’s society are known to be extremely harmful.

With cannabis being perceived as relatively harmless by the medical profession, there was estimated to be around 200 million cannabis users throughout the world between the 1940’s and the 1970’s (Campbell, 2001:413). Despite the passing of the Marijuana Act (1937) cannabis consumption continued to grow (Iversen, 2000:243). From the Act’s inception through to the 1970’s the ‘war on drugs’ was stepped up with, Britain and the USA holding numerous conventions, conferences and committees into drugs, addiction and the establishment of rehabilitation and treatment of these addictions. To combat the rising drug problem Britain enacted the Dangerous Drugs Act (1964) in order to implement the recommendations and requirements as set out by the UN Single Convention on Narcotic Drugs (1961) (SCND)\textsuperscript{30}. The SCND listed cannabis and cannabis resin as a drug which have control measures imposed on it by its signatories (United Kingdom Parliament, 1997-1998:4), it did not oblige parties to ban the drug all together, particularly when it was considered necessary for medical and scientific purposes.

In the U.K. there were few controls on the preparation of drugs (other than dangerous drugs), until the introduction of the Medicines Act in 1968. Enacted as a result of issues discovered with thalidomide the act gave the government power to licence pharmaceutical companies for the creation, preparation and

\textsuperscript{30} The UN Single Convention on Narcotic Drugs (1961) required signatories to limit the “possession, use, trade, distribution, import, export, manufacture and production of drugs exclusively for medical and scientific purposes” (Campbell, 2001:343).
trial of drugs. To assist in helping the government determine which companies could prepare drugs and determine what drugs were safe, the Medicines Commission (1968) and the Committee on the Safety of Medicines (1968) were established (United Kingdom Parliament, 1997-1998:4). As a result of the Medicines Act 1968, cannabis and cannabis resin was given a ‘licence of right’, therefore enabling doctors to still prescribe tincture (an extract in alcohol) (United Kingdom Parliament, 1997-1998:4).

Like in many other countries, the 1960’s and 1970’s saw an increase in cannabis use in the U.K (Belenko, 2000:125; Morgan, 1981:159). As a signatory to the UN’s Convention on Psychotropic Substances (1971), the U.K. enacted the Misuse of Drugs Act 1971. Here schedule 1 to the Convention listed Cannabinol and its derivatives (including THC31) as banned substances except for scientific purposes (United Kingdom Parliament, 1997-1998:4). Only limited medical use was permitted by authorised persons. Signatories to the Convention were obliged to criminalise the substances. The licence rights granted in 1968 were reviewed however were not renewed. The Misuse of Drugs Regulations (1971) listed cannabis, cannabis resin and cannabinol and its derivatives – thereby prohibiting the use of cannabis even for limited medical use” (United Kingdom Parliament, 1997-1998:4). Tincture was generally only prescribed to misusers, however by 1973 there was little support for its medical use, therefore its use was ceased.

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31 THC is the abbreviation for Delta-9-tetra hydrocannabinol, the primary active constituent in cannabis (Campbell, 2001:339). THC is found in leaves and tops of the cannabis plant (Upfall, 2002:103).
While the UK was working towards banning the use of cannabis, the early 1970’s saw the ‘drug war’ debate come full circle in the US. The National Commission on Marijuana and Drug Abuse (1971), appointed by the Nixon government recommended that cannabis be decriminalised (Campbell, 2001:418). This was further supported by the 1972 Shafer Commission which saw cannabis reach new levels of acceptance. The Commission further recommended that the laws relating to the possession of minor amounts of cannabis be relaxed and cease to be treated as a criminal offence (Durrant & Thakker, 2003:84; Campbell, 2001:418; Morgan, 1981:161-162; Inglis, 1975:190). By 1973 Oregon took steps towards treating the possession of cannabis as a minor offence. Several other states implemented similar policies throughout the remainder of the 1970’s (Morgan, 1981:162; Inglis, 1975:190).

**Prevalence of Cannabis Use in the US**

In both America and Australia information relating to cannabis and its frequency of use is generally collected via household surveys where a representative sample of the population is asked to self report cannabis use. Typically self reporting surveys are designed to establish levels of lifetime use, past year use and recent use (Hall & Pacula, 2003:18). In the past, self reporting surveys have generally reported low levels of weekly and daily cannabis use therefore establishing that recent lifetime use of cannabis is more prominent than occasional recreational use (Hall & Pacula, 2003:18). An example of internationally based household surveys is that sponsored by the National Institute on Drug Abuse (NIDA), which has surveyed household samples of persons over the age of 12 years throughout the US since 1972. A survey conducted by the NIDA in 2001 reported that 37% of those surveyed had
used cannabis at some stage of their lives. “Only 9.3% reported having used cannabis within the past year, while 5.4% reported having used cannabis within the last month” (Hall & Pacula, 2003:19). The 2001 survey found that cannabis use was more prevalent amongst persons aged 26 years and over, with 37% within this age group reporting lifetime use of the drug. Interestingly and yet not surprisingly, those less likely to report lifetime use of cannabis were persons aged 12 to 17 years of age, with this group only accounting for 20% of those who participated in the survey (Hall & Pacula, 2003:19). It could be argued that the low levels of lifetime use reported are due to the low levels of exposure this age group has had to cannabis. It suggests that persons within this age group are only becoming aware of the existence of the drug and interacting with social groups which partake in use of the drug. It therefore perhaps indicates that cannabis use in the main, for this age group, is experimental and is influenced by the cultural groups with which youth tend to interact.

Australia as a ‘Good International Citizen’

Many of the changes in drug regulation which occurred throughout the US and Britain, was believed to greatly influence drug laws in Australia. The following section will explore the history of cannabis use in Australia.

While America blamed the Mexican’s for their drug problem, the Chinese Australian community was increasingly blamed for the non-medical introduction of opium into Australia. Between the 1880’s and 1900’s the Chinese Australian community was not only accused of introducing opium to the wider population, but of also trading in opium with indigenous Australians

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32 Brereton, 2000:90
While recreational use of opium was common among the Chinese Australian community, the reality was that the majority of opium use in Australia occurred through the use of patent medicines (Lang, 2002:5; Wodak & Moore, 2002:13). Many medicines available during early settlement in Australia contained drugs such as cannabis, opium, morphine and cocaine which were all believed to be non addictive, by the medical profession (Durrant & Thakker, 2003:76). Early Australian settlers therefore turned to stimulants in order to cope with Australia’s harsh climate, thus creating a widespread acceptance of drug use among all classes of society (Campbell, 2001:428). As a result of this social acceptance, drug prohibition laws in Australia were relatively slow to develop (Campbell, 2001:428).

The proclamation of the *Customs Act 1901* prohibited the non-medical use of opium (Campbell, 2001:433; Wodak & Moore, 2002:13). The *Customs Act 1901* began the restriction of many drugs including cannabis which was controlled by the passing of the *Poisons Act* in Victoria in 1928. South Australia (SA) (1934), New South Wales (NSW) (1935), Queensland (QLD) (1937), Western Australia (WA) (1950) and Tasmania (TAS) (1959)” passed similar legislation (Campbell, 2001:436).

While anti-Chinese sentiment is said to be responsible for anti-opium laws in Australia, Brereton (2000:89) argues that the major drug law changes were primarily generated through external pressures between 1914 and 1960. With America leading the way in drug law reform, Australian drug laws were expanded significantly with the Australian Government becoming signatories to international conventions and treaties (Brereton, 2000:89; Wodak & Moore,
The first international drug treaty that was ratified by the Australian Government was the Opium Convention (1912), which the government used as a basis for expanding import controls (Brereton, 2000:89). This along with the 1925 Geneva Convention provided means by which the government could limit the “sale and use of opiates, cocaine and Indian Hemp exclusively to medical and scientific purposes” (Brereton, 2000:89-90; Wodak & Moore, 2002:14). The 1925 Convention was followed by a number of other treaties which established compliance and the power to determine which drugs should be considered dangerous drugs (Brereton, 2000:90). Brereton (2000:90) argues that Australia’s willingness to become a signatory to these treaties shows its preparedness to not only modify its drug laws, but its willingness to be seen as a subordinate country “on the world stage with its desire to be seen as a good ‘international citizen’”. Brereton (2000:90) further argues that Australia’s focus was concerned with its international image rather than being “driven by concern within Australia about the problems posed by illicit drugs” (Brereton, 2000:90).

For example in the 1920’s non-medical importation and use of cannabis was prohibited to coincide with the requirements of the Geneva Convention (1925). However at this point in time cannabis was virtually unheard of in Australia, yet non-medical use was banned in the country because it was considered the ‘right thing to do’ (Brereton, 2000:90; Wodak & Moore, 2002:12).

The 1940’s saw the Commonwealth “extend import restrictions on Indian Hemp, including preparations containing hemp” (Campbell, 2001:437). By the 1960’s illicit drug use moved from a social issue towards a criminal justice orientation. With soldiers serving in Vietnam seeking a release from the pressures of war, the increase in drug use was significant. It was reported that
up to 25% of enlisted men were using heroin, although it appeared as though more were familiar with cannabis (Campbell, 2001:439; Durrant & Thakker, 2003:84; Morgan, 1981:154). With the Vietnam War came US servicemen and a new dimension to the ‘drug problem’ in the form of drug trafficking. Drug markets in Australia expanded in order to meet the needs of the servicemen (Campbell, 2001:439; Wodak & Moore, 2002:16).

By the early 1970’s the drug problem became a matter of public concern and the focus of Australian drug laws began to change (Brereton, 2000:91).

Initiatives….involved raising maximum penalties, creating additional offences, making offences easier to prove, establishing new investigative bodies such as the National Crime Authority, significantly increasing powers and technology available to law enforcement agencies to detect drug offences, providing for the confiscation of profits and investing more resources in drug law enforcement (Brereton, 2000:92).

The 1970’s saw the emergence of Royal Commissions and Inquiries and where pressure groups were establishing themselves as key stakeholders with what they believed to be revolutionary policies to the ‘drug problem’ (Campbell, 2001:441). The Senate Select Committee on Drug Trafficking and Drug Abuse (1971) produced the Marriot Report (1971) which declared that “very few in the community appear to believe there is any harm in taking a ‘pill’ to avoid minor discomfort, and may persistently pursue this custom. The attitude toward self-
medication in Australia was far too casual” (Campbell, 2001:441) indicating that recreational drug use in Australia was increasingly more common.

With general acknowledgement that illicit drugs including cannabis had accelerated considerably throughout the 1960’s the Senate Standing Committee on Social Welfare (Baume Inquiry) (1976) was established to explore the prevalence of licit and illicit drug use. Through its report entitled Drug Problems in Australia-An Intoxicated Society (1976), it was recommended that criminal sanctions should reflect the degree of harm different drugs can have on an individual and that first time offenders be treated leniently (Campbell, 2001:441). It had become generally accepted that the growth in illicit drug use raised issues over and above those relating to self-medication. Anti cannabis campaigner Donald MacKay (1977) drew a direct link to the acceleration in cannabis use and the involvement of organized crime in the drug business (cited in Campbell, 2001:442). Further McCoy (1980) and MacKay (1977) believed that increasing demand for illicit drugs paved the way for organized crime to become involved in the production and distribution of drugs (cited in Brereton, 2000:92). MacKay’s unveiling of organized crime operations and their direct link to the drug world, brought about his murder in 1977. The NSW Royal Commission of Inquiry into Drug Trafficking in 1979 (the Woodward Commission) was established following MacKay’s disappearance. This contributed to decisions reached by the Australian Royal Commission of Inquiry into Drugs (the Williams Inquiry) (Brereton, 2000:92).
Appendix Two

Drug Diversion Programs in Australia: An Outline of Infringement and Cautioning Programs
Infringement Notice Schemes

South Australia

SA was the first state in Australia to move towards diversionary strategies of any kind in relation to drug offences of use, possession and cultivation. The move towards such drug law reform, in the late 1980’s however was not without controversy (Sutton & McMillan, 1999:1). Both the SA Police and the public questioned the practicality of such a scheme and did not favour the diversion of drug offenders away from the courts (Sutton & McMillan, 1999:1). This was based on fears that removing the barriers to drug consumption, possession and cultivation, would open the door for drug experimentation among the young (Sutton & McMillan, 1999:1).

Despite this however, in 1987 the SA government introduced the Cannabis Expiation Notice Scheme (CENS), which allows for adults in possession of 100 grams or less of cannabis to be issued with a civil penalty notice rather than receive a summons to appear before a court (Controlled Substances Act 1984, Section 45(a); Controlled Substances (Expiation of Simple Cannabis Offences) Regulations 2002, Regulation 5 & 6; Sutton & McMillan, 1999:1; Bull, 2003:72).

The rationale behind the introduction of the scheme was to distinguish between private users and persons trafficking in cannabis. It was also intended to assist personal users to avoid the stigma associated with a criminal conviction (Hunter, 2001:2). Generally, criminal convictions can place employment restrictions on an individual, in many cases prohibiting them from entering particular occupations (Sutton & McMillan, 1999:4). It was thought that by paying the amount indicated on the expiation notice, offenders could avoid not
only a court appearance, but also a criminal conviction (Sutton & McMillan, 1999:1). Having said this however, if the expiation is not paid within the specified time, the offender will have a conviction automatically recorded against their name (Rickard, 2001:36).

**Australian Capital Territory**

The Simple Cannabis Offence Notice (SCON) was introduced into the ACT in 1993 (Working Party on Drug Law Reform, 2002:A13). Similar to SA the scheme allows adult and juvenile offenders in possession of 25 grams or less of cannabis to receive an infringement notice (*Drugs of Dependence Act 1989*, Section 171 (1)(a), Section 171A(1), Section 171A(7)(b)). Offenders are given the opportunity to pay the infringement within 60 days, otherwise they are given the opportunity to contest the notice in court. Similar to that in SA a contested infringement could lead to an individual receiving a criminal conviction (Rickard, 2001:36; Munday, 2000:22; *Drugs of Dependence Act 1989*, Section 171A(3)(c)).

There is no limit to the number of notices that can be served, however police officers in the ACT have the option of issuing an offender with a SCON or diverting them to an education program. Once an offender has satisfied the requirements of the drug education program, the fine that they would normally have been obligated to pay, is expiated (Working Party on Drug Law Reform, 2002:A14; Munday, 2000:22).
Northern Territory

The Drug Infringement Notice (DIN) scheme in NT has since 1996 allowed adult offenders in possession of 50 grams or less of cannabis to be issued with an infringement notice (Working Party on Drug Law Reform, 2002:A14; Munday, 2000:21). If infringement notices are not paid by the specified time, offenders are taken into custody or a warrant of distress is issued in order to recover the amount (Working Party on Drug Law Reform, 2002:A14). At this stage offenders are given the opportunity to contest the infringement in court, where the consequence may result in a criminal conviction (Rickard, 2001:36; Working Party on Drug Law Reform, 2002:A14).

Western Australia

The use of cannabis in WA like in all other Australian states has become relatively widespread among the community, with more young adults being exposed to the drug (Working Party on Drug Law Reform, 2002:1). The WA Working Party on Drug Law Reform (WPDR) was established in December 2001 in order to consider the feasibility of a scheme of prohibition with civil penalties for minor cannabis offences. The Working Party recommended that in order to reduce the harms associated with minor cannabis use, a scheme similar to that introduced in SA should be enacted (Working Party on Drug Law Reform, 2002:4).

The Cannabis Infringement Notice Scheme (CINS) was introduced in 2004 (Drug and Alcohol Office and WA Police Service, 2004:2) and is designed to make a clear distinction between individuals who are in possession of small quantities of cannabis and those in possession of large amounts intended for
supply (Working Party on Drug Law Reform, 2002:5). The scheme seeks to provide the necessary framework to assist those in possession of cannabis for personal use to receive an infringement notice rather than face the stigma associated with a court appearance. Furthermore a move towards a system of prohibition with civil penalties was seen as a positive approach towards reducing costs incurred by the criminal justice system when dealing with such minor matters (Working Party on Drug Law Reform, 2002:5).

The WA Government introduced the CINS after considering extensive research conducted in Australia and overseas, surrounding the social impacts associated with the different legislative options for the prohibition of cannabis (Working Party on Drug Law Reform, 2002:5). Through its research the WPDLR (2002) found that due to the increase in the number of minor cannabis users, that the threat of criminal sanctions did not deter the community from its use (Working Party on Drug Law Reform, 2002:2). While advocates of legalised cannabis use would argue that an increase in minor cannabis use is evidence that the current prohibitionist approach is out dated, research conducted by the WPDLR (2002) found that the majority of the community did not support a system of total legalisation (Working Party on Drug Law Reform, 2002:2). Research also considered by the WPDLR (2002) found that the majority of minor cannabis offenders where generally law abiding citizens and the stigma associated with a conviction for cannabis use and/or possession can often result in restrictions with employment opportunities (Working Party on Drug Law Reform, 2002:5).

To be eligible for a CIN, persons found cultivating cannabis plants, must only be cultivating these plants in their principle place of residence and cannot be
hydroponically grown (Cannabis Control Act, 2003, Section 7(2)). Under the Misuse of Drugs Act 1981, police have the power to seize any cannabis, cannabis plant and cannabis smoking equipment when a CIN is issued.

Those found in possession or using ‘small amounts’ of cannabis may at the police officer’s discretion, be issued with a CIN. On accepting the CIN the offender effectively pleads guilty to the charge. Persons issued with a CIN, can expiate the notice by paying the specified fine or by “attending a cannabis education session (CES) within 28 days of the CIN being issued” (Drug & Alcohol Office & Western Australian Police Service, 2004:2). Should an individual fail to complete a CES within the 28 day period, the CIN can only be expiated through payment of the prescribed fine. Should the CIN remain unpaid, a final demand is issued by the police, which is then referred to the Fines Enforcement Registry (FER) where under the Fines, Penalties and Infringement Notice Enforcement Act 1994, individuals who have outstanding CIN’s will continue to receive a final demand with administrative costs added (Drug & Alcohol Office & Western Australian Police Service, 2004:2). Once a CIN has been referred to the FER an individual must enter into an instalment arrangement to settle the debt otherwise, they are open to having their drivers licence suspended (Drug & Alcohol Office & Western Australian Police Service, 2004:2). Should the offender not wish to accept the CIN they have the option of contesting the charge in the Court of Petty Sessions (Working Party on Drug Law Reform, 2002:6).

The Cannabis Control Act 2003 provides for minor cannabis offenders to be issued with a CIN, it further provides however that should a person be issued
with two or more CIN’s within a three year period they then must attend a CES and are therefore not eligible to expiate their CIN. Should an offender fail to attend a CES under these circumstances, they will then be charged with an offence under the Misuse of Drugs Act 1981 (Drug & Alcohol Office & Western Australian Police Service, 2004:2).

Cautioning Notice Schemes

Victoria

While cannabis consumption and possession in Victoria remains illegal, the Victoria Police in 1998 implemented an initiative known as the Victoria Police CCP, in an attempt to reduce the harms associated with cannabis use and possession. While it is not legislatively based, the CCP allows for first or second time cannabis offenders over the age of 17 years to be issued with a caution notice rather than proceeding through the courts. As demonstrated earlier in Chapter One, cannabis offenders must meet a strict set of criteria before being eligible to receive a caution notice under the CCP (Rickard, 2001:35; Commonwealth Department of Health & Ageing, 2002:5; Victoria Police, 2000:12).

In Victoria cannabis consumption is a summary offence which can attract a maximum penalty of $500 (Drug Poisons and Controlled Substances Act 1981, Section 75 (a)). Possession and cultivation however are indictable offences which can attract a fine or a term of imprisonment dependant on the quantities involved (Rickard, 2001:35; Australian Drug Foundation, 2004:2). Possession of less than 50 grams of cannabis for personal use can attract a fine of up to $500, while possession of 50 grams or more for personal use can attract a fine of up to $3,000 and/or a term of one year in prison (Drugs, Poisons and
Controlled Substances Act 1981, Section 73 (a)(i)&(b), Schedule 11; Sentencing Act (VIC), 1991, Section 110). Cultivation of 250 grams of cannabis for personal use can attract a maximum penalty of $2,000 and/or one year in prison (Drugs, Poisons and Controlled Substances Act 1981, Section 73 (a), Schedule 11; Sentencing Act (VIC), 1991, Section 110). Cultivation of more than 250 grams of cannabis, which equates to 10 plants or more, becomes an amount which is considered a trafficable quantity (Rickard, 2001:35; Australian Drug Foundation, 2004:2; Drugs, Poisons and Controlled Substance Act 1981, Schedule 11).

Continuing on the harm minimisation approach, Victoria Police moved to extend the CCP by introducing the Victoria Police DDP in 2000 (Victoria Police, 2002:8; Commonwealth Department of Health and Ageing, 2002:9). The aim of this program is to divert both adults and juveniles found in the possession of or using small quantities of drugs (other than cannabis) into early drug assessment and treatment. The DDP developed as an extension to the Victoria Police CCP, works in conjunction with the guidelines developed for the CCP in that when an offender is detected in possession of or using small quantities of illicit drugs, the investigating officer may issue a drug diversion, which includes a referral of the offender to drug treatment (Victoria Police, 2002:8; Commonwealth Department of Health & Ageing, 2002:9). Again similar to the CCP, offenders are only eligible for a drug diversion if the drugs detected are for personal use and the offender admits to the offence. If other offences are involved at the time of an offender being detected in possession of or using illicit drugs, a drug diversion is not appropriate (Victoria Police, 2002:8; Commonwealth Department of Health & Ageing, 2002:9). For a drug diversion
to be issued, the offender must be willing to accept the diversion cautioning notice and be willing to attend an approved treatment and assessment program (Victoria Police, 2002:8).

**Tasmania**

In 1998 Tasmania introduced a three staged Drug Diversion Initiative (DDI), where first time minor cannabis offenders are issued with a cautionary notice for possessing up to 50 grams of cannabis (Munday, 2000:20). Similar to the Victorian model, offenders are also issued with educational material outlining the effects and harms associated with the use of the drug. Second and third time offenders are referred to a one (1) hour counselling session or a more comprehensive assessment such as detoxification or rehabilitation (Rickard, 2001:35; Working Party on Drug Law Reform, 2002:A17; Munday, 2000:20). Offenders are required to make contact with counselling services within 3 days of being detected with the drug. Failure to do so will result in the offender being charged with the original offence (K Lane [Tasmania Police] 2008, pers. comm, 25 April).

The *Poisons Act 1971* prohibits the possession of Indian Hemp (cannabis). The maximum penalty is 50 penalty units or two years imprisonment or both. Similar to other states in Australia, offenders must admit guilt, be able to be positively identified and not be involved in offences which contain violence (Munday, 2000:20).
**New South Wales**

In NSW cannabis consumption and possession is an illegal act with the possession of up to 200 grams of cannabis leaf attracting a maximum penalty of $2000 and/or 2 years imprisonment (Rickard, 2001:35). In 2000 the NSW police began a Cannabis Cautioning Scheme (CCS) for adults aged 18 years and older, similar to that implemented in Victoria (1998), where persons found in possession or using 15 grams or less of cannabis and/or in possession of cannabis smoking paraphernalia, were eligible for a caution (Rickard, 2001:35; Munday, 2000:19). To be eligible for a caution, offenders must be able to be formally identified, must not be involved in any other criminal offences, for which a brief of evidence would be submitted, must not have any other prior convictions for drugs, violence or sexual offences, must admit to the offence and consent to the caution (Baker & Goh, 2004:3; Munday, 2000:19). Again similar to the Victorian model, police officers are encouraged to issue a notice where offenders meet the cautioning criteria. However police officers retain the discretion to charge an individual with a drug offence under the *Misuse of Drugs and Trafficking Act 1985* (Working Party on Drug Law Reform, 2002:A16). After establishing the offender’s identity and determining whether or not the offender has any prior convictions, the investigating officer seizes all cannabis and cannabis smoking paraphernalia and issues a formal caution notice which outlines the legal and health consequences associated with cannabis use (Baker & Goh, 2004:4). No individual can be issued with more than two (2) cannabis cautions. As with the Victorian model the CCS is not legislatively based and is administered by the NSW Police Service, however in 2001 the NSW CCS was amended to include attendance at a mandatory education session (Working Party on Drug Law Reform, 2002:A16).
While the scheme has generally retained its original format it was discovered through an evaluation of the scheme that very few of the offenders issued with a caution notice, voluntarily contacted and accessed the Alcohol and Drug Information Service (ADIS) (Baker & Goh, 2004:4). As a means of expanding an offender’s knowledge of the legal and health issues associated with cannabis use, the CCS was amended to incorporate a mandatory education session at the second cautioning notice stage. Consequently implementation procedures were also slightly altered (Baker & Goh, 2004:5). Investigating officers have to conduct a Criminal Name Index (CNI) check to not only check for prior convictions, but to also ensure that an initial caution notice has been issued before issuing ‘the Second Caution Notice’. Offenders are now obligated “to contact ADIS within 14 days from the issue of the second notice to receive a mandatory telephone health education session on cannabis use” (Baker & Goh, 2004:5). With the mandatory education session being introduced, the investigating officer is now required to take an offender back to the station rather than issue the notice at the scene, as well as send a copy of the second caution notice to Drug and Alcohol Coordination to ensure compliance with the notice (Baker & Goh, 2004:5). While failure to contact ADIS is seen as non-compliance of the second caution notice and is recorded on the offender’s record on the NSW Police Computerised Operating Policing System (COPS), there is no requirement for the investigating officer to follow up non-compliance. This information however will be considered in any further charges laid against the offender (Baker & Goh, 2004:5). Cautions issued are similar to those issued in Victoria where the offender must admit guilt to the offence and must enter into a formal process. Once the offender has admitted the offence they are required to sign a formal caution notice, they are then issued with information regarding
the harms associated with drug use and information about treatment programs (Baker & Goh, 2004:3).

Prior to 2000 juveniles between 10 and 17 years of age were not eligible to receive a caution for minor drug offences. In 2000 the Young Offenders Act (2000) was amended to allow juveniles to receive a caution for minor cannabis possession and use, allowing young offenders to avoid a criminal conviction (Bull, 2003:64).

**Queensland**

Under QLD law the possession of up to 500 grams of cannabis is an offence. Unlike the other states and territories of Australia, QLD does not make any distinction between small and large quantities of cannabis. The possession of up to 500 grams of cannabis or where plants are concerned up to 100 plants, offenders can be dealt with summarily or indictably (Working Party on Drug Law Reform, 2002:A16). Should the offence be dealt with as an indictment, the maximum penalty which can be imposed is 15 years imprisonment and/or a fine of up to $3,000. Should the offence be dealt with summarily, the maximum penalty is two years imprisonment and/or a fine of up to $6,000. Possession of drug paraphernalia is also an offence under QLD law (Rickard, 2001:35).

The Drug Diversion Assessment Program (DDAP) was introduced in QLD in 2001. Under the *Police Powers and Responsibility Act* 2000, police officers are obligated to offer offenders found in the possession of 50 grams or less of cannabis, or an implement which is designed to smoke or has been used to

To be eligible for the opportunity to attend a DDAP an offender must be arrested for or questioned about a minor drug offence, not have committed another indictable offence in circumstances related to the minor drugs offence, and have not been previously convicted of an offence involving violence against another person. The offender must admit to the offence and not have been offered a diversion on a previous occasion (Hales et al., 2003:3; Police Powers and Responsibilities Act 2000 (QLD), Section 379 (e)). The opportunity to attend a DDAP is offered to an offender on only one occasion. Should an offender agree to attend the DDAP, they can avoid being charged with a criminal offence, having to attend court and receiving a criminal record for a minor drug offence. Should an offender be offered the opportunity to attend a DDAP, but decline the offer they are not eligible to be offered the chance to attend a DDAP in any future instances where they may be detected committing minor drug offences (Hales et al., 2003:5). However should an offender agree to attend a DDAP but fail to attend, the offender may then be charged with the offence and be required to attend court (Hales et al., 2003:3-4).

Upon detecting the offence the investigating officer will question the offender and determine their eligibility to be offered an opportunity to attend a DDAP. If the offender meets the eligibility criteria, the investigating officer will provide the offender with information regarding the DDAP, including the benefits and consequences of attending or failing to attend the program (Hales et al., 2003:4). Within 28 days of detection of the offence the investigating officer will
make an appointment with the nearest DDAP provider. Once an appointment
as been made the person must sign a form, acknowledging the acceptance of the
offer to attend a DDAP and that they will attend when required (Hales et al.,
2003:4). If the offender refuses to sign the form, the investigating officer will
proceed as though the offer had been rejected and proceed with a formal charge
under the *Drugs Misuse Act 1986* (Hales et al., 2003:5).

Once the offender enters into the DDAP a health service worker will make an
assessment of the offender’s drug dependency (Hales et al., 2003:4). The
education session takes approximately one to two (1-2) hours and involves
information relating to the legal and health issues associated with cannabis use
and the health worker together with the offender will devise a plan that will help
the offender stop using cannabis. While all information provided by the
offender to the DDAP is confidential, the DDAP must inform the police as to
whether or not the offender met the requirements of the diversion program
(Hales et al., 2003:4).

Under the Queensland *Juvenile Justice Act*, persons under the age of 17 years
can receive a caution for possession of small amounts of illicit drugs including
cannabis (Rickard, 2001:35).

The rationale behind referral to a DDAP was to reduce the number of minor
drug offenders appearing before the courts and to increase access to drug
education and treatment programs (Working Party on Drug Law Reform,
2002:A17). The DDAP further aims to provide an incentive for people to
address their illicit drug use, before they are entwined in the criminal justice
system, whilst reducing the number of minor drug related offenders appearing before the courts (Hales et al., 2003:2).
Appendix Three

Victoria Police Regional Map Of Victoria
Appendix Four

Application To Conduct Research Involving Victoria Police
1 APPLICANT INFORMATION

The applicant will be recognised as the official liaison point for the RCC on matters concerning this application.

<table>
<thead>
<tr>
<th>Name:</th>
<th>PATTI THYSSEN</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organisation:</td>
<td>RMIT UNIVERSITY, DEPARTMENT OF JUSTICE &amp; YOUTH STUDIES, BUNDOORA</td>
</tr>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Contact details:</td>
<td>FINGERPRINT BRANCH</td>
</tr>
<tr>
<td>Phone(s):</td>
<td>(03) 9865-2906 (WORK)</td>
</tr>
<tr>
<td></td>
<td>(03) 9751-1848 (HOME)</td>
</tr>
<tr>
<td></td>
<td>Facsimile:</td>
</tr>
<tr>
<td></td>
<td>(03) 9865-2911(WORK)</td>
</tr>
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Title of research: SWORN VICTORIA POLICE PERSONNEL'S ATTITUDES AND PRACTICES IN REGARDS TO THE IMPLEMENTATION AND ONGOING ENFORCEMENT OF THE VICTORIA POLICE CANNABIS CAUTIONING PROGRAM.

Context of research:

- [ ] A requirement for gaining academic qualifications
- [ ] Professional academic research/consultancy
- [ ] Private research
- [ ] Other: (please describe): 

Signature: [Signature]

Date: 31/12/01
2. DETAILS OF THE RESEARCH PROJECT

Provide information concerning the whole project. If convenient, applicants may attach existing documentation (e.g., institution ethics committee application, funding application, detailed plan) and indicate ‘Attached’ in the relevant areas. Additional pages may be attached if space is insufficient.

<table>
<thead>
<tr>
<th>Background</th>
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<tr>
<td>Succinct statement on how the project came about.</td>
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**PLEASE SEE ATTACHED REPORT**

<table>
<thead>
<tr>
<th>Aims and/or hypotheses</th>
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<tr>
<td>Summarise the aims/objectives or hypotheses which the research intends investigate or test.</td>
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**PLEASE SEE ATTACHED REPORT**

<table>
<thead>
<tr>
<th>Methods to be used</th>
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<tr>
<td>Describe the research methodologies and processes for the collection and analysis of data. Indicate the scope of focus group discussions, and provide draft questions where questionnaire and structured interview techniques are to be used.</td>
</tr>
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</table>

**PLEASE SEE ATTACHED REPORT**

<table>
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<tr>
<th>Anticipated time frames</th>
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<tr>
<td>Indicate your anticipated time lines and milestones for the project (e.g., literature review, data gathering, writing up and reporting).</td>
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</table>

**PLEASE SEE ATTACHED REPORT**
3. RELEVANCE OF PROPOSED RESEARCH TO VICTORIA POLICE

Indicate the logical basis for the project and identify how the anticipated results of the project might directly or indirectly benefit Victoria Police.

Rationale of research project: 

PLEASE SEE ATTACHED REPORT

Benefits for Victoria Police: 

PLEASE SEE ATTACHED REPORT

4. ASSISTANCE SOUGHT

Itemise what assistance you require from Victoria Police.

Assistance sought: 
(eg. provide data/statistics, distribute questionnaire, access to members for interview/focus group discussion).

MEMBERS FROM UNIFORM, CIU, PROSECUTIONS, OIC OF DRUG SQUAD AND PRESIDENT OF POLICE ASSOCIATION FOR SEMI-STRUCTURED ONE ON ONE INTERVIEWS. PROPOSED STATIONS AND REGIONS, OUTLINED IN ATTACHED REPORT.

Number and/or police time required: 
(give estimate where possible eg. 30 questionnaires x 30 minutes to complete)

42 INTERVIEWS IN TOTAL FROM VICTORIA POLICE X 1 HOUR TO COMPLETE EACH IN INTERVIEW.

5. RESEARCHERS INVOLVED

Indicate personnel directly involved with the project and their role (eg. Principal Researcher, Joint Researchers, Research Assistant).

Name: 

PATTI THYSSEN

DR. DESMOND MCDONNEL (MACE)

ALAN OGILVIE

Role: 

PRINCIPLE INVESTIGATOR

SENIOR SUPERVISOR RMIT UNIVERSITY

SECOND SUPERVISOR RMIT UNIVERSITY

265
6 CONTEXT OF RESEARCH - DETAILS
Provide details in relation to the 'Context of the research' indicated in Item 1.

If project is undertaken as part of an academic qualification

<table>
<thead>
<tr>
<th>Institution</th>
<th>RMIT UNIVERSITY, FACULTY OF EDUCATION, LANGUAGE &amp; COMMUNITY SERVICES, DEPARTMENT OF JUSTICE &amp; YOUTH STUDIES, BUNDOORA CAMPUS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title of course / qualification</td>
<td>MASTER OF ARTS (BY RESEARCH)</td>
</tr>
<tr>
<td>Subject</td>
<td>(if applicable)</td>
</tr>
<tr>
<td>Candidate</td>
<td>Commence: 31/08/2000 Completion: 31/08/2004</td>
</tr>
<tr>
<td>Supervisor</td>
<td>Name: DR. DESMOND MCDONNEL (MACE) Faculty: EDUCATION, LANGUAGE &amp; COMMUNITY SERVICES</td>
</tr>
<tr>
<td>Signature of supervisor</td>
<td>Date: [Signature] Nov 2004</td>
</tr>
</tbody>
</table>

If project is undertaken as professional academic research or a consultancy

| Sponsoring body | |
| Sponsor contact | (Name & phone number) |

If project is undertaken as private research

| Is there an organisation / group / publication to which results would be directed? | |

7 APPROVAL BY THE APPLICANT'S ORGANISATION

| Has approval been granted | ☐ No ☑ Pending ☐ Yes Conditional Approval Only see attached report |
| Name of the approval body | RMIT University |

8 FUNDING

| Has funding been sought | ☐ No ☑ Pending ☐ Yes |
| Has funding been granted | ☐ No ☑ Pending ☐ Yes |
| Name of the funding body | |
| Funding body contact | (Name & phone number) |
3.2 WHAT?
BACKGROUND
Victorians are justifiably concerned about the continued use of illegal substances in our community, despite a commitment to the law enforcement of prohibition laws. During the last 10 to 20 years there has been much debate focused on the legalisation and decriminalisation of cannabis and the appropriateness of prosecuting such offenders. An investigation in 1996 was conducted by the Premiers Drug Advisory Council into illicit drug use in Victoria and as a result recommendations were made to change legislation, policies and services to reduce the harm being caused by drugs in our community (Premiers Drug Advisory Council, 1996, p75). Victoria Police have considered alternatives to current practices when dealing with persons detected using or in possession of small quantities of cannabis for personal use in response to the Council's recommendations (Victoria Police Cannabis Cautioning Notices - Project Proposal, 1996:p1).

The Victoria Police set out to establish a pre-court diversionary strategy such as cautionsing in order to provide minor cannabis offenders with information about the adverse effects associated with cannabis use and possibly referral to a drug assessment centre (Victoria Police Cannabis Cautioning Notices - Project Proposal, 1996, p2). As a result, in 1997 Victoria Police command approved the piloting of a Cannabis Cautioning Pilot Program (CCPP) which involved testing the viability of a system of cautionsing adults detected using and/or in possession of small quantities of cannabis. This pilot was conducted in the 10 District between July 1997 and January 1998 (Victoria Police Evaluation of the Cannabis Cautioning Program Pilot, 2000, p12). Extending the already existing cautionsing program to incorporate cannabis offenders demonstrates flexibility and a willingness to embrace change for long term outcomes for offenders, police, the court system and the community.

To be eligible for a Cannabis Caution a specific set of criteria must be met by all offenders:

- the Cannabis Caution Program applies to adult offenders detected in possession of, or using dried cannabis leaf, stem or seeds weighing not more than 50 grams for personal use.
- the offender must have no criminal history of drug offences.
- the offender must admit the offence and consent to being cautioned and will not be cautioned on more than two occasions.
- the 'Caution Notice' given to the offender contains information about the health and legal ramifications of cannabis use and a confidential telephone drug information help line (Victoria Police Operational Procedures Manual 7.8.5.2).

An evaluation carried out on the program found it to be beneficial to all parties, and as a result Victoria Police command announced that the Cannabis Cautioning Program would be expanded across the State to divert low level cannabis users away from the courts and towards appropriate health services (Victoria Police Media Release, Cannabis Cautioning Program Pilot Evaluation, 1998, p3).

SCOPE AND OBJECTIVES OF RESEARCH
This research project aims to document the attitudes, and practices of sworn Victoria Police members in relation to the Victoria Police Cannabis Cautioning Program (1998). The Objectives of the research are:

- to establish what members believe to be the purpose of introducing the Cannabis Cautioning Program.
- to establish what strengths and weaknesses members perceive the Cannabis Cautioning Program to have in regards to law enforcement.
- to determine what strengths and weaknesses members perceive the Cannabis Cautioning Program to have in regards to drug use.
- to identify whether members perceive there to be any unintended outcomes as a result of the Cannabis Cautioning Program.
- to determine what operational police personnel responsible for implementing the Cannabis Cautioning Program perceive their discretion to be limited by the policy in any way.
- to document and assess members personal views and perceptions as to the impact of the Cannabis Cautioning Program on cannabis markets in Victoria.
- to provide sound research findings for community education on the adoption of this policy.
- to establish whether sworn personnel perceive the Cannabis Cautioning Program as an essential tool in law enforcement.

RESEARCH QUESTIONS
This research will aim to answer the following questions:

- what do operational police perceive as being better - a system of strict prosecution or one of cautioning.
- in adopting the cautioning system what do police perceive as being the impact on law enforcement and what possible difficulties do they see arising when it does come to prosecution of offenders.
- how have police been instructed to deal with the program and what training has been provided.
- do members believe training is sufficient for putting this policy into operation or do they believe it needs updating.
- in their opinion, what do members perceive the public acceptance level of the Cannabis Cautioning Program to be.
- in their opinion, do members believe that the Cannabis Cautioning Program provides them with a big enough avenue to exercise discretion when it comes to issuing a caution for Cannabis use/possession.
3.3 WHY?

RATIONALE FOR PROGRAM

CONTRIBUTION TO THE FIELD OF STUDY

The issue of cannabis legalisation and/or its decriminalisation in an attempt to reduce the harm associated by its use, has produced a substantial amount of literature. The more recent focus on cannabis use in the community has been surrounded by the issue of whether or not to prosecute offenders, caught in possession of or using cannabis. The majority of literature focused on Cannabis Cautioning has been surrounded around programs established in other states of Australia. Little literature has focused on Victoria’s Cannabis Cautioning Program.

Sutton and McMillan’s (1998) account of law enforcement and other criminal justice attitudes towards cannabis laws in South Australia illustrates persons perceptions and experiences with the CEN system. Sutton and McMillan (1998) explore police officers experiences in dealing with members of the public in regards to issuing expulsion notices, as well as changes to operational policing. Sutton and McMillan (1998) argue that CEN system has won general acceptance from criminal justice professionals, and as long as the state continues to move forward in implementing harm reduction approaches to fight and illicit drugs, this harm reduction will be enhanced.

Lenton et al (1998) conducted a comparative study into the South Australian CEN system and the Western Australian penalties system. Lenton et al (1998) based on their findings argue that a cautioning or infringement based system much more readily accepted by the community. However Lenton et al (1998) do not explore law enforcement acceptance levels.

Given that all States and Territories of Australia excluding Northern Territory and Queensland have worked towards establishing a program aimed at diverting offenders found using or in possession of Cannabis away from the courts, this research will explore the impact of the Victorian Cannabis Cautioning Program on Victorian Police officers and other criminal justice agencies, in particular the judiciary.

Literature on the Victoria Police’s Cannabis Cautioning Program has been based on the piloting, evaluation and implementation of the program, which has been internally produced. This research aims to explore the program from an external point of view, using qualitative methods rather than quantitative in order to see if the same levels of satisfaction can be reached. This research is also an attempt to become better informed about the program and the experiences of members in enforcing the program.

BENEFITS TO THE POLICE

It is hoped that this research will provide information to assist police command in addressing any shortfalls identified and associated with the program. It is hoped that by ground level operational police having been given the opportunity to express their attitudes, experiences and perceptions in regards to the program, police command will be able to better mold the program to suit the needs of those enforcing it as well as other state holders.
3.4 WHY?

METHODS

RESEARCH METHODOLOGY

A qualitative methodology is most appropriate in the collection of data as the research aims to understand attitudes and opinions therefore it is best suited to achieving the objectives of the research. Qualitative methods comprise collecting data through written and spoken words and can be comprised of autobiographical accounts and observational studies and interviews. The qualitative method is associated with an interpretive approach which constitutes itself to the study of social science and gaining access to the experiences, attitudes and perceptions of individuals within society. It borders on the premise that events in society will be understood in different ways by different people and that this should be taken into account when gathering data, particularly considering that a human subject can choose how they will respond to a particular stimulus (Holloway, 1997, p93 & Oliver, 1997, p17).

Purpose for using qualitative methods are to uncover and outline a groups social relations. This encompasses:

- an individuals beliefs, perceptions and knowledge in regards to particular situations or events,
- the methods, social rules, expectations, patterns and roles by which their situation is structured,
- the legitimisation by which their situation is structured; unquestioned character of their situation, and
- the motives and interests, purposes, goals and plans through which participants interpret their situation.

Based on this criteria qualitative methodology focuses on how different people define an event/situation through their own actions, perceptions, interpretations and beliefs (Burns, 1994, p251). Qualitative methods best suits this research design as the research sets out to identify and investigate the attitudes, and practices of sworn Victoria Police members in relation to the Victoria Police Cannabis Cautioning Program.

STUDY AREA

The research will focus on the attitudes, and practices of sworn Victoria Police members in relation to the Victoria Police Cannabis Cautioning Program.

SELECTION OF THE TARGET POPULATION AND SAMPLE

The target population of this research includes:

- Uniformed Victoria Police (sworn members) officers, from the rank of Constable to Senior Sergeant, who are considered operational within each of the 5 (police) regions of Victoria (15 participants - 5 from each region). The rank of Constable to Senior Sergeant was selected as it is perceived that these members are more likely to have ground level operational experience of the program and the issues associated with its enforcement.
- CIU members, from the rank of Detective Constable to Detective Senior Sergeant, who are considered operational within each of the 5 (police) regions of Victoria (5 participants - 1 from each region). It is also perceived that these members based on the nature of their duties would have less experience in dealing with the program than uniform members from the rank of Constable and Senior Sergeant.
- Police prosecutors regardless of rank, who have been prosecutors for the two years since the implementation of the Cannabis Cautioning Program, one prosecutor from each of the 5 (police) Regions. This target group was selected as it is perceived that police prosecutors that fall within this group will have relatively the same experience in dealing with the Cannabis Cautioning Program, and are best qualified to comment on the training received by prosecutors. This target population was further selected for the purposes of gaining some insight into the prosecution issues associated with the Cannabis Cautioning Program.
- Officer In Charge of the Drug Squad (1 participant). This target group has been selected as a means of gaining knowledge of the impact the Cannabis Cautioning Program has had on the functions of the Drug Squad. It is felt that it is still necessary to investigate the impact of the Cannabis Cautioning Program on the functions and operations of the Drug Squad, no matter how minor they may be.
- Victoria Police Drug and Alcohol Co-ordination Unit (1 participant) - This target population was selected as a means of understanding how the Cannabis Cautioning Program assists in enhancing the fight towards drug harm minimisation.
- Executive Officer of the Police Association (1 participant) - This target group has been selected as a means of gaining the views and attitudes of the Police Association in regards to the Cannabis Cautioning Program. Given that the association concerns itself with the welfare of its members and work practices associated with police work, it is perceived necessary to gain the attitudes of the police association.

A variant of random sampling will be one technique adopted to obtain representatives of the target population. Based on the departmental structure of the Victoria Police, it is possible to clearly identify groups within the organisation, which are of interest to the research. To avoid excluding any groups from being selected as part of the target population, the Victoria Police as a whole entity will be split up into subgroups (uniform, criminal investigations unit (CIU) & prosecutors). Each subgroup will be treated as a separate entity and a random sample drawn from each of these subgroups (Oliver, 1997, p48).
Non-probability sampling will be adopted to obtain representatives of the target population. This method allows for a sample that is selected often on the basis of the researcher's own knowledge of the population and its elements (Watt, 1978, p77). A non-probability sampling technique that will be used throughout the research is "purposive sampling", whereby the researcher will purposely choose members of the target population (Watt, 1978, p88). Purposive sampling will also be used as it allows for the researcher to utilise what sample is available to them. Based on issues such as shift work and annual leave, the research will have to utilise those available from each of the randomly selected police departments. Purposive sampling allows for this (Oliver, 1997, p49).

Random sampling is a sample in which every member of the target population has an equal chance of being selected and by combining this sampling technique with a form of stratified random sample (variant sampling), it allows for the target population to be divided into subgroups and selected accordingly (Oliver, 1997, p48).

The rank of Inspector and up have been excluded from the target populations as it is perceived that within these ranks members are considered more along the lines of executive officers. It is further perceived that members from the rank of Inspector and up are less likely to have ground level operational experience in dealing with the program. Members from Sexual Offences and Child Abuse Units (SOCA), Regional Response Units (RRU) and Traffic Management Units (TMU) have also been excluded as part of the target populations as their duties are considered more specialist and do not fit into the realm of general policing as defined for the purposes of this research project.

Members will be interviewed from the 8 original police districts (now regions) interviewed during the proposal stage of the Cannabis Cautions Program. It is the intention to interview at least one uniform operational member from each of the 8 districts. The stations with in each of the 8 districts that will be interviewed include:

<table>
<thead>
<tr>
<th>Melbourne City</th>
<th>Region 1</th>
<th>'A' District</th>
</tr>
</thead>
<tbody>
<tr>
<td>St. Kilda</td>
<td>Region 1</td>
<td>'B' District</td>
</tr>
<tr>
<td>Knox</td>
<td>Region 4</td>
<td>'F' District</td>
</tr>
<tr>
<td>Altona North</td>
<td>Region 2</td>
<td>'J' District</td>
</tr>
<tr>
<td>Broadmeadows</td>
<td>Region 3</td>
<td>'K' District</td>
</tr>
<tr>
<td>Geelong</td>
<td>Region 2</td>
<td>'L' District</td>
</tr>
<tr>
<td>Mildura</td>
<td>Region 5</td>
<td>'N' District</td>
</tr>
<tr>
<td>Shepparton</td>
<td>Region 3</td>
<td>'O' District</td>
</tr>
<tr>
<td>Maribyrnong</td>
<td>Region 5</td>
<td>'Q' District</td>
</tr>
</tbody>
</table>

These districts were selected based on statistics indicating the highest number of cannabis offenders charged from March 1993 to July 1996. 1 District was selected based on this district having the highest percentage of first time offenders charged with use or possession of Cannabis. This district also incorporated a mix of both rural and metropolitan communities (at the time) which was considered important when considering statewide implementation.

Other Stations that were randomly selected for interview are:

<table>
<thead>
<tr>
<th>REGION</th>
<th>UNIFORM</th>
<th>CRIMINAL INVESTIGATIONS UNIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Region 2</td>
<td>Kenmore Downs, Werribee, Ballarat, Horsham, Warrnambool</td>
<td>Ballarat CIU</td>
</tr>
<tr>
<td>Region 3</td>
<td>Mill Park, Coburg, Castlemaine, Essendon, Swan Hill</td>
<td>Melbourne Airport CIU</td>
</tr>
<tr>
<td>Region 4</td>
<td>Heidelberg, Camberwell, Belgrave, Benalla, Wangaratta</td>
<td>Ringwood CIU</td>
</tr>
<tr>
<td>Region 5</td>
<td>Frankston, Narre Warren, Warragul, Lakes Entrance, Sale</td>
<td>Frankston CIU</td>
</tr>
</tbody>
</table>

Police Prosecutions from which members will be interviewed:

<table>
<thead>
<tr>
<th>Region</th>
<th>Prosecutions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Region 1</td>
<td>Melbourne</td>
</tr>
<tr>
<td>Region 2</td>
<td>Sunshine</td>
</tr>
<tr>
<td>Region 3</td>
<td>Broadmeadows</td>
</tr>
<tr>
<td>Region 4</td>
<td>Ringwood</td>
</tr>
<tr>
<td>Region 5</td>
<td>Dandenong</td>
</tr>
</tbody>
</table>

*For interview schedule see Appendix A

An Executive Officer of the Police Association, Officer in Charge of the Drug Squad, will also be interviewed for data collection purposes.
METHODS OF DATA COLLECTION
The primary method of data collection will be semi-structured face to face interviews. Semi structured interviews allow for a little flexibility in the interview process, and is not as restrictive as close-ended interviews. This flexibility allows for more valid responses from the informant's perception of reality. The advantages of this method are:

- it has a more focused research agenda, which allows respondents to describe situations in their own words and their own time.
- it allows the researcher to ask questions in order to clarify answers which in turn ensures that researchers collect all important information.
- it allows for the expression of personal interests in the research topic while allowing the informant to provide their own perspective on issues rather than having the researchers perspective imposed on them (Holloway, 1997, p.95).
- creates the opportunity for the researcher and the informant to spend greater time together, therefore improving rapport and greater understanding of the informants perceptions and attitudes.

The rationale behind this method is that the only person that truly understands the social reality in which they live and work is the person themselves. (Burns, 1994, p.279).

TAPE RECORDING
Each semi-structured interview will be tape recorded as it is the best method of obtaining raw data which can be referred to in later stages of the study. Recording interviews further allows the researcher to more actively participate in the interview process and therefore allows for more natural conversation to take place. Note taking however will be used as a supplement to the interviews. (Burns, 1994, p.284) In conjunction with the semi-structured interview, secondary material will also be used. Documents that will be used in this research are:

- formal studies and reports relating to the topic
- acts of parliament and procedure manuals
- secondary administrative documents - internal police documents (with approval).

METHODS OF ANALYSIS
The initial analysis will involve grouping the responses under themes and attitudes. Wadsworth (1984, p.67) suggests taking findings back to the target group as a form of member checking. Wadsworth argues that this is important as it:

- sounds out the researchers findings
- obtains mutual understanding of and support for the research findings in order to be used by everyone who participated.
- is essential that the group you are doing the research for accept and understand the research, otherwise it can't help them (Wadsworth, 1984, p.67).

Coding will be used as a means of analysing the interview data. This will be done by classifying material into themes, issues, topics and concepts. Through this and content analysis, it is assumed that theories will emerge (Oliver, 1994, p.288). The post coding approach will be used, as it allows categories and concepts to be determined by the subject. The post-coding approach allows subjects to structure their view of the world in their own words and impose their own analysis upon their experiences. Analysis of qualitative data is not a process which can easily be subdivided into sections. It is more an ongoing exercise that exists throughout the research process, where categories and concepts are developed during and after data collection. Pre-coding will not be used as it mainly deals with quantitative data collection where the researcher determines the categories and concepts. As this research is using face to face semi structured interviews for data collection, it is perceived that post-coding is the most appropriate means for data analysis (Oliver, 1994 p.128-130).

RISK RATING
This project falls within the Minimal Risk Category as it poses no physical, psychological or social risks beyond the everyday norm. The research involves the use of standard semi structured interviews, where all data collected during each interview is recorded in such a manner that neither the subject nor the subjects station can be identified. Each individual will sign a consent form and will be free to withdraw at anytime or to decline to participate from the outset. If members wish, they will be given the opportunity to read through the interview transcripts (only those relating to their interview). They will also have the opportunity to withdraw any comments. While the research involves one to one interaction between investigator and subjects, it does not involve the participation of minors. The study involves no medical procedures or intrusive techniques, physical or otherwise. While subjects are asked to share their attitudes and experiences in regards to the Cannabis Cautioning Program, they are not asked to discuss issues that are of a potentially sensitive or contentious nature, or disclose any information which may have the potential to be incriminating.
PLAIN LANGUAGE STATEMENT

All information gathered will be important in establishing whether or not ground level operational police members (both uniform and CIU members) perceive the Cannabis Cautioning Program as an essential tool in law enforcement. It further aims to establish any prosecution issues that arise due to the implementation of the program. Participation in this study will give members the opportunity to express their attitudes towards the program in regards to time management and law enforcement effectiveness.
APPENDIX A

INTERVIEW SCHEDULE - UNIFORM & CIU MEMBERS

POLICE ACCEPTANCE

1. What do you perceive to be the purpose of introducing the Cannabis Cautioning Program?
2. In your role as an enforcer of the Cannabis Cautioning Program what strengths and weaknesses if any, do you perceive the Cannabis Cautioning Program to have in regards to law enforcement?
3. In your role as an enforcer of the Cannabis Cautioning Program what strengths and weaknesses do you perceive the Cannabis Cautioning Program to have in regards to drug use?
4. When using the Cannabis Cautioning Program as part of your duties what influences your decision about whether to prosecute or caution?
5. Have you been stationed anywhere else previous to your current station, since the implementation of the Cannabis Cautioning Program?
   a) If so what influenced members at your previous station in their decision of whether to prosecute or caution offenders?
   b) Are there any similarities in the influences between stations?
6. Based on your knowledge of Force Policy and Operational Procedures in regards to the Cannabis Cautioning Program, do you see them as being sufficiently clear in order to enforce the Program or do you believe they need amending?
7. As a whole do you support the concept of the Cannabis Cautioning Program?

EFFECTS AND EFFECTIVENESS

8. As an operational police officer at the ground level of policing, what effect do you believe the Cannabis Cautioning Program is having on drug law enforcement?
9. Do you see any positive or negative effect of the Cannabis Cautioning Program, on the courts and correctional system?
10. How valuable do you see the Cannabis Cautioning Program in reducing administration time (Preparing LEAP Reports, preparing briefs etc).
11. In issuing a Cautioning Notice, what equipment do you perceive to be essential in successfully enforcing the program?
12. Are you aware according to force policy, what equipment is essential in order for you to issue a caution notice?
   - Does the level of equipment available to you sway your opinion of the program at all?
   - Does the level of equipment available to you sway your decision of whether or not to issue a Caution Notice?

TRAINING

13. Did you receive any training in regards to the Cannabis Cautioning Program.
14. What training has been provided to introduce you to the Cannabis Cautioning Program?
15. How effective was the training program in assisting you to implement the Cannabis Cautioning Program in an operational context?
16. If not how did you learn about the options available to you in dealing with Cannabis Cautioning Offenders?

PROSECUTION

17. In your opinion does the Cannabis Cautioning Program assist in the prosecution of offenders who have been cautioned?

PUBLIC ACCEPTANCE / UNDERSTANDING

18. Does the public in your opinion appreciate the aims of the Cannabis Cautioning Program?
19. In what ways do you see the Cannabis Cautioning Program being open to abuse by the public if at all?
20. In your experience of implementing the program how have the majority of offenders reacted to being given a caution?

DECISION MAKING

21. What influences your decision to issue a Caution Notice?
22. Do you prefer to issue the Notices at the scene of the offence or at the Police Station?
23. What influences your decision?
LEGALISATION
24. Do you perceive the legalisation of such drugs as Cannabis to be an alternative to the Cannabis Cautioning Program?
25. What percentage of crimes that you attend, on a weekly basis, do you perceive as being drug related. (E.g. including crimes such as burglary where goods are stolen in order to obtain money for drugs or break and enter to steal drugs)?
26. What recommendations would you make for the further development of the Cannabis Cautioning Program, based on your operational experience?
INTERVIEW SCHEDULE - OIC DRUG SQUAD

POLICE ACCEPTANCE
1. Given that the Drug Squad focuses mainly on issues relating to major drug offences, what impact, if at all, has the Cannabis Cautioning Program had on the function of the Drug Squad?
2. What do you perceive to be the purpose of introducing the Cannabis Cautioning Program?
3. What strengths and weaknesses, if any, do you perceive the Cannabis Cautioning Program to have in regards to law enforcement?
4. What strengths and weaknesses do you perceive the Cannabis Cautioning Program to have in regards to drug use?
5. Based on your knowledge of the program, do you believe it provides members with sufficient scope to use discretion?

EFFECTS AND EFFECTIVENESS
6. Do you see any positive or negative effects of the Cannabis Cautioning Program on the courts and correctional system?
7. How valuable do you see the Cannabis Cautioning Program in reducing administration time (Preparing LEAP reports, preparing briefs etc.)?

PROSECUTION
8. In your opinion does the Cannabis Cautioning Program assist in the prosecution of offenders who have been cautioned?

PUBLIC ACCEPTANCE/UNDERSTANDING
9. Given the role and functions of the Drug Squad, has there been occasion where you have had to put the Cannabis Cautioning Program into practice?
10. In what ways do you see the Cannabis Cautioning Program being open to abuse by the public if at all?
11. Based on the current format of the program do you see there to be a potential for cultivators to abuse the system.

TRAINING
12. How has the Drug Squad been instructed to deal with the program?
13. What training has been provided to introduce members of the Drug Squad to the Cannabis Cautioning Program?
14. How effective was the training program in assisting them to implement the Cannabis Cautioning Program in an operational context?

LEGALISATION
15. Do you perceive the legalisation of such drugs as Cannabis to be an alternative to the Cannabis Cautioning Program?
16. What recommendations would you make for the further development of the Cannabis Cautioning Program?
INTERVIEW SCHEDULE - EXECUTIVE OFFICER OF THE POLICE ASSOCIATION

POLICE ACCEPTANCE
1. What does the Police Association perceive to be the purpose of introducing the Cannabis Cautioning Program?
2. What strengths and weaknesses, if any, does the Police Association perceive the Cannabis Cautioning program to have in regards to law enforcement?
3. What strengths and weaknesses does the Police Association perceive the Cannabis Cautioning Program to have on drug use?
4. Does the Police Association perceive Force Policy and Procedure in regards to the Cannabis Cautioning Program as being sufficiently clear in order to enforce the Program or do they need amending?

EFFECTS AND EFFECTIVENESS
5. Does the Police Association see any positive or negative effects of the Cannabis Cautioning Program on the courts and correctional system?
6. How valuable does the Police Association see the Cannabis Cautioning Program in regards to reducing administration time (Preparing LEAP reports, preparing briefs etc.)?

TRAINING
7. As far as the Association is aware what training program has been provided to introduce members to the Cannabis Cautioning Program?
8. Does the Association perceive this training to be sufficient for putting this policy into operation or does it believe they need amending?

PUBLIC ACCEPTANCE/UNDERSTANDING
9. As far as the Police Association is concerned does the public appreciate the aims of the Cannabis Cautioning Program?
10. In what ways does the Police Association see the Cannabis Cautioning Program being open to abuse by the public, if at all?

PROSECUTIONS
11. Does the Police Association perceive that the Cannabis Cautioning Program assists in the prosecution of offenders who have been cautioned?

LEGALISATION
12. What is the Police Association’s view in regards to the legalisation of such drugs as Cannabis as an alternative to the Cautioning Program?
13. What percentage of crimes attended, on a weekly basis, do you perceive as being drug related. (E.g including crimes such as burglary where goods are stolen in order to obtain money for drugs or break and enter to steal drugs)?
14. What recommendations would the Police Association for the further development of the Cannabis Cautioning Program?
## RESEARCH THESIS TIMELINE

<table>
<thead>
<tr>
<th>Period</th>
<th>Activities</th>
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<tbody>
<tr>
<td>SEPTEMBER 2000 - NOVEMBER 2000</td>
<td>APPROACHES TO RESEARCH - RESEARCH SUBJECT</td>
</tr>
<tr>
<td>JANUARY 2001- APRIL 2001</td>
<td>LITERATURE REVIEW</td>
</tr>
<tr>
<td>MAY 2001- JULY 2001</td>
<td>PREPARATION OF PROPOSAL, ETHICS FORMS AND VICTORIA POLICE ETHICS FORMS</td>
</tr>
<tr>
<td>AUGUST 2001</td>
<td>PRESENTATION TO RMIT ETHICS BOARD</td>
</tr>
<tr>
<td>SEPTEMBER 2001- DECEMBER 2001</td>
<td>WRITE UP OF LITERATURE REVIEW AMENDMENTS TO PROPOSAL RE: BOARD RECOMMENDATIONS.</td>
</tr>
<tr>
<td>JANUARY 2002 - APRIL 2003</td>
<td>CONDUCT INTERVIEWS, DATA COLLECTION, TRANSCRIBE INTERVIEWS AND DATA ANALYSIS.</td>
</tr>
<tr>
<td>MAY 2003 - AUGUST 2004</td>
<td>FURTHER DATA ANALYSIS AND FINAL WRITE UP.</td>
</tr>
</tbody>
</table>
REFERENCES

SECONDARY RESOURCES


Victoria Police, 1996, Cannabis Cautioning Notices Project Proposal, Corporate Policy, Planning and Review Department, Policy Research Unit.


Victoria Police Standing Orders 311 (1), 1959.

Victoria Police, 2000, Evaluation of the Cannabis Cautioning Program Pilot, strategic Development Department.

Wadsworth, 1984, Do It Yourself Social Research, Allen and Unwin, St. Leonards.

Wednesday, 21 November 2001

Ms Patti Thyssen
1492 Mt Dandenong Tourist Road
Olinda 3788

Dear Patti,

Your amended Ethics application was sighted by the chair of the Faculty Human Research Ethics sub-committee on 2/11/2001. Your application has received provisional approval subject to the Ethic approval letter from the Victorian Police. Please submit this to the Faculty Research Office as soon as possible. Approval has been recommended to the Faculty Board for approval at its meeting of 29/11/2001.

This now completes the Ethics procedures.

We wish you well in your research. Should you have any further questions regarding your application please do not hesitate to contact me on 9925 7840 or email heather.fehring@rmit.edu.au.

Yours sincerely

Heather Porter
Higher Degree Officer
for

Dr. Heather Fehring
Chair
Faculty of Education, Language and Community Services
Human Research Ethics Sub-committee

cc: Head of Department
    Supervisor
Appendix Six

Victoria Police Ethics Approval To Conduct Research
Reference 026449/01

Ms Patti Thyssen
1492 Mt. Dandenong Tourist Road
Olinda Vic 3788

Dear Ms Thyssen

I am pleased to advise that your application to conduct research into the implementation and ongoing enforcement of the Victoria Police Cannabis Cautioning Program has been approved by the Research Coordinating Committee.

I further advise that the Commanders of each of the areas in which you wish to conduct interviews have given the necessary permission for those interviews to take place. However, the Commander, Region 3 advises that the Melbourne Airports CIU office no longer exists, all airport operations being handled by the Broadmeadows CIU.

Please note that the Drug & Alcohol Policy Coordination Unit, Corporate Policy Division, have concerns about the balance of your research. It will therefore be very important for you to avoid any potential for a perception of bias in your evidence gathering and reporting.

The onus will be on you to contact the listed stations. It is also incumbent on you to ensure that there is minimal disruption to operational duties at those locations as a result of your research. A letter of introduction for the information of the Officers in Charge is attached to this advice.

Please feel free to contact me if you have any further queries.


Roger McGrath
Sergeant 18172
for Research Coordinating Committee
Appendix Seven

Letter From Victoria Police Research Standing Committee To OIC Outlining Approval To Conduct Research
17 January, 2002

Officer In Charge

Subject: Thyssen, Patti – Approval to conduct research within Victoria Police.

Please be advised that Ms Patti Thyssen has been given approval to conduct within Victoria Police. This approval is with the consent of the Regional Commanders and Assistant Commissioner, General Policing, the Assistant Commissioner (TOPS), and the Commander, State Crime Squads.

The research involves a one hour interview with one member of your staff. The areas approved for involvement in the conduct of these interviews are:

Region 1  
Melbourne City, St. Kilda, City Patrol Group, Malvern, Caulfield, Brighton, Chelsea, Fitzroy CIU.

Region 2  
Altona North, Geelong, Keilor Downs, Werribee, Ballarat, Horsham, Warrnambool, Ballarat CIU.

Region 3  
Broadmeadows, Mildura, Shepparton, Mill Park, Coburg, Castlemaine, Echuca, Swan Hill, Broadmeadows CIU.

Region 4  
Knox, Heidelberg, Camberwell, Belgrave, Benalla, Wangaratta, Ringwood CIU.

Region 5  
Morwell, Frankston, Narre Warren, Warragul, Lakes Entrance, Sale, Frankston CIU.

Prosecutions  
Melbourne, Sunshine, Broadmeadows, Ringwood, Dandenong

State Crime Squads  
Officer in Charge, Drug Squad.

Please contact me if you have any queries regarding this research.

Roger McGrath
Sergeant 18172
Appendix Eight

Consent To Participate In Research
RMIT HUMAN RESEARCH ETHICS COMMITTEE

Prescribed Consent Form For Persons Participating In Research Projects Involving Interviews, Questionnaires or Disclosure of Personal Information

FACULTY OF
DEPARTMENT OF

Name of participant:

Project Title:

Education, Language and Community Services
Justice and Youth Studies

Sworn Victoria Police Personnel’s Attitudes and Practices in Regards to the Implementation & Ongoing Enforcement of the Victoria Police Cannabis Cautioning Program

Name(s) of Investigators:

(1) Patti Thyssen Phone: 9751-1848
(2)

1. I have received a statement explaining the interview/questionnaire involved in this project.

2. I consent to participate in the above project, the particulars of which - including details of the interviews or questionnaires - have been explained to me.

3. I authorise the investigator or his or her assistant to interview me or administer a questionnaire.

4. I acknowledge that:

(a) Having read Plain Language Statement, I agree to the general purpose, methods and demands of the study.

(b) I have been informed that I am free to withdraw from the project at any time and to withdraw any unprocessed data previously supplied.

(c) The project is for the purpose of research and/or teaching. It may not be of direct benefit to me.

(d) The confidentiality of the information I provide will be safeguarded. However should information of a confidential nature need to be disclosed for moral, clinical or legal reasons, I will be given an opportunity to negotiate the terms of this disclosure.

(e) The security of the research data is assured during and after completion of the study. The data collected during the study may be published, and a report of the project outcomes will be provided to Victoria Police & RMIT University. Any information which will identify me will not be used.

(f) I give my consent to be audio taped during the interviewing process.

Participant’s Consent

Name: ___________________________ Date: ___________________________

(Principal)

Name: ___________________________ Date: ___________________________

(Witness to signature)

Where participant is under 18 years of age:

I consent to the participation of ___________________________ in the above project.

Signature: (1) ___________________________ (2) ___________________________

(Signatures of parents or guardians)

Date: ___________________________ ___________________________

(Witness to signature)

Participants should be given a photocopy of this consent form after it has been signed.

Any complaints about your participation in this project may be directed to the Secretary, RMIT Human Research Ethics Committee, University Secretariat, RMIT, GPO Box 243 E, Melbourne, 3001. The telephone number is (03) 9925 1745.
Appendix Nine

Letter To OIC Requesting Research Participant
Dear Sir/Madam,

My name is Patti Thyssen and I am undertaking a Masters Degree at RMIT University. I would be very grateful if you would allow a member of your station, between the rank of Constable to Senior Sergeant to be interviewed for a research project, investigating the attitudes and practices of sworn Victoria Police members in relation to the Victoria Police Cannabis Cautioning Program.

There will be a number of sworn members participating across Victoria. These members comprising of Uniform, CIU and Police Prosecutors, each of which will participate in a one (1) hour interview. Consent to interview members has already been obtained from Victoria Police Management (consent form attached). The survey data will be used for a University research thesis which may be published. Members names will not be used, nor will any reference be made to the stations, units or office in which each member works.

Participation is of course voluntary and each member is free to withdraw at anytime or to retract any comments that they have made. With the consent of each individual member, I would like to tape record the interview, as this will give me an accurate record of the interview. Each member is welcome to read over the transcript of their own interview and in accordance with University requirements all tapes will be destroyed after a five (5) years. However, if the members concerned prefer, I can take notes during the interview, rather than use a tape recorder. Members are also free to withdraw any unprocessed data at anytime.

All information gathered will be important in establishing whether or not ‘ground level’ operational police members (both uniform and CIU members) perceive the Cannabis Cautioning Program as an essential tool in law enforcement. It further aims to establish any prosecution issues that arise due to the implementation of the program. Participation in this study will give members the opportunity to express their attitudes towards the program in regards to time management and law enforcement effectiveness.

Any member who participates in this research is invited at anytime to clarify any aspect or concerns they may have in regards to the research. They may contact myself or my senior supervisor on the numbers listed below, to clarify these issues.
Attached is a copy of the interview schedule for your information. Once interview confirmation has been received, arrangements will be made with the nominated member for a time. Interviews can and will be arranged to suit the convenience of both the individual member and the Officer in Charge. Interview confirmations can be e-mailed to me via Victoria Police e-mail service (THYSSEN, Patti or Patti.Thyssen@police.vic.gov.au).

I hope that your station will be able to participate in this study.

Yours faithfully

Patti Thyssen (Dip. Just, B.A. (C.J.A))
Graduate Research Student
RMIT University
(03) 9865-2923 (Fingerprint Branch)
(03) 9751-1848 (AH)
0407592893 (Mobile)

Dr. Desmond McDonnell (MACE)
Senior Supervisor
Lecturer Criminology
(03) 9925-7311
APPENDIX A

INTERVIEW SCHEDULE - UNIFORM & CIU MEMBERS

POLICE ACCEPTANCE
1. What percentage of crimes that you attend, on a weekly basis, do you understand as being drug related. (E.g. including crimes such as burglary where goods are stolen in order to obtain money for drugs or break and enter to steal drugs)?
2. What do you understand to be the purpose of introducing the Cannabis Cautioning Program?
3. What do you see as the positive and negative effects of the Cannabis Cautioning Program, on the courts and correctional system, if any?
4. In your role as an operational police officer what do you understand the strengths and weaknesses of the Cannabis Cautioning Program to be, in regards to substance abuse?
5. When using the Cannabis Cautioning Program as part of your duties what influences your decision about whether to prosecute or caution?
6. Have you been stationed anywhere else previous to your current station, since the implementation of the Cannabis Cautioning Program?
   a) If so what influenced members at your previous station in their decision of whether to prosecute or caution offenders?
   b) Are there any similarities in the influences between stations?
7. Based on your knowledge of Victoria Police Policy and Operational Procedures in regards to the Cannabis Cautioning Program, do you see them as being sufficiently clear in order to enforce the Program or do you believe they need amending?
8. As a whole do you support the concept of the Cannabis Cautioning Program?

EFFECTS
9. In your opinion as an operational police officer, what effect do you believe the Cannabis Cautioning Program is having on drug law enforcement?
10. How valuable do you see the Cannabis Cautioning Program in reducing administration time (Preparing LEAP Reports, preparing briefs).
11. What essential equipment is required in your view to successfully enforce the Cannabis Cautioning Program.

TRAINING
12. Are you aware, according to Victoria Police Policy, what equipment is essential in order for you to issue a caution notice?
   - Does the level of equipment available to you sway your opinion of the program at all?
   - Does the level of equipment available to you sway your decision of whether or not to issue a Caution Notice?
13. What training had you receive in relation to the Cannabis Cautioning Program?
14. How effective was the training program in assisting you to implement the Cannabis Cautioning Program in an operational context?
15. Did you learn about the options available to you in dealing with Cannabis offenders through means other than a training program?

PROSECUTION
16. In your opinion does the Cannabis Cautioning Program assist in the prosecution of offenders who have been cautioned?
PUBLIC ACCEPTANCE / UNDERSTANDING
17. In your opinion does the general public appreciate the aims of the Cannabis Cautioning Program?
18. In what ways do you see the Cannabis Cautioning Program being open to abuse by the public, if at all?
19. In your experience of implementing the program how have the majority of offenders reacted to being given a caution?

DISCRETION & DECISIONS
20. Under what circumstances would you exercise your discretion in regards to the issuing of Cautioning Notices?
21. In using the Cannabis Cautioning Program do you prefer to issue the Notices at the scene of the offence or at the Police Station?
22. What influences your decision in regards to where you will issue the Notice?

ANALYSIS
23. What recommendations as an operational police officer would you make for the further development of the Cannabis Cautioning Program, based on your operational experience?