

**NOBODY’S CHILDREN INQUIRY**  
**SUBMISSION OF**  
**FAMILIES AND FRIENDS FOR DRUG LAW REFORM**  
**to the**  
**INQUIRY INTO THE EARLY INTERVENTION AND CARE OF**  
**VULNERABLE INFANTS IN THE ACT**  
**by the**  
**Standing Committee on Health and Disability of**  
**the Legislative Assembly for the Australian Capital Territory**

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## **RECOMMENDATIONS**

### **Recommendation 1**

**Open minded consideration should be given to the serious possibility that policies like those concerning illicit drugs actually harm children of drug dependent parents.***(Page 1)*

### **Recommendation 2**

**Interventions to combat child neglect and abuse should be fashioned in the light of the large and growing body of knowledge of risk and protective factors including risk factors embedded in existing drug policy.** *(Page 3)*

### **Recommendation 3**

**In the light of the heartening early experience with the IMPACT service for the support of families, particularly mothers, where there is a dual diagnosis of drug and alcohol and mental health problems, an estimate should be made of the number of people who would stand to benefit by it and the service expanded to cater for these. If necessary Commonwealth money should be secured to do so.** *(Page 3)*

### **Recommendation 4**

**It is critical that the most intensive efforts be made to support troubled families from the early stages of pregnancy.** *(Page 8)*

### **Recommendation 5**

**The policy response of government to child protection and substance abuse should no longer be treated as if they were largely distinct and separate problems: a holistic approach is required.** *(Page 10)*

### **Recommendation 6**

**The Government should expand the capacity of co-residency services in the ACT such as Karralika for drug dependent parents and their children.** *(Page 14)*

### **Recommendation 7**

**Strengthening the capacity of drug dependent parents to fulfil their responsibilities as parents should be the focus rather than unrealistic insistence that they overcome precipitately their chronic relapsing mental health condition of drug dependency.** *(Page 15)*

### **Recommendation 8**

**The provision of maintenance treatments in the ACT should be designed to fit in with the needs of drug dependent parents to care for their children.** *(Page 19)*

### **Recommendation 9**

**The ACT should follow the lead of Scotland in committing itself to improving the evidence base for quantifying the children at risk as a result of substance-**

**using parents and for developing a legislative framework that supports drug-using mothers. (Page 20)**

**Recommendation 10**

**There should be an intensification of measures that support drug dependent parents in the lead up to birth and in the crucial first two years of life. (Page 27)**

**Recommendation 11**

**The Government should look into the relative financial implications of, on the one hand, continuing on the existing course regarding child protection and, on the other, an approach that removes impediments in drug and other policy settings that contribute to child neglect and abuse. (Page 30)**

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### INTRODUCTION

In this submission Families and Friends for Drug Law Reform calls upon the Committee to acknowledge the large body of evidence that many measures dictated by existing drug policy cause serious harm to children including to unborn children and infants aged up to two years old. Many such measures erect near insurmountable barriers in the way of parents who are drug dependent to fulfilment of their parental obligations. Drug dependent parents are no different from the vast majority of other parents in wanting to do the right thing by their children. The evidence shows that

Politicians have the capacity to set policy which prescribes measures that servants of government implement. At the very least, this engages the responsibility of politicians to give open minded consideration to a serious possibility that a policy that is within their capacity to change actually harms.

measures imposed because of the addiction of parents rather than the addiction itself are what often puts it beyond the capacity of these parents to act towards their children as they should.

If parents have obligations towards their children so do we all have the obligation to do what lies within our own capacity to avoid harm to them. Thus, we share responsibility for harm to children if we support the continuation of measures that are

Factors associated with the policy response to illicit drug use are influential among the active, causative elements leading to child neglect or abuse and that drug use itself and even drug dependence have only a modest part in the most likely chain of causation.

known to harm them. Politicians have the capacity to set policy which prescribes measures that servants of government implement. At the very least, this engages the responsibility of politicians to give open minded consideration to a serious possibility that a policy, that is within their capacity to change, actually harms.

### **Recommendation 1**

**Open minded consideration should be given to the serious possibility that policies like those concerning illicit drugs actually harm children of drug dependent parents.**

# NOBODY'S CHILDREN INQUIRY

## ASSOCIATION BETWEEN ILLICIT SUBSTANCE USE AND THE NEED FOR CHILD PROTECTION

The Committee's terms of reference reflect the notorious fact that dependence of parents on illicit substances is often associated with the need for child protection. Indeed, the Committee is required to pay particular attention to "children of drug affected parents". Drug dependence is one of the most common constituents in a familiar bundle of problems that characterises "vulnerable" "families with complex needs". The Vardon report identified in the ACT "many children" in need of care and protection who ". . . are living in poor conditions and with domestic violence and/or drug and alcohol-affected parents"(Vardon 2004 168). According to the Australian Institute of Health and Welfare the story is the same across Australia:

"Departmental analyses across the states and territories indicate that children are being admitted to orders for increasingly complex factors associated with parental substance abuse, mental health and family violence" (AIHW 2008 43).

Association of parental drug dependence and the need for child protection does not, of course, necessarily mean that drug dependence gives rise to the need for protection. What the association does mean is that that possibility along with all other serious possibilities of a causal link should be considered closely if one is serious about improving the lot of vulnerable children.

This submission will look at causal links associated with drug dependence and the need for child protection. It will also point out such links between substance dependence and other factors commonly within the bundle of "complex needs" associated with child protection.

An increasing amount is known about the influence of risk and protective factors in the likelihood that human beings will develop problems or be free of them in their journey through life. People who have an accumulation of risk factors – personal, family or environmental – not counterbalanced by a set of protective factors are known to be at a high risk, at times of transition in their life, of developing particular problems. The problem may be school drop out, mental illness, crime, homelessness, drug dependence or much else. The acquisition of any of these becomes an additional risk factor for other problems. Effective interventions will strengthen protective factors. Thus re-engagement in education may counteract dropping out of school, good treatment may counterbalance the risk factors of mental illness or substance dependence and developing a supporting non-deviant peer group may mean that a young person is less likely to reoffend (DOHAC (2000) 15-18; NCP 1999 135-43; Mitchell *et al.* 2001; Dawe *et al.* 2007 39ff).

Families and Friends for Drug Law Reform strongly supports interventions to combat problems like child neglect and abuse fashioned in the light of this large and growing body of knowledge of risk and protective factors. Indeed, the identification in this submission of risk factors embedded in existing drug policy is on all fours with that approach. The absence of discussion at the policy level of this aspect is a gaping hole in the consideration of effective policy responses to the appalling and growing problem of child neglect and abuse.

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### **Recommendation 2**

**Interventions to combat child neglect and abuse should be fashioned in the light of the large and growing body of knowledge of risk and protective factors including risk factors embedded in existing drug policy.**

#### **PATHWAYS BY WHICH ILLICIT SUBSTANCE USE CONTRIBUTES TO THE NEED FOR CHILD PROTECTION**

There are many pathways by which risk factors associated with the use of illicit substances contribute to the need for child protection. The pathway can be short and direct or longer and indirect. Examples of short and direct pathways are neglect by dependent parents hanging out for their next hit or violence inflicted on a child by a parent under the influence of a methamphetamine stimulant (or by a parent prone to violence when drunk). The imperative to avoid withdrawal or the effect of the substance leads to behaviour that most of those concerned bitterly regret.

There are many more of the longer and indirect pathways between risk factors associated with the use of illicit substances and the need for child protection. These indirect connections work through other risk factors. Factors associated with the use of illicit substances are potent contributors to other risk factors associated with child neglect and abuse. The link between illicit drug use and these is illustrated by reference to mental illness, domestic violence, socio-economic disadvantage and crime .

#### **Mental illness**

Illicit drugs actually causing mental illness is only one of the pathways between illicit drug use and mental illness and probably not the most important one. Even so, heavy use of some illicit drugs such as crystal methamphetamine can cause psychoses and other conditions that reduce parenting capacity. “Drug abuse” and “dependence” are themselves defined as mental health conditions under the International Classification of Diseases (ICD-10) of the World Health Organization and the Diagnostic and Statistical Manual (DSM-IV) of Mental Disorders of the American Psychiatric Association.

As the Senate Select Committee on Mental Health emphasised in its 2006 reports, mental health co-existing with substance dependence and other mental health conditions is now the expectation rather than the exception (Senate 2006 chapt. 14). At the best of times, parents suffering from a substance dependence or another mental illness face particular challenges bringing up children. Co-occurring conditions magnify their difficulties in meeting their children’s needs.

It is of great concern for child protection that co-morbidity is increasing. Surveys show that people with a pre-existing mental illness such as depression and anxiety disorder are attracted to the use of illicit and other substances. As Dr Paul Mullen, clinical director of the Victorian Institute of Forensic Mental Health and Professor of Forensic Psychiatry at Monash University has written:

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“The evidence is mounting that the frequency with which those with mental disorder are resorting to the abuse of drugs and alcohol is increasing. In one of our own studies the rate of recorded problems with substance abuse among first admissions increased from 10% in 1975 to 35% in 1995” (Mullen 2001, 17).

In the more recent study of those treated for schizophrenia for each period of five years between 1975 to 1995, known substance abuse problems among persons with schizophrenia increased from 8.3% in 1975 to 26.1% in 1995 (Wallace *et al.* 2004, 721). The authors of that study added that “had we examined a 2000 cohort, the rate would have been well over 30%” (*ibid.*, 725).

The stressful life of dependent drug users can trigger a further mental illness and thus constitutes another pathway leading to more co-morbidity. Stressful environments can bring on depression and other mental illnesses. The life of a dependent drug user scrounging the wherewithal to pay for a habit can be very stressful indeed. Moreover, the accepted procedures of the criminal justice system that many drug users face like harassment by police, arrest, court hearings, conviction, fines and imprisonment are designed to be stressful.

The ACT Government is to be congratulated for taking practical steps in recognition of the link between drugs, mental health and child protection. We refer to its recent initiative, which is currently being implemented, to establish the IMPACT service, for the support of families, in particular mothers where there is a dual diagnosis of drug and alcohol and mental health problems. The program is situated within ACT Health, but has been developed to function across services and programs - Health, Mental Health, the Alcohol and Drugs Program and Care and Protection - to provide the best possible support, negotiated with the mother during pregnancy, to give the best chance of the child remaining safe in her care.

The success to date of the two Child and Family Centres, in Gunghalin and Tuggeranong, also shows how much can be achieved, in a non-stigmatising way, by offering flexible supports to families who are struggling, including those who are struggling because of drug and alcohol and mental health issues.

### **Recommendation 3**

**In the light of the heartening early experience with the IMPACT service for the support of families, particularly mothers, where there is a dual diagnosis of drug and alcohol and mental health problems, an estimate should be made of the number of people who would stand to benefit by it and the service expanded to cater for these. If necessary Commonwealth money should be secured to do so.**

#### **Domestic violence**

A home environment of violence and the fear of violence is common in complex cases where there is the need for child protection. According to a review of studies involving parental substance misuse:



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“What emerged as the most significant problem for the children was the level of violence that arose as a consequence of parental substance misuse (particularly alcohol)” (Dawe *et al.* 2007 §3.3).

The review continues that:

“children’s accounts vividly convey that one major consequence of living with substance misuse is fear – the fear of arguments, actual physical violence or the threat of it, either to a parent (usually the mother) or to themselves and, at times, fear of sexual abuse” (*ibid.*).

There are several pathways explaining the association of drug use and violence. Violence can occur:

- under the influence particularly of stimulants (including alcohol) in which case it is attributable directly to the consumption;
- psychoses associated with the heavy use of some illicit drugs like crystal methamphetamines; and
- as a result of the accumulation of a bundle of risks that are similar to the association between illicit drugs and other potent risk factors for child abuse such as crime.

### **Socio-economic disadvantage**

There are intimate links between poverty, another factor commonly associated with a need for child protection, and illicit drug use. Not least is the link between poverty and the high cost of maintaining a habit. Another link is that many of those with a dependence on an illicit substance tend to be unreliable employees and are thus likely to be unemployed. The social deprivation to which drug dependence clearly contributes often also precedes that dependence and is, thus, itself a risk factor for that dependence and child neglect and abuse.

“There is a strong view that social deprivation rather than drug use is the major issue in the lives of substance abusing women and their children. For many women poverty predates their drug use and is linked to the experience of adverse childhoods, the experience of violence, both past and present, lack of education, poor housing, nutrition and a general lack of support” (Dawe *et al.* 2007 §3.2.1)

### **Crime**

Links between illicit drug abuse and crime include:

- committing crime under the influence of illicit drugs;
- the high cost of maintaining a drug habit leads many to finance their addiction by crime, notably property crime and drug dealing;
- many regular heavy users of stimulants like methamphetamines engage in violent offending such as physical assault;

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- the comorbid condition of drug dependency and another mental health condition forms a particularly potent risk factor for crime as the gaol population around the country shows; and
- a person's illicit drug use often intensifies other risk factors for crime such as dropping out of school, association with a deviant peer group and unemployment.

### **Intergenerational amplification of risk factors**

Risk factors involving use of illicit drugs and linked to child neglect and abuse are increasingly being amplified down generations. A downward spiral through generations can occur in the following way. Illicit drugs are potentially attractive to a wide range of young people of normal personality types without any particular additional risk factors (Blue Moon 2000). A small proportion of these will become addicted. Their own addiction will be a risk factor in itself and will also contribute to a larger set of risk factors for their own children. In this case it is likely that grandparents will be around to help out. A further generation on and there are likely to be more risk factors impinging on the children. At the same time there are likely to be few protective factors such as the presence of grandparents able to provide support. This was already a serious problem in the ACT in 2001. The director of Marymead said then:

“[W]e're now certainly seeing second generation families. Of course, there are children who are resilient, who will break out of the lifestyle of drug abuse but there are others who have not been able to escape that and it's really quite difficult to imagine how they're going to find their way out of that” (Mickleburgh 2001).

The Vardon Report in 2004 paid particular attention to this group.

“Of particular relevance to this Review is the identification of a number of client groups requiring special attention, many of which also find themselves as clients of child protection services:

- families, the fastest growing group of clients, some of whom are experiencing second- and third-generation poverty, joblessness, homelessness and/or domestic violence as a result of inadequate interventions
- accompanying children, many of whom have experienced trauma (such as witnessing domestic violence), live in insecure accommodation, and are enduring the effects of situational factors such as drug and alcohol use, problem gambling and mental health problems”(Vardon 2004 46)

Intergenerational amplification is at the heart of the concern of the Committee for unborn children and infants aged up to two.

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### **Unborn children and infants**

Some of the most compelling evidence, which has arisen over the last 10 years, relates to our knowledge of early brain development and the influence of the environment on brain development from conception until early childhood. This has direct relevance to the social ills of alcohol and other drug use. Illness, drugs including alcohol and malnutrition, can all influence brain development before birth. It is increasingly recognised that domestic violence, through the hormonal effects of maternal stress on the foetus before birth as well as the direct physical acts, can all actually affect the “wiring” of the brain and neurone connections which determine brain function throughout life.

Even after a drug affected pregnancy, a baby can be born healthy and kept healthy. This sometimes necessitates the use of morphine to counter the effects of narcotics in the womb. Contrary to popular belief, it is far safer for a mother to be carefully maintained on appropriate doses of methadone during her pregnancy than to “come off” drugs as a result of feelings of guilt for her child. The baby can be carefully monitored during the pregnancy and then, if necessary, transferred to careful doses of morphine from the time of birth, which are then gradually reduced as the baby grows. This has been proved to give these infants the best chance for normal development.

But having the best possible brain development at birth is only the beginning. All babies rely for their subsequent development on how they are welcomed into their families. We all know that it is important to show babies love and to make sure they are fed, comforted and have their needs met. What was not fully appreciated until recent years is that from the very beginning the baby is an active participant in these communications. The wiring of the baby’s brain is affected by the appropriateness and reliability of the messages received from its carers. Pathways are formed in the brain over these early weeks, months and years as a result of these communications. If the care is good, the baby gets to expect reliable responses to meet its needs. Imagine the possible difficulties for the baby if one or both parents has problems with illicit drugs, alcohol or both - and perhaps mental health problems to boot – and, of course, is exposed to domestic violence. At times, the baby’s needs might be met very appropriately if things are going well. However, if the parent is drug affected and unresponsive, the baby might get no response, leaving it confused and despairing. On other occasions, if the parent is “hanging out” or methamphetamine affected or there is violence, the baby might get very scary messages. Either way, its needs are not met and over time the brain’s wiring, with these unpredictable and inconsistent responses, is permanently affected.

The damage referred to here is predominantly to communication. Frequently impacts on the child’s capacity to make friends, recognise feelings (sadness, happiness, fear) in other people and also, because of the relationship difficulties, seriously affects the child’s capacity to learn and participate at school. If school becomes a distressing or irrelevant place, the stage is set for the next generation of failure and disadvantage and its associated problems, including problems with alcohol and other drugs and mental health problems.

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For all these reasons, it is critical that the most intensive efforts be put in for these troubled families from the early stages of pregnancy.

### **Recommendation 4**

**It is critical that the most intensive efforts be made to support troubled families from the early stages of pregnancy.**

It is patently clear, as this survey illustrates, that illicit drug use is intimately associated with child neglect and abuse either directly or through its known links to other potent risk factors for those harms. This submission now takes a closer look at

Factors associated with the policy response to illicit drug use are influential among the active, causative elements leading to child neglect or abuse and that drug use itself and even drug dependence have only a modest part in the most likely chain of causation.

that association. This examination will show that factors associated with the policy response to illicit drug use are influential among the active, causative elements leading to child neglect or abuse and that drug use itself and even drug dependence have only a modest part in the most likely chain of causation. The drug use or dependence is often the trigger for interventions provided for in drug policy. These interventions, rather than the drug use or dependence, are the most likely cause of much child neglect or abuse in that the neglect or abuse would probably not have occurred in the absence of those interventions dictated by drug policy.

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### INTERVENTIONS DICTATED BY DRUG POLICY

Existing illicit drug policy is based on the assumption that the application of the criminal law to prohibit use and dealing in those drugs will limit if not eliminate the consumption of these harmful substances. The focus is on deterring non-users as much if not more than it is on applying pressure on those who already use to give up.

It has long been recognised that the criminal processes and the consequential illicit status of the substances concerned entail harms to drug users. These have been extensively documented. The report of a committee inquiring into serious drug offences contains as good a summary as any:

“ . . . it has become increasingly apparent that significant elements in the harm which results from habitual use of illicit drugs are a consequence of criminal prohibitions and their effects on the lives of users. Quite apart from the risks of arrest and punishment, there are risks to health or life in consuming illicit drugs of unknown concentration and uncertain composition. The

“ . . . it has become increasingly apparent that significant elements in the harm which results from habitual use of illicit drugs are a consequence of criminal prohibitions and their effects on the lives of users.”

circumstances in which illicit drugs are consumed and the widespread practice of multiple drug use add to those risks. Medical intervention in emergencies resulting from adverse drug reactions may be delayed or denied because associates fear the criminal consequences of exposing their own involvement. The illicit consumer's expenditure of money, time and effort on securing supplies may lead to the neglect of other necessities. It will often impose substantial costs on the community, and the user, if the purchase of supplies is funded from property crime. Further social costs result from the stigmatisation of habitual users as criminals and their alienation from patterns of conformity in employment, social and family life.

“Risks are inherent, of course, in habitual use of most, if not all, recreational drugs. But criminal prohibitions amplify those risks. They amplify, for example, the risk of death from overdose” (Standing Committee of AGs 1998 6-7).

Governments are implicitly recognising the inadequacy of law enforcement processes to handle people with an addiction by modifying in a number of respects the harsh traditional processes of the criminal law. The harm reduction element of the national harm minimisation policy does this. Under it, sterile syringes are made available to illicit drug users. Dedicated drug courts or other courts that have developed special procedures have been established in most if not all states and territories. This includes schemes to divert dependent offenders to treatment. The Commonwealth has encouraged States to put in place police diversion schemes. Several jurisdictions (including the ACT, South Australia and Western Australia)

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have expiation systems to deal with minor cannabis offences. Treatments such as methadone have been introduced into a number of prisons.

Child protection and substance abuse policies have been put into different silos. A holistic approach is required.

Because child protection and substance abuse have largely been seen as distinct and separate problems, the same attention has not been given to whether, in the interests of child protection, there is a need to ameliorate the impact of the criminal law and other measures designed to deter drug use. In other words, child protection and substance abuse policies have been put into different silos. A holistic approach is required. This is the approach that Families and Friends for Drug Law Reform urges the Committee to follow.

### Recommendation 5

**The policy response of government to child protection and substance abuse should no longer be treated as if they were largely distinct and separate problems: a holistic approach is required.**

The most extensive recent Australian survey of the impact of parental substance misuse on children is a report published last year by the Australian National Council on Drugs (ANCD). Chapter 3 of that report mentions many factors associated with substance abuse and adverse outcomes for children. It is possible to distinguish between factors predominantly attributable to the substance use and those flowing from other risk factors which in most cases are traceable directly to or largely influenced by the policy response to illicit drugs. Unless otherwise indicated, references in the following section are to that ANCD report.

#### ***Women are deterred from engaging in treatment out of concern that their children will be removed***

- “Of particular concern is the expressed reluctance of substance-abusing mothers to access treatment, particularly those most severely dependent upon both illicit drugs and alcohol” (§3.2.1).
- “Although drug treatment is regarded as a way of keeping children ‘out of care’ women are less likely to engage with drug treatment services due to anxiety that discovery of their drug problem will lead to the removal of their children” (§3.2.1).
- In the words of a nurse working in drug treatment: “because of the way the drug users themselves perceive, say, social workers that they’re in the business of taking rather than supporting them to keep their kids, they don’t tend to access those services because of the fear that because they’re a drug user the kids are going to be lifted” (§3.2.1).
- There is evidence that women are more likely to seek treatment in England where fear of child removal is less than in the US (§3.2.1).
- “It is likely that seeking treatment is facilitated by policies that do not endorse automatic removal of children” (§3.2.1).

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### *Stress of raising funds to support a drug habit*

- Drug dependent mothers “. . . have to take care both of the business of child caring and the business of raising funds for their drug use and often that of their partners” (§3.2.1).
- “Some parents reported that their children had been exposed to periods without food, school or clean and safe home environments” (§3.3).

### *Significant emotional distress arising from other stresses and strains on mothers juggling substance use and parenthood*

- “The emotional distress women experience when they fail to achieve their mothering goals as the day-to-day pressures associated with the substance misuse overwhelm” (§3.2.1).
- “A vicious cycle is described where mothers use drugs to relieve the pressures of mothering, yet when ‘straight’ they find the damage they have committed when using so intolerable that they use again to escape the pressure of increasing worry and guilt” (§3.2.3).

### *Reduced capacity to attend to parenting needs*

The disruptive imperative felt by drug using parents which reduces their capacity to attend to the needs of the children can be mitigated or even eliminated by pharmacotherapies and other treatments.

- “With increasing patterns of dependence, substance use becomes the central organising principle of the family. Household routines such as mealtimes, bedtimes and school attendance are said to take a secondary role to the parent’s focus on the attainment of drugs. Family rituals such as bedtime reading and engagement in child play are said to rarely occur during periods of active use” (§3.4.1.1)
- “During times of active drug use, more than half of carers reported becoming irritable, intolerant, or impatient towards their children. This often resulted in parents using harsher discipline than they normally would, and being less flexible and open to children’s needs . . . Other themes reported included yelling more often, being inattentive, regularly feeling guilty and overcompensation with generosity that was unaffordable, reactive and authoritarian parenting . . .” (§3.4.1.3)

### *Low sense of self worth of mothers arising from the marginalising perception in the community that drug using women are inadequate mothers*

- “Drug-using mothers are portrayed within the media as desperate, impulsive and selfish. They are depicted as ‘unfit mothers’, ‘victims of the frantic pull for drugs’ which overrides the biological urge of motherhood, ‘unable to care for others’, unable to provide nurturance” (§3.2.1)
- “Women drug users who are also mothers typically experience marginalisation and discrimination due to their parenting status” (§3.2.3)

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*The low sense of self worth, combined with fear of the consequences of parental drug dependence becoming known, serves to isolate children of drug using parents from support networks.*

- “All children interviewed expressed an intuitive awareness of the importance of keeping their parent’s drug use secret outside of the family home. They reported covering up their parent’s problem behaviour through the construction of stories, which normalised their home life while restricting access to the house for peers and others” (§3.3).
- “Unfortunately such behaviours served to isolate the children from available support networks both outside and within the family that might have helped foster resilience” (§3.3).
- “The fear expressed by the children about the consequences of disclosure to outsiders. Fuelled by feelings of loyalty to their parents, they are concerned that such admission might result in their separation from parents or exposure of their parent’s problems and possible imprisonment. Such fears trapped children in a position where they felt unable to ask for help” (§3.3)
- “The children of substance misusers need to be given opportunities to develop ‘helping relationships’ with professionals and, with that, the time and space to do so at their own pace. Children need to be encouraged to access resources and supports that might enhance the family capacity” (§3.3)

*Community attitudes to drug use leads to secretiveness within families about drug use which impedes the capacity of parents to provide good parenting and causes confusion and anxiety to children.*

- “The presence of the ‘elephant’ [of drug use], denied by the parent, obscures the child from the parent’s care, and creates anxiety and confusion in the child as they question their own perceptions of the world and their place in it” (§3.3)
- There is a “need for professionals working in the field to encourage parents to break the burden of silence by speaking directly about their drug use with their children” (§3.3)
- “For many children the discovery of their parent’s drug use was accompanied with heightened fears and anxiety about their parent’s well-being and safety. They are aware from the media that drugs cause harm and even death, yet they are powerless to intervene.” (§3.3)

*Little family support for mothers who relapse*

- “It has been argued that mothers who use drugs face a set of norms and standards far harsher than those confronting fathers who are also drug users. They receive less family support when they relapse than their male counterparts” (§3.2.1)

*Little non-family support for drug using mothers*

- “For many, the main form of assistance they receive is scrutiny of their parenting practices and subsequent removal of their children – children who often provide a key source of stability and self-worth in their otherwise chaotic lives” (§3.2.3).



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### ***Harsh penalties under criminal justice system***

- Mothers often receive harsher penalties than men from the criminal justice system (§3.2.1).

### ***Exposure of children to criminal behaviour***

- “Children are also more likely to be exposed to criminal behaviour such as shoplifting, burglary or prostitution as parents attempt to finance their drug habits and this in turn may influence the child’s developing attitudes towards criminal behaviour and criminal justice agencies” (§3.4.1.2).

### ***Abandonment of children or other separation from parents***

- “Abandonment or separation due to family breakdown, incarceration or raids in their homes, including times in which children had been removed in the middle of the night or when backyards/sandpits had been dug up” (§3.3).

### ***Social deprivation***

The focus on the drug dependence of parents and responses constrained by existing drug policy impede effective measures to address underlying social deprivation that contributes to child abuse and neglect.

- “There is a strong view that social deprivation rather than drug use is the major issue in the lives of substance abusing women and their children. For many women poverty predates their drug use and is linked to the experience of adverse childhoods, the experience of violence, both past and present, lack of education, poor housing, nutrition and a general lack of support”(§3.2.1)
- “Most of the primary carers of the children were unemployed and relied on government benefits and family payments for their income” (§3.3)

### ***Material deprivation***

- “Money spent on alcohol and illicit drugs is money not available for other things. Women drug users report having to pawn their possessions in order to support their families, and some may engage in prostitution, petty crime or begging as a means of financial support” (§3.4.1.1)

### ***Exposure of children to dangerous or inappropriate situations***

- “About one-third of parents reported that their children had been negatively affected . . . from finding parents passed out or unconscious and not being able to wake them up, and from exposure to other dangerous or inappropriate situations” (§3.3).
- “Substance-abusing women are also more likely than the general population to participate in risky sexual practices and to have sex with multiple partners. This may be an important issue in many family settings. Such practices might introduce unsafe persons into the family home, which in turn may increase the child’s exposure to potential situations of violence – physical, sexual or psychological – directed at the child, the parent or other occupants of the house.” (§3.4.1.3)

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### *Reluctance of women to remain in treatment out of concern for children*

- “Women with two or more children [co-residing with her] in treatment are more likely to leave treatment prematurely possibly due to the competing demands between child care and program content.” (§3.2.2)
- “The risk of early departure also appears more likely when the program demands are high” (§3.2.2)

### *Scarcity of drug treatment services that provide for children*

- “Few Australian treatment services provide facilities that welcome children, such as child-friendly waiting rooms or child care services to cater for the needs of children while their parents access treatment” (§3.2.1).
- “Few residential treatment programs provide additional facilities and services to manage the day-to-day needs of children, while their parents are undertaking long-term treatment.” (§3.2.1).
- “There is evidence that women are more likely to seek residential treatment when child care and support services are provided for their children. They tend to stay for longer periods of time and, importantly, follow-up outcomes including reduction in criminality and abstinence rates appear to be better when children reside in treatment with their mothers” (§3.2.2).
- “Co-residency with children has also been shown to significantly increase the likelihood that the family will remain intact post-treatment” (§3.2.2).

Karralika provides an excellent co-residency service here in the ACT but its capacity is severely limited and cannot meet the demand for its services.

### **Recommendation 6**

**The Government should expand the capacity of co-residency services in the ACT such as Karralika for drug dependent parents and their children.**

### *Deterrence of co-operation of drug using mothers in research on strategies to help support them and their children*

- “In contrast [to the case of alcohol], drug-using parents are reported to be reluctant to directly involve their children in research due to fears and anxieties regarding the potential of child removal” (§3.3).
- “What seems to arise in many drug-using families is ‘a conspiracy of silence’ – problem drug use is hidden and discussion of the topic considered taboo” (§3.3)

## **FAMILIES AND FRIENDS FOR DRUG LAW REFORM**

### **IMPORTANCE OF STABILISATION OF PARENTS WITH COMPLEX NEEDS**

Existing child protection policy reflects the tension inherent in current drug policy between, on the one hand, insistence on abstinence and, on the other, promotion of the capacity of people who are addicted to live responsible and active lives in spite of their addiction. Families and Friends for Drug Law Reform strongly urges the Committee to adopt the latter objective.

A common simplistic reaction to the undeniable close association between drug dependence and child neglect and abuse is to insist upon abstinence. Indeed that is often put forward as the primary focus of drug policy.

“Typically a woman must show drug and alcohol abstinence, financial stability, attainment of appropriate and stable accommodation and that she is not involved in any criminal activity. These requirements often prolong the period of mother–child separation and further compound issues of maternal guilt and inadequacy” (Dawe *et al.* 2007 §3.2.3)

Insistence on abstinence in the short or medium term is thus a recipe for failure which will only intensify the problems affecting the capacity of drug dependent parents. Drug dependency is a chronic relapsing mental health condition recognised as such by the International Classification of Diseases (ICD-10) of the World Health Organization and the Diagnostic and Statistical Manual (DSM-IV) of Mental Disorders of the American Psychiatric Association.

### **Recommendation 7**

**Strengthening the capacity of drug dependent parents to fulfil their responsibilities as parents should be the focus rather than unrealistic insistence that they overcome precipitately their chronic relapsing mental health condition of drug dependency.**

### **The possibility of well-being with addiction**

The Committee should take notice of the large body of evidence showing that it is possible for people to live fulfilling and socially responsible lives while remaining addicted. Families and Friends for Drug Law Reform has seen this happen and can point to model parents who are drug dependent. The evidence for this is particularly strong in the case of heroin where those who are dependent are prescribed maintenance doses of that or other addictive drugs like methadone. Around 450 patients are prescribed heroin in Britain and around 1,000 in The Netherlands (Swissinfo 2005 & EMCDDA 2007 67). In Switzerland 1,200 receive heroin under strict medical supervision (*ibid.*) following extensively researched trials that showed big improvements in the health and social functionality of severely dependent heroin users (Uchtenhagen *et al.* 1999). Similar results have emerged from a trial in Germany with more than 1,000 patients. Heroin prescription programmes also exist in Vancouver in British Columbia, Spain and, from this year, in Denmark (NAOMI nd & EMCDDA 2007 67). Research in The Netherlands considered combined

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treatment with heroin and methadone of people with chronic, therapy-resistant opiate dependency. It found that the treatment was safe:

“The treatment is more effective than in the case of methadone alone. The physical and mental health, as well as social functioning improve, including a reduction of crime” (Verdurmen *et al.* 2005 20).

Use of the artificial opiate, methadone, as a maintenance therapy provides the clearest illustration of the impact on drug policy of divergent moral positions. If, as Families and Friends for Drug Law Reform urges, becoming drug free should be subservient to the protection of life and well-being, then methadone maintenance should be endorsed. The evidence in support of its efficacy is strong. It is the best researched treatment for heroin dependency. A Cochrane Review found that:

“Methadone is an effective maintenance therapy intervention for the treatment of heroin dependence as it retains patients in treatment and decreases heroin use better than treatments that do not utilise opioid replacement therapy” (Mattick *et al.* 2003).

Cochrane reviews are intended to provide high quality and independent findings to inform healthcare decision-making. They combine the results of the world's best medical research studies and are recognised as the gold standard in evidence-based health care.

A qualitative study in Switzerland of several drug dependent parents attests to the feasibility of addicted parents living stabilised lives on maintenance treatments including medically prescribed heroin. Seven parents were interviewed for the study. These had been “living with their children, aged under ten years, for at least six months in the previous year.” Three of those interviewed were having outpatient substitution treatment including prescription heroin and four were in an inpatient treatment program with their children. The summary of the interviews shows the interplay of concern for their children with their addiction and other problems in a jurisdiction where there is a wide range of treatment options.

“Treatment affected parents' daily lives with their children by providing more structure; necessitating group living for some; and freeing up more of the parents' time and money. However, some of those in inpatient centres had less time with children who were in daycare. Relationships with their children had improved for many parents since starting treatment, often due to changes in the parents' behaviour: they were variously calmer, less stressed, had learned more parenting skills and had others to help with childcare. Parents' concerns about living with their child differed depending on their circumstances. Mostly, they related to the consequences of their children getting older: the need for more money; the child's education; meeting the child's needs; how to discuss their drug-use, in particular injecting, with the children; and how their children would react about having lived in a centre. There were also concerns about housing and employment and the fear of losing their children, the latter being sufficient to keep one person in treatment. Expectations of treatment tended to accord with the aims of the particular treatment: abstinence or distancing from the drug scene; as well as

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a regaining of physical and inner strength and, for at least one person, the regaining of their child. Having their child with them in the inpatient centre made the treatment easier for one parent. Some difficulties arose from treatment: for those receiving prescriptions, missing dispensing times lead to withdrawal symptoms and inability to look after children; for those in inpatient treatment, there might be ambivalence towards the children's daycare, which could be viewed as taking the child away yet again, and the problems of community living. The support provided was generally valued. Suggestions for additional support included the opportunity to meet other drug using parents and therapeutic support for their parenting role. Most respondents had limited social networks. There were anxieties about coping with the various aspects of life and about the impact on their child of yet another move, away from the inpatient setting. All respondents wanted stability and structure in the future and most wanted to work. Some hoped for abstinence; others for a 'normal' life despite ongoing treatment" (Guettinger 2005).

The study concluded that:

"Treatment for heroin-using parents had a positive impact on their parenting abilities in most cases. Parents usually had more time for their children and could deal with them differently; those who were less stressed were often calmer with their children which then impacted positively on the children's behaviour. However, there was a need for ongoing support, both from peers and professionals, to enable them to continue in their parental role" (*ibid.*).

The possibility of people being stabilised while still drug dependent gives scope for drug dependent parents to give priority to their responsibility as parents and for family and child supports to help put in place a range of things necessary for their children. The ANCD report gives examples:

"Factors that appear to help mothers achieve reunification include economic security, maternal education, family support especially with child care and distance from the drug lifestyle" (Dawe *et al.* 2007 §3.2.3)

### **Family unfriendly constraints on maintenance treatments**

Drug policy as it stands often constrains the availability of maintenance treatments that can provide the foundation for drug dependent parents to function as good parents. It does so by both limiting availability of proven therapies and surrounding

Drug policy as it stands often constrains the availability of maintenance treatments that can provide the foundation for drug dependent parents to function as good parents.

those that are available by a thicket of family unfriendly formalities and restrictions. Restrictions which surround the dispensation of methadone illustrate these.

Dependent users on the methadone or buprenorphine program must attend regular assessments and present themselves to the Canberra Hospital alcohol and drug clinic for daily doses until they are stabilised which may take weeks or months. This can be

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an onerous obligation for a struggling parent. There can be substantial delays in obtaining an appointment for assessment by a doctor. Travelling each day by bus to and from the hospital (or to Winnunga Nimmityjah in Narrabundah in the case of indigenous people) is often time consuming and costly for people struggling with finances. Those with addictions find it very frustrating and discouraging complying with the treatment protocols. It is even more difficult if one has to bring children along. In contrast to the Canberra Hospital clinic Winnunga Nimmityjah has been successful in making its services and atmosphere empowering and encouraging. The outcome for many who undertake this programs can be most beneficial.

After stabilisation, the medication may be dispensed in the community by certain authorised local pharmacists. With greater flexibility in dosing at nearby pharmacies, those receiving doses can have a greater sense of being part of the general community again. There are many examples in ACT of mothers of young children, who have been stable on the methadone program for years and are doing an excellent job raising their children, making full and appropriate use of community services such as maternal and child health clinics, the child and family centres and general practitioners. Even so, those on a community methadone program are still restricted in their movements.

A notice circulated to methadone patients in the ACT last year gives a view of a scandalous lack of placements across the country. The notice was headed "There are long waiting lists for most programs interstate". It then continued:

"Queensland – no places for permanent transfer at public clinics in the Brisbane, Sunshine and Gold Coast areas. Limited private GP places available. Other areas still have waiting lists

"NSW – Sydney area has very few public places available for transfers. Pharmacies are available. South Coast IS NOT taking any transfers at all.

"Tasmania's books are CLOSED indefinitely

"SA, WA and NT have some places, but require several weeks notice of transfer.

"Victoria – No public clinics, all GP prescribers. Places dependent on GP waiting lists."

Article 12 of the International Covenant on Civil and Political Rights requires that:

"Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence."

The freedom of movement of methadone patients is constrained in Australia. This is a big problem for even stable families on the ACT methadone program travelling interstate, either for emergencies or for important family and other occasions. They must first engage in stressful negotiation to ensure the maintenance of their critical methadone supply. Members of the committee need only reflect on the occasions they have been called on to travel at short notice for family or other reasons. A similar situation can also apply for parents travelling to the ACT. A member of Families and Friends for Drug Law Reform had to go to lengths that others could

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never have managed to enable his son in Sydney to join the family in Canberra at Christmas. It is practical difficulties like this, imposed as part of drug policy, that can stand in the way of drug dependent parents being well enough to carry out their family responsibilities.

This situation in the ACT has recently been reviewed by a consulting firm, Siggins Miller, and its report given to the Government. The Committee is encouraged to consider the findings and recommendation in the report which indicates that substantial improvements to the drug treatment system in the ACT should be made. Such changes, if implemented would greatly advance the capacity of drug affected parents of vulnerable children to better carryout their responsibilities.

### Recommendation 8

**The provision of maintenance treatments in the ACT should be designed to fit in with the needs of drug dependent parents to care for their children.**

### Drug policy should not promote child neglect and abuse

This section has sought to illustrate how measures implementing drug policy often have the unintended effect of promoting child abuse and neglect by insidiously reducing the capacity of drug dependent parents to do what is expected of good parents. Measures taken to reduce the availability of harmful drugs should be consistent with measures that strengthen the capacity of parents with complex needs with a view to eliminating child abuse. The Committee should be absolutely clear about the priority it should recommend to Government: if there is an inconsistency between promoting the welfare of children and promoting abstinence, the welfare of children should prevail.

The Committee should be absolutely clear about the priority it should recommend to Government: if there is an inconsistency between promoting the welfare of children and promoting abstinence, the welfare of children should prevail.

Of course, whether there are inconsistencies is a question of fact. Careful and objective assessment is required here to break through silos of thought which so often fail to appreciate the impact in one domain of a measure conceived of for another. As the ANCD report makes clear, there is much hope in assessing the impact of measures across domains:

“Research evidence points to the importance of interventions that are multi-systemic in nature and that address multiple domains of family functioning” (Dawe *et al.* 2007 §6.11, 178).

Thus, Government needs to consider the beneficial or detrimental impact on child protection of interventions such as those regarding housing, income support and mental health. It needs also to recognise exciting opportunities that interventions having beneficial impacts in one domain may thereby minimise potent risk factors

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for problems in a third. For example, the capacity of an efficient spread of suitable maintenance pharmacotherapies to produce quick and dramatic reductions in crime is most likely to reduce a risk factor for child neglect or abuse.

According to the ANCD report the impact of drug policy on child protection is receiving serious consideration in Scotland following a United Kingdom wide report on the needs of children of problem drug users. In Scotland there has been “a commitment to improving the evidence base for quantifying the children at risk as a result of substance-using parents and for developing a legislative framework for supporting drug-using mothers” (Dawe *et al.* 2007 §9.1.7). The ACT should do no less.

### Recommendation 9

**The ACT should follow the lead of Scotland in committing itself to improving the evidence base for quantifying the children at risk as a result of substance-using parents and for developing a legislative framework that supports drug-using mothers.**

So far in this submission, Families and Friends for Drug Law Reform has sought to make the point that there is a causal relationship between drug policy settings and child neglect and abuse. In keeping with what is known about risk factors, the relationship is complex but strong nevertheless. It can be thought of as a set of multiple pathways, some of which are direct like law enforcement measures that

That there is an intimate association between child neglect and abuse and illicit drug use will be news to no one. That the causal links are more particularly with measures implemented as part of drug policy will be a new idea to some. To others it will be altogether too much of an uncomfortable possibility to be entertained.

deter a pregnant drug dependent mother from accessing pre-natal care. Many more are indirect with the causal pathways linking drug policy measures to other potent risk factors known to influence child neglect or abuse – risk factors like domestic violence or crime. The causal pathways also travel from child neglect and abuse to drug dependence as the discussion of intergenerational amplification of risk factors shows: children of drug dependent parents who are subject to neglect or abuse as a child tend themselves to develop the same problems and “bequeath” them in a more intensive form to their children.

The measures we are taking to address child neglect and abuse are not significantly reducing the problem and continued expansion of the measures that we are taking are not economically sustainable.

That there is an intimate association between child neglect and abuse and illicit drug use will be news to no one. That the causal links are more particularly with measures implemented as part of drug policy will be a new idea to some. To others it will be altogether too much of an uncomfortable possibility to be entertained. The remainder



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of this submission seeks to make the case for why this alien possibility must be taken very seriously indeed: the measures we are taking to address child neglect and abuse are not significantly reducing the problem and continued expansion of the measures that we are taking are not economically sustainable.

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### **THE CONTINUING GROWTH OF CHILD ABUSE AND NEGLECT**

There are many indicators that child neglect and abuse has been growing for several decades. Writing in 2001, a highly qualified prime ministerial advisory body including people like Professor Fiona Stanley wrote that:

“Reports of child sexual abuse have more than doubled over the last decade. There were 107,134 total notifications to child protection services in the year 1999/00. The number of ‘reported cases’ in Australia (i.e. notifications requiring investigation) increased from 49,721 in 1990/91 to 76,954 in 1994/95. The total number of notifications increased from 91,734 in 1995/96 to 107,134 reports in 1999/00” (PMSEIC 2001 10).

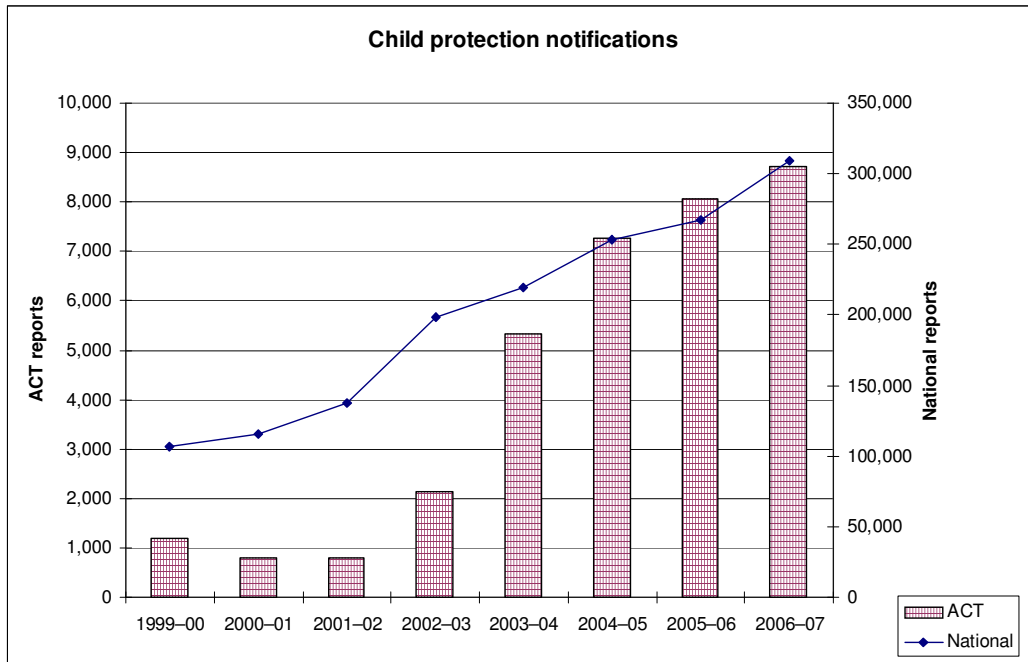
Regarding the ACT, The Vardon report recorded that:

“... the proportion of reports about children in the general community requiring appraisal had dramatically increased, with the actual number in the first six months of 2003-04 exceeding the annual estimate—1005 compared with an annual estimate of 1000. Additionally, there is a significant increase in the complexity of individual cases, which leads to more case work and more court work” (Vardon 2004 99)

The same report added that “the number of children in care had increased significantly in the past five years” (Vardon 2004 87).

The latest report on child protection of the Australian Institute of Health and Welfare shows a more or less steady, steep rise nationally in child protection notifications since 1999-2000. For the ACT an even steeper rise began in 2002-03.

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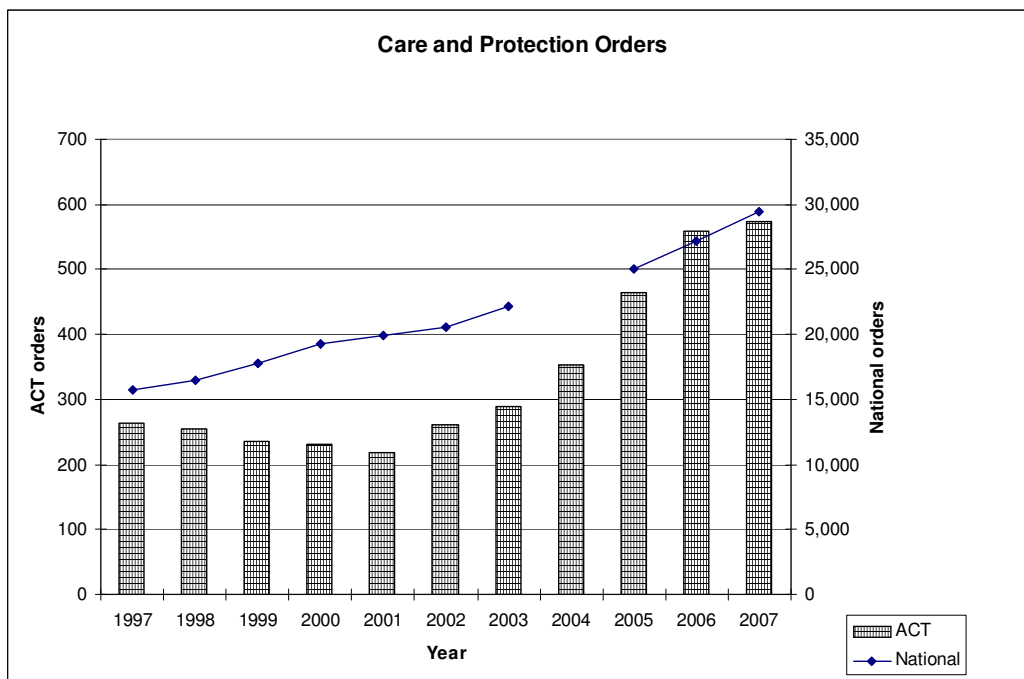
SOURCE: Data from Australian Institute of Health and Welfare, *Child protection Australia 2006-07* (Canberra, AIHW, 2008) p. 21.

Nationally, the number of children on care and protection orders since 1997 also shows a steady if rather less dramatic rise than notifications.

“Since 1997, the number of children on care and protection orders across Australia has increased significantly, rising 87% from 15,718 in 1997 to 29,406 in 2007” (AIHW 06-07 p. 43).

In the ACT the rise in the number of children on care and protection orders started shooting through the roof in 2002.

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SOURCE: Data from Australian Institute of Health and Welfare, *Child protection Australia 2006–07* (Canberra, AIHW, 2008) p. 43.

Undoubtedly some of the increase, particularly of notifications, is attributable to the greater attention and media focus on child neglect and abuse. There is little doubt, though, that a serious problem has been growing worse. The Australian Institute of Health and Welfare comments about this increase that:

“The increase in the number of children on care and protection orders may be attributed to a greater awareness of child abuse and neglect but also to the cumulative effect of the growing number of children who enter the child protection system at a young age and remain on orders until they are 18 years of age. Departmental analyses across the states and territories indicate that children are being admitted to orders for increasingly complex factors associated with parental substance abuse, mental health and family violence” (AIHW 2008 43).

A range of indicators show that the situation of a significant and growing minority of Australian children is appalling. Some indicators show a direct link to child abuse or neglect as is the case with postneonatally acquired cerebral palsy:

“There has been a dramatic increase in cases of permanent brain damage (cerebral palsy) due to child abuse (shaken baby syndrome) which accounted for 2-3% of postneonatally acquired cerebral palsy in the three earliest five-year periods between 1970 and 1985, rising to 10% in 1985-89 and 31% in 1990-94” (PMSEIC 2001 10).

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In other cases, the links are indirect but still strong. Trends in youth homelessness, mental illness among children, suicide, growing disparity in literacy levels and juvenile crime are confirmatory in that child neglect and abuse are known potent risk factors for these troubles (PMSEIC 2001 9-12; Stanley, Richardson & Prior 2005 45-78).

A range of indicators show that the situation of a significant and growing minority of Australian children is appalling.

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### NEGLECT AND ABUSE: THE RESPONSES SO FAR

The overwhelming official response to alarm about the extent of child neglect and abuse has been to improve child protection procedures and resources devoted to the issue. This has involved more and better qualified child protection workers, improving co-ordination between workers, developing greater community awareness, better information systems, extending mandatory reporting, better follow up of reports, improving the placement system, developing more alternative care, improving the quality of care and raising the priority of child protection across government agencies. Indeed the Vardon report was replete with recommendations of process such as these (Vardon 2004 xvii-xxvi). (*ibid.* app. A). With the exception of an acknowledgement of the importance of policy to address homelessness,

Essentially the Vardon report looked around within the existing silo of child protection and came up with ways of doing things better. In doing this, it reflected its narrow terms of reference and short reporting time frame.

recommendations of the Vardon report did not address policy settings across government to the extent that those policies impinge on child protection. The three references to policy in the recommendations were within the areas of child and homelessness policy (*ibid.* recs 2.3, 3.2 & 3.8). The same limitations are evident to an even greater degree in the follow up *Report on the Audit and Case Review* (Murray 2004 xx-xxvii).

### **Early intervention**

The Vardon report did stress the importance of early intervention which is prominent in the present Committee's terms of reference: "to inquire into and report on the early intervention and care of vulnerable children." The Vardon report recorded that:

"Despite the fact that the Act operates under the principle of least intrusiveness, an increasing number of children and young people are entering the ACT care and protection system. This trend has put the child protection system under great strain, highlighting the need for broader based child and family support services to prevent harm in the first place. A lack of intensive support services to strengthen families and help them keep their children safely at home creates an over-reliance on alternative care—in particular, foster care and residential care" (Vardon 2004 19).

Early intervention is attractive for the very important reason that in the domain of child protection it offers the promise of heading off the suffering and other harm involved in child neglect and abuse. It is also attractive because there are examples of striking savings measured over the life of those benefited brought about by intervening before the development of problems by the beneficiaries of the intervention. For these reasons, Families and Friends for Drug Law Reform wholeheartedly endorses the intensification of measures that support drug dependent parents in the lead up to birth and in the crucial first two years of life. As already

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stated on pages 7-8, the arguments for doing so are irrefutable given the magnitude of harm that can occur unless such measures are taken:

“There is . . . an emerging body of evidence showing that abusive or neglectful care in early life has an impact on the development of stress response systems orchestrated by the brain. For example, evening cortisol levels (reflecting stress) have been shown to be strongly positively correlated with the length of time adoptees from Romanian orphanages spent in these stressful environments before being adopted into Canadian homes. Moreover, whilst it has long been recognised that individuals sustaining abuse in early life are at increased risk for a variety of adverse mental health outcomes, such as mood and anxiety disorders and post-traumatic stress disorder, there is now evidence that this is accompanied by long-term alterations in neural stress response systems. More recent medical imaging advances such as magnetic resonance imaging (MRI) have demonstrated evidence of structural deficits in brain anatomy in some adult survivors of early childhood abuse” (PMSEIC 2001 15 & 17).

### **Recommendation 10**

**There should be an intensification of measures that support drug dependent parents in the lead up to birth and in the crucial first two years of life.**

At the same time it should be recognised that the term “early intervention” can become a mantra that can hide as much as it reveals. In particular the term gives some false impressions. One false impression is that there are one or two “early” points like early childhood or before birth appropriate for intervention which once passed mean that “early intervention” is no longer possible. That is misleading. Every intervention that heads off a further problem is an early intervention. Programs that in fact reduce recidivism of adult offenders, improve the capacity of violent fathers to control their anger or improve the fitness of older people so improving their capacity to live longer are in fact early interventions. In fact early intervention can be applied to any program that is effective in preventing or reducing future problems. The contrast is with interventions that are ineffective as a corrections system would be that does not reduce future problems like reoffending.

A second false impression is that all that early intervention requires is to concentrate on a particular person, generally a child. However, no single person and not least a child, exists in a social vacuum. No amount of intervention directed at the child is likely to be effective unless the intervention embraces the adults and others of particular importance to the life of the child. This, of course, is patently clear in the case of child abuse and neglect.

Early intervention should not just involve garnering all resources to pump out a sinking ship. Staunching the inflow of water should also be on the agenda. This is essential because it is clear from the rising indicators mentioned above that the ship is continuing to settle in the water.

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A third false impression is that early intervention is satisfied by the co-ordination and adequate funding of services that bear upon the problem that is the focus of attention. Of course, co-ordination and adequate funding of services are essential but a further step is also essential. The effectiveness of early intervention will be maximised only if government also considers policy settings that contribute to the problem in the first place. Early intervention should not just involve garnering all resources to pump out a sinking ship. Staunching the inflow of water should also be on the agenda. This is essential because it is clear from the rising indicators mentioned above that the ship is continuing to settle in the water.



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### ECONOMIC UNVIABILITY OF EXISTING RESPONSES

Last week, the 2008-09 budget allocated \$42.2m for the operation of care and protection services (Budget paper no. 4 193). This represents 17.5% of the cost of running the entire public primary school system (*ibid* 360). Child protection is resource intensive and very expensive. The Vardon report acknowledged this. In the ACT:

“The cost of providing 24-hour supervision seven days a week for children at high risk for extended periods or providing specialist services for young people with multiple needs can exceed \$500 000 a year per child or young person” (Vardon 2004 148)

In 2004 the New South Wales Department of Community Services provided:

“... support services costing \$58.5 million a year for children and young people with highly complex needs. This included three young people with severe behavioural problems who require intensive services for their support, at an estimated cost of \$800 000 each a year; and 169 children and young people who are supported at a cost of \$104 000 or more per person per year. The cost of foster care is estimated to be \$10 000 a year in New South Wales” (*ibid.* 148).

A South Australian study ten years ago concluded that:

“... South Australia was spending more on the consequences of child maltreatment than it earned from wine or wool exports, indicating there was great potential to create economic savings by investing in effective prevention initiatives” (PMSEIC 2001 20).

The same study estimated that costs incurred as a consequence of responding to the after effects of incidents of maltreatment (including child deaths, disability, injury and impairment of subsequent parenting capacity) were almost six times greater than the costs of the already high child protection and related services – a colossal community expenditure for doing what, it seems, we are still doing (*ibid.*).

If only from a financial point of view the Committee is right to concentrate on measures to prevent maltreatment happening in the first place. Cost benefit analyses of early intervention projects in the United States show impressive returns for successful projects, for example:

- “The Elmira project which comprised home visits to high risk inner city, American families resulted in a reduction of child abuse, decreased use of emergency medical services and increased school readiness. It was estimated to result in over US\$24,000 savings for every US\$6,000 invested” (PMSEIC 2001 18); and
- “The Michigan Children’s Trust Fund compared the costs of an early intervention program which started prenatally and worked intensively with parents for the first year of a child’s life, with the costs incurred when a child is maltreated. The

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study concluded that offering early intervention to every family in the state was approximately one-twentieth of the costs associated with abuse or neglect” (PMSEIC 2001 2019-20).

One needs to ask why, with such clear-cut financial benefits, treasuries have not called for programs such as these to be rolled out across the country. The answer may have something to do with ignorance but more likely to the fact that, for all their benefits, they are not regarded as affordable. The interventions mentioned are themselves also expensive and the returns are years away. It will be well beyond an electoral term before the benefits of early childhood programs are ready for reaping. In the meantime the high costs sown by earlier neglect will still need to be met.

In making this sobering observation, Families and Friends for Drug Law Reform should not be regarded as arguing against existing and proposed early interventions.

It makes no sense at all to provide intensive support to enable people to conduct their lives responsibly when they would have been able to do so but for other policies of the government. Conduct by the Government of this sort is like adopting admirable efforts to rescue from drowning people whom the Government has thrown overboard.

The arguments for a longer term perspective and effective pre- and post-natal support from vulnerable parents should be beyond question. Might it just be possible for the ACT Government to fund an “Early Intervention Service” with co-ordinated contributions from all relevant agencies? Make the new service available to *all* families in ACT from conception to 8 years. Let it be funded for the next 8 years to the same extent as the development and operation of the new Bimberri Juvenile Detention Centre. At the end of that time evaluate the new service and the detention centre and see which was the better investment of public money.

What Families and Friends for Drug Law Reform does point out is that financial considerations alone should force the Government to review impediments in drug and other policy settings that contribute to child neglect and abuse. It makes no sense at all to provide intensive support to enable people to conduct their lives responsibly when they would have been able to do so but for other policies of the government. Conduct by the Government of this sort is like adopting admirable efforts to rescue from drowning, people whom the Government has thrown overboard.

### Recommendation 11

**The Government should look into the relative financial implications of, on the one hand, continuing on the existing course regarding child protection and, on the other, an approach that removes impediments in drug and other policy settings that contribute to child neglect and abuse.**

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### REFERENCES

- AIHW 2008: Australian Institute of Health and Welfare, *Child protection Australia 2006–07* (Canberra, AIHW, 2008) at <http://www.aihw.gov.au/publications/index.cfm/title/5540> visited 9/5/2008
- Blue Moon 2000: Blue Moon Research & Planning Pty Ltd, *Illicit drugs: research to aid in the development of strategies to target youth and young people prepared for the Commonwealth Department of Health & Aged Care, Population Health Social Marketing Unit* (June 2000) pp. 1-30 particularly pp. 27-29 at [http://www.health.gov.au/pubhlth/publicat/document-/reports/nidc\\_bluemoon1.htm](http://www.health.gov.au/pubhlth/publicat/document-/reports/nidc_bluemoon1.htm).
- Budget paper no. 4 2008: ACT Treasury, *2008-09 Budget Paper No. 3* (Canberra, 2008) at [http://www.treasury.act.gov.au/budget/budget\\_2007/](http://www.treasury.act.gov.au/budget/budget_2007/)
- Dawe *et al.* 2007: Sharon Dawe, Sally Frye, David Best, Derran Moss, Judy Atkinson, Chris Evans, Mark Lynch, Paul Harnett, *Drug use in the family: impacts and implications for children* (Australian National Council on Drugs, Canberra, 2007) at [http://www.ancd.org.au/publications/pdf/rp13\\_drug\\_use\\_in\\_family.pdf](http://www.ancd.org.au/publications/pdf/rp13_drug_use_in_family.pdf) visited 21/5/07
- DOHAC 2000: Commonwealth Department of Health and Aged Care, *Promotion, prevention and early intervention for mental health-a monograph* (Mental Health and Special Programs Branch, Commonwealth Department of Health and Aged Care, Canberra, 2000) at <http://www.health.gov.au/internet/wcms/publishing.nsf/Content/mental-pubs-p-prommon>
- EMCDDA 2006: European Monitoring Centre for Drugs and Drug Addiction, *Annual Report 2006: the State of the Drugs Problem in Europe* (EMCDDA, Lisbon, 2006) at <http://ar2006.emcdda.europa.eu/download/ar2006-en.pdf> visited 22/3/07
- EMCDDA 2007: European Monitoring Centre for Drugs and Drug Addiction, *Annual Report 2007: the State of the Drugs Problem in Europe* (EMCDDA, Lisbon, 2007) at [http://www.emcdda.europa.eu/attachements.cfm/att\\_42156\\_EN\\_TDAC07001\\_ENC.pdf](http://www.emcdda.europa.eu/attachements.cfm/att_42156_EN_TDAC07001_ENC.pdf) visited 11/5/08
- Guettinger 2005: Guettinger F, Unpublished qualitative study of heroin dependent parents in Switzerland.
- Mattick *et al.* 2003: R.P. Mattick, C. Breen, J. Kimber, M. Davoli, “Methadone maintenance therapy versus no opioid replacement therapy for opioid dependence”, *Cochrane Database of Systematic Reviews* 2003, Issue 2. Art. No.: CD002209. DOI: 10.1002/14651858.CD002209 at [http://www.mrw.-interscience.wiley.com/cochrane/clsysrev/articles/CD002209/pdf\\_fs.html](http://www.mrw.-interscience.wiley.com/cochrane/clsysrev/articles/CD002209/pdf_fs.html).

## NOBODY'S CHILDREN INQUIRY

- Mickleburgh 2001: Address of Sue Mickleburgh, the director of Marymead, ACT, at Families and Friends for Drug Law Reform, Drug Action Week forum - "Drugs affect all sectors of our community" (2001) convened by Families and Friends for Drug Law Reform. Transcript at [www.ffdlr.org.au](http://www.ffdlr.org.au).
- Mitchell et al. 2001: Penny MITCHELL, Catherine Spooner, Jan Copeland, Graham Vimpani, John Toumbourou, John Howard and Ann Sanson, *The role of families in the development, identification, prevention and treatment of illicit drug problems: commissioned by the NHMRC for the Strategic Research Development Committee's National Illicit Drug Strategy Research Program* (National Health and Medical research Council, 2001)
- Mullen 2001: Paul E Mullen, *Mental health and criminal justice: a review of the relationship between mental disorders and offending behaviours and on the management of mentally abnormal offenders in the health and criminal justice services* (2001) at <http://www.aic.gov.au/crc/reports/mullen.pdf> visited 3/08/02
- Murray 2004: Gwenn Murray, *The Territory's Children: Ensuring safety and quality care for children and young people; Report on the Audit and Case Review* (Commissioner for Public Administration, Canberra, July 2004) at [Child%20Safety%20Audit%20.pdf](http://www.aic.gov.au/crc/reports/murray.pdf) visited 9/5/2008
- NCP 1999: National Crime Prevention, *Pathways to prevention: developmental and early intervention approaches to crime in Australia* (National Crime Prevention, Attorney-General's Department, Canberra, 1999)
- NAOMI nd: North American Opiate Medication Initiative (NAOMI), *Backgrounder* at [http://www.naomistudy.ca/pdfs/naomi\\_background.pdf](http://www.naomistudy.ca/pdfs/naomi_background.pdf) & *Questions and Answers* at [http://www.naomistudy.ca/pdfs/naomi\\_faq.pdf](http://www.naomistudy.ca/pdfs/naomi_faq.pdf).
- PMSEIC 2001: Prime Minister's Science, Engineering and Innovation Council, *Developmental health and well-being: Australia's future: Child developmental health and well being into the 21st Century* (seventh meeting - 28 June 2001) at <http://www.dest.gov.au/science/pmseic/documents/ChildHealth.pdf> visited 17/03/04
- Senate 2006: Senate, Select Committee on Mental Health, *A national approach to mental health: from crisis to community, First report* (March 2006) at [http://www.aph.gov.au/Senate/committee/mentalhealth\\_ctte/report/report.pdf](http://www.aph.gov.au/Senate/committee/mentalhealth_ctte/report/report.pdf) visited 04/04/06
- Standing Committee of AGs 1998: Standing Committee of Attorneys-General, Model Criminal Code Officers Committee, *Model Criminal Code Chapter 6: serious drug offences: report* (Model Criminal Code Officers Committee of the Standing Committee of Attorneys-General, Canberra, October 1998) at [modelcode\\_ch6\\_drug\\_offences\\_report.pdf](http://www.aic.gov.au/crc/reports/modelcode_ch6_drug_offences_report.pdf)
- Stanley, Richardson & Prior 2005: Fiona Stanley, Sue Richardson, & Margot Prior, *Children of the lucky country? How Australian society has turned its back on children and why children matter* (Pan Macmillan Australia, Sydney, 2005)

## FAMILIES AND FRIENDS FOR DRUG LAW REFORM

- Swissinfo 2005: Swissinfo, "Swiss heroin addicts can get their fix from the state," 11 August 2005 (Swiss Radio International) at <http://www2.swissinfo.org/sen/swissinfo.html?siteSect=2251&sid=6001767&cKey=1123755067000> visited 22/3/2007
- Uchtenhagen *et al.* 1999: A. Uchtenhagen, A. Dobler-Mikola, T. Steffen, F. Gutzwiller, R. Blättler & S. Pfeifer, *Prescription of narcotics for heroin addicts: main results of the Swiss national Cohort Study* (Karger, Basel, Freiburg, Paris &c, 1999) being vol. 1 of A. Uchtenhagen, F. Gutzwiller, A. Dobler-Mikola, T. Steffen, M. Rihs-Middel, *Medical prescription of Narcotics*.
- Vardon 2004: Cheryl VARDON, *The Territory as Parent: Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management* (May 2004)
- Verdurmen *et al.* 2005: J.E.E. Verdurmen, A.P.M. Ketelaars, M.W. van Laar, *The Netherlands National Drug Monitor: Fact Sheet Drug Policy* (Trimbos Institute, Utrecht, [2005]) <http://www.trimbos.nl/Downloads/Programmaas/NDM/Factsheetdrugsbeleid-2005DEF%20Engels.pdf> visited 22/3/07
- Wallace *et al.* 2004: Cameron Wallace, Paul E. Mullen & Philip Burgess, "Criminal offending in schizophrenia over a 25-year period marked by deinstitutionalization and increasing prevalence of comorbid substance use disorders" in *American Journal of Psychiatry*, vol. 161, pp. 716-727 (2004)
- Wood *et al.* 2006: Elissa WOOD, Richard P. Mattick, Lucy Burns & Anthony Shakeshaft, *The costs and utility of parental drug-testing in child protection: a review of the available literature and commentary* (Technical report no. 242, National Drug and Alcohol Research Centre, Sydney, 2006)