

Families and Friends for Drug Law Reform (ACT) Inc.

committed to preventing tragedy that arises from illicit drug use

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INQUIRY INTO CRIME IN THE COMMUNITY: VICTIMS, OFFENDERS, AND FEAR OF CRIME

BY THE

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON

LEGAL AND CONSTITUTIONAL AFFAIRS

SUBMISSION OF

FAMILIES AND FRIENDS FOR DRUG LAW REFORM

SUMMARY

Families and Friends for Drug Law Reform is pleased to have the opportunity to make a submission to the Standing Committee's inquiry "into the extent and impact and fear of crime within the Australian community and effective measures for the Commonwealth in countering and preventing crime". This submission addresses the relationship between illicit drugs and those crimes that closely affect the community.

The following summarises how the submission addresses the specific terms of reference of the committee.

Effective measures for the Commonwealth in countering crime (chapeau of terms of reference)

The greatest contribution that the Commonwealth could make to the reduction of crime that affects the community is to undertake a root and branch revision of its illicit drug policy. The establishment of a drug policy that is consistently based on evidence rather than fear and prejudice will lead to large reductions in property crime and crimes of violence. This is discussed in Parts 3 and 7.

Transnational and other organised crime that is profiting from the trafficking of illicit drugs must continue to be pursued with the utmost vigour. Moreover, it is essential that Parliament and the people receive accurate information about the general dimensions of the threat of organised crime to Australia. The changes that the Government wishes to make to the National Crime Authority in the form of a new Australian Crime Commission have destroyed the Royal Commission qualities of independence and efficient governance. These qualities were and remain essential if the NCA or its successor is to uncover the truth about sophisticated criminal activity which has been shown to extend its influence into police forces and into the highest levels of government. See section 7.1.2.

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Extent of crime within the Australian community (chapeau) and the types of crimes committed against Australians (item (a))

It is a myth that Australia has a low level of crime that affects the community. By international standards Australia has ones of the highest levels of property crime. Australia is also experiencing rising trends in crimes of violence particularly associated with a flood of amphetamine-type stimulants and cocaine. The extent of property crime and crimes of violence is described in Part 3

Perpetrators of crime and motives (item (b))

Dependency upon illicit drugs is closely associated with a high proportion of those who perpetrate crimes at the community level. The links go well beyond the question of whether illicit drug use preceded the first crime. Among other things, illicit drugs are closely associated with an intergenerational cycle of deprivation and crime. In addition, the ready money associated with petty drug dealing attracts children who are used by adults. The links between drugs and crime are described in Part 2.

Fear of crime in the community (item (c))

The fear of drug related crime is pervasive. It is eating away at the social fabric of this country and distorting our economy. Fear of crime is discussed in Part 6.

The impact of being a victim of crime and fear of crime (item (d))

Current drug policies ensure that not only do the users themselves suffer from addiction, mental illness or other conditions directly related to the illicit drug they consume but the community is a victim in terms of property crime and crimes of violence. So too are families who are in the front line. Only occasionally do they report the damage, thefts and assaults that take place in many (but far from all) homes where there is illicit drug abuse. What is more, the miseries of the users themselves are aggravated by law enforcement: they are themselves mugged, ripped off and deterred from accessing services they may need. Some of the greatest successes of law enforcement at the consumer level arise from desisting from policing or otherwise modifying law enforcement procedures. For example, there are fewer overdose deaths if police do not attend overdoses. This sort of thing should make us question whether law enforcement at the consumer level is part of the problem rather than the solution. The victims of drug policies and fear of associated crime is discussed in Parts 5 and 6.

Strategies to support victims and reduce crime (e)

The most needed strategies to support the users, families and other victims of illicit drug policies is treat drug dependency and other associated conditions arising from use of illicit drugs as a health issue and providing much more funding for treatment. As discussed in section 7.2.1, treatment is the most cost effective way of reducing drug related crime. It is known that the “costs

of crime and lost productivity are reduced by \$7.46 for every dollar spent on treatment”.

Apprehension rates (f)

At best, increasing apprehension rates of drug dependent people who engage in property and other crime provides only a short term relief in reducing crime (section 7.1.3). Detention generally does little or nothing to remove the addiction and other factors that motivated the person detained to commit the crime in the first place. Indeed imprisonment generally compounds those problems. There are far more effective ways to spend the community’s money than paying out something like the \$60,000 a year that it costs to imprison someone.

Effectiveness of sentencing (g)

Because of shortage of treatment facilities, courts are often at their wits end in their search for appropriate sentencing options for people who have a drug addiction or related mental disorder. The support for drug courts and diversion schemes is helpful but these only tinker at the edges of the problem (see section 7.2.1). In the main, legislatures have passed the buck to courts to fix a problem that is insoluble by either the courts, police or corrections authorities.

Community safety and policing (h)

The evidence is there that community safety would be enhanced and crimes commonly associated with illicit drug use would rapidly decline by 40% or more if drug policies were introduced that treated addiction for what it is, a health issue (sections 3.1 and 3.2). Our present drug policies work against community safety: they are fomenting more crime now and, by compounding crime risk factors affecting children, are investing in more crime in future years (sections 2.4 and 2.5).

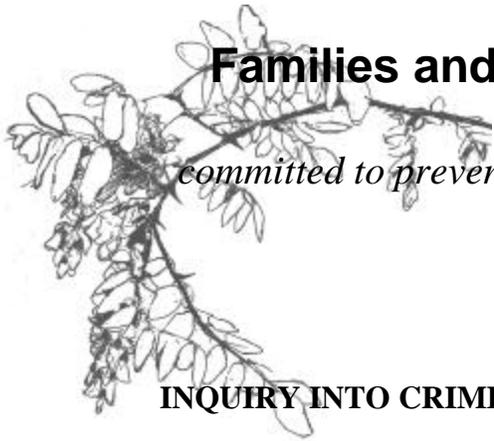
Recommendations

Families and Friends for Drug Law Reform puts forward the following recommendations.

1. The Government adjust its drug policies to make them consistent with its policies that address other serious social problems in the community like mental illness and suicide which have a close association with substance abuse. [Section 2.5]
2. The Government commission continuing monitoring with at least annual reports of trends in availability and usage of amphetamine-type stimulants and all other illicit drugs that are ingested otherwise than by injection. [Section 3.2]
3. The Government estimate annually the amount of illicit drugs consumed in Australia. [Section 7.1.1.1]

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4. That the Government establish a judicial inquiry into the most likely causes of the heroin drought. [Section 7.1.1.2]
5. The Government retain the National Crime Authority, secure its independence and enhance its capacity to investigate organised crime. [Section 7.2]
6. The Government work to ensure that the total of resources allocated by governments to drug treatment should at least equal the resources allocated to drug law enforcement. [Section 7.2.1]
7. As a crime prevention measure, more resources should be directed to interventions that treat addicted drug users before they become heavily involved in crime. [Section 7.2.1]
8. That the criminal law should cease to have any direct role in the treatment or rehabilitation of anyone suffering from an addiction. [Section 7.2.1]
9. The Government should permit and encourage the Australian Capital Territory and other jurisdictions willing to do so to carry out large scale trials of the medical prescription of heroin to develop protocols appropriate for its application to Australian conditions as a standard intervention. [Section 7.2.1]
10. The Government should support research into and establishment of effective medical and related interventions into disorders associated with amphetamine-type and other stimulants. [Section 7.2.1]
11. The Australian Government should adopt drug policies that, consistent with minimising the harm to drug users, secure a demonstrable reduction in availability of dangerous drugs on the black market. [Section 7.3.2.1]



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1. INTRODUCTION

Families and Friends for Drug Law Reform was formed in April 1995 around a group of people who had a child, relative or friend who had died from a drug overdose death. The grief that all shared turned to frustration and anger that those lives should have been lost: all would be alive today if drug use and addiction had been treated as a social and medical problem and not a law and order one. The criminal law and how it was enforced contributed to the death of these young Australians.

Since then the group has been intent on reducing the tragedy from illicit drugs, reducing marginalisation and shame, raising awareness of the issues surrounding illicit drugs and encouraging the search and adoption of better drug policies.

Families and Friends for Drug Law Reform does not promote the view that all drugs should be freely available. Indeed it believes that they are too available now in spite of their illegality. Indeed because of that illegality, the Government has no means of controlling them other than by applying the criminal law. The submission points to experience that shows this means of control to be ineffective and, in fact, counterproductive. It is of the first importance to uncover the operative causes of the 2001 heroin drought. Evidence on the table points to it being due principally to production shortfalls combined with a decision of criminal syndicates to promote amphetamine-type stimulants rather than heroin.

Unbridled commercialisation of drugs that are currently illicit would be almost as disastrous as present drug policies. Families and Friends for Drug Law Reform supports an evidence-based search for policies that maximise effective control of dangerous substances so that their availability and the harm from them is minimised.

Among the harms that better drug policies can reduce is the crime associated with illicit drugs. At the community level, drugs are behind much if not most of the property crime and crimes of violence. Not only is the community at large suffering in these ways from poor drug policies but so are many families of dependent drug users. Their money is stolen, their property damaged or they may be assaulted.

2. CONNECTION BETWEEN CRIME AND THE RETAIL DISTRIBUTION AND USE OF ILLICIT DRUGS

There is a close and well recognised association between those who use illicit drugs and crime. For example, one survey shows that 93% of offenders had reported

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using illicit drugs at some time and 76% had tried illicit drugs other than cannabis. 85% of offenders reported use of an illicit drug within six months before arrest and over half of another survey had “often” bought illicit drugs in the six months before arrest.¹ 41% of those detained at several sites around Australia participating in the drug use monitoring project (DUMA) tested positive to amphetamines, cocaine or opiates at the time of offending. 44% reported use of one of these drugs in the previous fortnight.² In the words of the Prime Minister, Mr Howard:

“Research shows that more than half, and possibly up to 80% of property offences have some drug involvement. Between 45% and 60% of convicted offenders committed property crimes to support drug habits. Some 64% of offenders admitted using drugs (to give them a lift, or courage) to commit an offence.”³

Families and Friends for Drug Law Reform wishes to emphasise though that those who use drugs should not automatically be type-cast as criminals. Those who obtain or possess illicit drugs for their own use engage in conduct that the law designates as criminal. Apart from that, many who use illicit drugs are not criminals. Indeed the story of many of our members bears this out. In statistical terms this truth is suggested by a comparison of those engaged in drug related crime and the total number of those who have used drugs as recorded in household and other surveys. “Police rarely come into contact with recreational drug users who do not commit crime to pay for their supply.”⁴ Equally the figures on the association between drug use and crime show that a lot of people who engage in crime are not illicit drug users, much less dependent users.

On the other hand, the fact that there is such a big overlap between illicit drug use and crime holds out the hope that with appropriate drug policies in place there will be a reduction in the region of 50% or more in the amount of crime known to have a close association with drug use.

The close association between crime and the supply of illicit drugs is notorious. As well as involving serious trafficking offences there is corruption, avoidance of tax and violence associated with competition between suppliers. This is referred to below. The close association between crime and both users and those involved in the retail distribution of illicit drugs is explained in a number of ways:

-
1. Toni Makkai, “Drugs and property crime” in Australian Bureau of Criminal Intelligence, *Australian illicit drug report 1997-98* (Australian Bureau of Criminal Intelligence, Canberra, March 1999) pp. 105-13 at p. 106.
 2. Adam Graycar & Peter Grabosky (eds), *The Cambridge handbook of Australian criminology* (Cambridge University Press, 2002) p. 118.
 3. Prime Minister, “Launch of the Australian National Council on Drugs” 16 March 1998.
 4. Graham Lough, “Law enforcement and harm reduction: mutually exclusive or mutually compatible” *International journal of drug policy*, vol. 9, pp. 167-75 at p. 171 quoted in Makkai (1999) fn. 1, p. 108.

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- ◆ Users moved to commit a crime when under the influence of illicit drugs
- ◆ Users moved to commit crime to raise the funds required to purchase further supplies of drugs
- ◆ Those attracted to the distribution of illicit drugs by the money to be made
- ◆ Those engaged in crime because of the role that illicit drug use has played in their upbringing
- ◆ Those engaged in crime because of a mental illness precipitated or aggravated by use of illicit drugs or the lifestyle associated with their use

2.1. USERS MOVED TO COMMIT A CRIME WHEN UNDER THE INFLUENCE OF ILLICIT DRUGS

The link between illicit drug use and crime in this context is the same as exists between use of the legal drug, alcohol and crime i.e. between drunkenness and crime. Typically, people under the influence of depressants do not engage in criminal activity whereas those under the influence of stimulates like amphetamines are more likely to. As noted above by the Prime Ministers, it is known that some people planning to commit a crime take a drug to nerve themselves to carry it out. These people fit better into the following category.

2.2. USERS MOVED TO COMMIT CRIME TO RAISE THE FUNDS REQUIRED TO PURCHASE FURTHER SUPPLIES OF DRUGS

Typically these are people who are addicted, who have an incessant wish to consume more drugs but who do not have the means to pay for them. Again typically, the addicted user has developed a tolerance to the drug concerned so does not seek further supplies to provide a euphoric “high” so much as to keep feeling “normal” and avoid the most unpleasant effects of withdrawal. The potency of this link is suggested by the finding of a prison survey carried out by the Institute of Criminology that 53% of break, enter and steal offenders had been addicted and that 26% were “‘sick’ for illicit drugs” at the time of the offence.⁵

2.3. THOSE ATTRACTED TO THE DISTRIBUTION OF ILLICIT DRUGS BY THE MONEY TO BE MADE

The preamble to the 1988 United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances refers to “the fact that children are used in many parts of the world . . . for purposes of illicit production, distribution and trade in narcotic drugs and psychotropic substances, which,” it adds, “entails a danger of incalculable gravity”. In Australia, children, who are not necessarily users, have long participated in the peer based distribution system of illicit drugs. For example, in 1996 a sergeant of the Australian Federal Police reported that:

“ . . . using children to sell drugs because they faced lower penalties if caught had been common in areas of Sydney, particularly Cabramatta, for some time. That practice is now moving to Canberra as well, and we're seeing

5. Makkai (1999) fn. 1, p. 109.

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young kids being caught dealing small amounts of heroin and other drugs,' he said.

'What these people do is that they'll have a group of 10 children as young as 13 or 14 working for them and they'll just give them one deal of heroin at a time to sell. If one person got caught with 10 deals they'd get the book thrown at them but they know that if a kid gets caught with just one they'll probably just get a slap on the wrist and then be allowed back out on the street. Unfortunately, there are people out there who exploit children like that.'⁶

There have also been reports of widespread involvement of children in drug distribution in Melbourne. A welfare worker is reported as saying that:

"I have had reports of 12- and 13-year-olds making up to \$80,000 to \$90,000 a year [being drug couriers] instead of going to school".⁷

In 1997 a police officer in Melbourne was quoted as saying that ". . . the bigger dealers were increasingly using children to do their street dealing knowing penalties in Children's Court are not as severe. 'The youngest I have charged was 12', he said. There is no shortage of kids willing to deal" (*Herald Sun* (Melbourne) 1st ed. Tuesday 7 October 1997, p. 2-3).

In August 2001 editorialised on the subject of "a 13 year old boy who fell in with the wrong crowd" and "ended up dealing drugs and sleeping with a 9mm handgun under his mattress".⁸

"They boy was used by adults simply because of his age. By hiding behind him, this group, referred to in the court as Fagin-types, a reference to the Dickens tale of *Oliver Twist*, believed they would be distanced from any police investigation. And as a youth, they hoped he would escape police suspicion."⁹

The ready money, supply of mobile telephones and the like are enticing. Indeed, the Fagins, Bills Sykes and Artful Dodgers of Dicken's London of the 1830s have come back to life in twenty-first century Australia.

2.4. THOSE ENGAGED IN CRIME BECAUSE OF THE ROLE THAT ILLICIT DRUG USE HAS PLAYED IN THEIR UPBRINGING

Many drugs users and some others who engage in crime are likely to do so because of the role that illicit drug use has played in their background. The excellent Commonwealth publication, *Pathways to prevention: developmental and early intervention approaches to crime in Australia* (National Crime Prevention, Attorney-General's Department, Canberra, 1999), describes the risk factors associated with criminal behaviour and the big opportunity that exists to prevent crime by carefully

6. *Canberra Times*, 26 February 1996.

7. *Canberra Times*, 15 September 1995, p. 5.

8. *Gold Coast Bulletin*, 11 August 2001, p. 22.

9. *Ibid.*, p. 52

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targetted cost effective programmes that address those risk factors. That publication recognises, on the basis of widespread research, that substance abuse is a potent risk factor for crime. It mentions substance abuse on at least 25 of its 201 pages. The publication makes the point that whether a risk factor leads to crime is likely to depend on an accumulation of risks factors throughout the life of a person rather than the existence of one risk factor in isolation. Many of the other potent risk factors for crime are themselves closely associated with substance abuse behaviours of carers. Family violence and disharmony, long term parental unemployment, abuse and neglect of children, low birth weight and school failure are among the risk factors that are often associated with parents whose life is out of control because of their illicit drug use. In other words, use of illegal drugs has a big indirect as well as a big direct influence on criminal behaviour. Thus, much of the crime today can be said to be the harvest of a crop sown thirteen or more years ago by substance abuse.

Substance abuse is closely linked to the crisis in child protection in New South Wales and elsewhere. The competence of parents is often disabled by their dependency on illicit drugs even though they still love their children. Governments are unable to provide the resources required to meet the problem and in any case it is clear that removing children from their parents, even where there is illicit drug dependency, more than likely does immeasurable harm to the children. The dilemma thus posed is extreme.

Illicit drugs thus serve to perpetuate crime from one generation to another, a phenomenon that we see increasingly in the non-indigenous as well as the indigenous community.

Families and Friends for Drug Law Reform wishes it to be clearly understood that drug use by children does not necessarily point to failures on the part of parents. Drug use can strike any family because the reasons for taking up drugs and becoming dependent on drugs are various. The 2001 National Drug Strategy Household Survey detected “no clear trend for illicit drug use and socioeconomic disadvantage. Persons who are in the middle category of socioeconomic status . . . are more likely to have used an illicit drug in the past 12 months.”¹⁰ The very availability of drugs thus serves to recruit children from all social backgrounds to use drugs and crime. Their availability also drives the intergenerational perpetuation of many social problems.

2.5. THOSE ENGAGED IN CRIME BECAUSE OF A MENTAL ILLNESS PRECIPITATED OR AGGRAVATED BY USE OF ILLICIT DRUGS OR THE LIFESTYLE ASSOCIATED WITH THEIR USE

Illicit drug use or the lifestyle associated with it can precipitate or aggravate mental illness which is closely linked to crime. The Government recognises that substance use disorders are mental disorders. (See 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) p. 3). A high proportion of

10. Australian Institute of Health and Welfare, *Australia's health 2002* (Canberra, AIHW, 2002) p. 151.

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people with a substance use disorder suffer other mental disorders such as depression, bi-polar disorder or schizophrenia.

In evidence on 19 August 2002 to the House of Representatives Standing Committee on Family and Community Affairs Dr Richard Matthews, Chief Executive office of the Corrections Health Service of New South Wales, revealed that according to a national mental health index 78.2% of male prisoners and 90.1% of female prisoners suffered a mental disorder on reception.

A recent report on the relationship between mental disorders and offending behaviours prepared for the Criminology Research Council states:

“The report has already repeatedly highlighted the frequency with which the coexistence of substance abuse with a mental disorder increases the level of the association with offending behaviour. In those with mental disorders increased rates of substance misuse (including alcohol, cannabis, sedatives, stimulants and opiates) have been reported from around the world, including Australia. 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. [One authority] concluded his review by noting ‘there is substantial evidence for substance misuse being a major risk factor for violence and aggression in patients with mental disorders particularly schizophrenia’.”¹¹

The report goes on to warn that it should not be assumed that “substance abuse causes offending behaviours in the mentally disordered because “to a greater or lesser extent substance abuse may reflect, rather than cause, such factors as anomie, impulsivity and fecklessness which contribute to offending.” Whatever the causation, it is highly likely that substance abuse and the pressures of the associated lifestyle will aggravate offending behaviours of the mentally ill. Moreover, the Commonwealth monograph on *Promotion, prevention and early intervention for mental health* identifies virtually the same risk factors for mental illness as the *Pathways to prevention* report does for crime. Directly or indirectly abuse of illicit substances and mental disorders have a close association with each other and together they are potent influences that lead to crime.

From this discussion of mental health and the discussion in the previous section on the role that illicit drug use commonly plays in the upbringing of those engaged in crime, it is evident that the Tough on Drugs Policy of the Commonwealth on drugs is inconsistent with policies of early intervention to address risk factors that the Commonwealth is promoting to address a number of social problems including

11. 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) pp. 16-17 at <http://www.aic.gov.au/crc/reports-/mullen.pdf> visited 3/08/02. References included in the source text have been omitted from the quotation.

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crime. These inconsistencies are explained in more detail in a submission dated 9 August 2002 of Families and Friends for Drug Law Reform to the House of Representatives Standing Committee on Family and Community Affairs.

Recommendation 1:

The Government adjust its drug policies to make them consistent with its policies that address other serious social problems in the community like mental illness and suicide which have a close association with substance abuse.

3. COMMUNITY CRIMES PARTICULARLY ASSOCIATED WITH DRUG USE

For one or more of the reasons mentioned above drugs are closely related to much of the crime that is of most concern to the community. These are crimes to secure property and crimes of violence. The one puts people in apprehension that their home may be broken into, their car stolen, their bag snatched in a car park or that they will be held up at the workplace. The other puts people in fear of assault in their home, the street or at places of entertainment.

3.1. ACQUISITIVE CRIME

The popular concern is well founded that Australia is not as low a crime country as we would like to believe. By world standards Australia has a high level of property crime. According to the Institute of Criminology:

“In terms of property crime, the evidence is . . . one of significant increases over the past 20 years, particularly for break and enter and motor vehicle theft. In comparative terms the recent International Crime Victim Survey estimates that Australia ranked highest in terms of burglary, second highest in terms of motor vehicle theft, and third highest in terms of theft of or from cars and person theft. In addition, public rankings of crime and public-order problems place break and enter above all the other problems listed. These data suggest that crime in Australia is a significant problem and has been increasing.”¹²

Together the several links between crime and drugs mentioned above probably explain a high proportion of this property crime. In particular the drug use monitoring project of detainees conducted by the Institute of Criminology is showing a particularly strong association between those dependent on heroin and property crime.

“Those charged with a property offence are more likely to report they are dependent on heroin (37%) than either cocaine (2.7%) or amphetamines (10.3%).”¹³

And

12. Graycar & Grabosky (2002) fn 2, p. 111.

13. *Ibid.*, p. 121.

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“Dependent heroin users are much more likely to be engaged in property crime. For example, of heroin-dependent heroin users, 50% reported they stole property in the past 30 days as compared to 28% of cocaine-dependent users and 25% of amphetamine-dependent users. Dependent heroin and cocaine users report [they] are more likely to have been arrested or imprisoned in the past 12 months than dependent amphetamine users.”¹⁴

It is noteworthy that 83% of those detained in the ACT during a big operation in 2001 targeting property crime were “heroin addicts” and that this coincided with a 23.2% reduction in burglary.¹⁵

Large increases in property crime have gone hand in hand with growth in consumption of heroin and other “hard drugs” in other countries. For example, noted Swiss criminologists reported in 1999:

“Drug use and the emergence of open scenes were followed by rapidly rising crime rates in Western Europe throughout the 1970s and 1980s. In Switzerland, e.g., burglaries and robberies increased by several hundred percent during that period. International comparisons suggest that the extent of involvement in property crime among addicts on any kind of hard drugs is about 10 times higher than among non-users. Thus, the increasing crime trends over the last 30 years may reasonably be seen as a side-effect of increasing drug use.”¹⁶

It is significant that in the NSW police commands that noted increased usage of crystalline methylamphetamine amongst traditional long-term heroin users during the heroin drought: “There has also been a significant increase in property offences in those areas, which is correlated with increased consumption of crystalline methylamphetamine.”¹⁷

Further strong evidence for the close association between drug use and opiate dependency and property crime is found in studies that show changes in offending behaviour of those in opiate treatment programmes. “The relationship between

14. *Ibid.*, p. 122.

15. Monika Boogs, “Sex crime up, but most offences down” in *Canberra Times*, 16 August 2002, p. 3.

16. Martin Killias, Marcelo Aebi and Denis Ribeaud, “Summary of Research Findings concerning the Effects of Heroin Prescription on Crime” (paper delivered at international symposium on heroin-assisted treatment for dependent drug users, 11 March 1999).

17. Australian Bureau of Criminal Intelligence, *Australian illicit drug report 2000-01* (Australian Bureau of Criminal Intelligence, Canberra, 2002) p. 46.

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methadone maintenance and a reduction in both illicit opioid use and criminal behaviour is, on average, a reasonably strong one.”¹⁸

“The three controlled trials of comprehensive methadone maintenance over a period of a year or more produced similar results: all showed that methadone maintenance was more effective than either placebo or no treatment in retaining people in treatment, in reducing opioid use, and in reducing the rate of imprisonment.”¹⁹

A trial of prescription of heroin to a large number of severely dependent users in Switzerland provided more compelling evidence of the close link between heroin dependency and property crime. A survey of 319 people on that programme showed after a year’s treatment there was a 94% reduction in the number engaged in serious property crime defined as burglary, muggings, robbery and pick-pocketing. 55% fewer engaged in other property offences that included thefts, shoplifting and receiving or selling stolen property. This smaller reduction in the prevalence of other property crime was accompanied by an 88% reduction in the incidence rate. That the incidence rate dropped more than the prevalence rate meant that fewer individuals were offending after the onset of treatment with heroin, but that among those who continued to commit those offences, the frequency with which they did so dropped as well. These drops reflected self reporting of crime but the rates were corroborated by consistent falls in police contacts and convictions and in self-reports of victimisation. Although not part of the evaluation, street robberies which are crimes typically committed by those addicted to drugs dropped in the city and canton of Zurich “by about 70 percent between 1993 and 1996.”²⁰

Such information strongly suggests that there would be large reductions in these crimes within a matter of months of the introduction of a complete suite of programmes that engaged in treatment all heroin dependent users (and possibly dependent users of some other drugs).

3.2. CRIMES OF VIOLENCE

Violence is associated with disputes within the distribution system of virtually any illicit drug. Drug users can get caught up in this violence not only as purchasers but also as retail dealers themselves who become involved to raise money to support their habit.

Of more concern to the non-illicit drug using community is violence associated with the acquisitive crime discussed above and crime linked to the effects of the drug in question. The Institute of Criminology reports that:

18. Jeff Ward, Richard P. Mattick and Wayne Hall (eds.), *Methadone maintenance treatment and other opioid replacement therapies* (Harwood Academic Publishers, Amsterdam, 1998 second printing) p. 47.

19. *Ibid.*, p. 51.

20. Killias, Aebi & Ribeaud (1999) fn 16.

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“The illicit drugs most likely to be associated with violent reactions are the stimulant class that includes amphetamines; use of opiates and cannabis has not been directly associated with violence.”²¹

In the last few days a judge of the ACT Supreme Court commented that:

“... unlike other drugs, heroin included, amphetamines were not taken to calm the person but for the opposite reason. Users were far more unpredictable in their behaviour, and more likely to become violent than heroin users.”²²

Violence is particularly associated with methamphetamine and cocaine. One well recognised medical text reads:

“The effects of methamphetamine closely resemble and are frequently indistinguishable from those of cocaine. Both are potent psychomotor stimulants and positive reinforcers; self-administration is extremely difficult to control and modify, especially in abusers who use the drug either by injection or by smoking. Repeated high doses of methamphetamine are associated with violent behavior and paranoid psychosis.”²³

Amphetamine-type drugs are becoming a big problem in Australia. The Ministerial Council on Drug Strategy meeting in Darwin noted in its joint communiqué on 18 July this year “... the worrying trend towards an increased supply and use of psychostimulant drugs within Australia.” The 2001 National drug strategy household survey reported that:

“The availability of amphetamines, cocaine, ecstasy and kava increased over the period, whereas for all other illicit drugs the proportions of the population who had been offered or had the opportunity to use these drugs declined.”²⁴

The latest *Australian Illicit Drug Report* states that:

“The heroin shortage ... has ... impacted significantly on the amphetamine-type stimulant market in Australia. The reduction in the availability of heroin has led to a nation-wide increase in the use of other illicit drugs such as amphetamine-type stimulants and cocaine as well as the misuse of licit drugs such as temazepam. Increased amphetamine-type stimulant use as a direct result of the lack of heroin has been particularly noted in the Australian

21. Graycar & Grabosky (2002) fn 2, p. 112.

22. Report of Higgins J. in *Canberra Times*, 15 August 2002, p. 4.

23. Robert M. Julien, *A primer of drug action: a concise, nontechnical guide to the actions, uses, and side effects of psychoactive drugs* (8th ed., W.H. Freeman & Co., New York, 1998) pp. 142-43.

24. Australian Institute of Health and Welfare, *2001 National drug strategy household survey: first results* (Drug statistics series no. 9) (Canberra, May 2002) p. 6 at <http://www.aihw.gov.au/publications/phe/ndshs01/full.pdf> visited 23/05/02.

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Capital Territory, Queensland, South Australia, Western Australia and some areas of New South Wales.”²⁵

The report added that: “This raises concerns because of the increased propensity towards violent behaviour associated with crystalline methylamphetamine use.”

Families and Friends for Drug Law Reform is concerned that the development of effective responses to deal with the increasing availability of amphetamine-type stimulants by governments and others agencies has been delayed by the absence of timely and accurate information about that development. The fall in availability of heroin was quickly evident in big drops in overdose rates. Moreover, with the notable exception of cannabis, the invaluable annual survey of Australian drug trends published as part of the Illicit Drugs Reporting System (IDRIS) focuses on only illicit drugs in so far as they are used by injecting drug users. As the Asian crime syndicates who the AFP revealed undertook marketing surveys are only too well aware (see section 7.1.1.2), there is a far bigger market for illicit drugs that are in a form that can be ingested otherwise than by injection. It is known that the market for pills is subject to rapid change: new drugs like ketamine and GHB can become available very quickly and it is easy to pass off one drug as another. There are, for example, reports of methamphetamines being passed off as ecstasy. It is reasonably clear from anecdotal information including media reports and from police warnings and levels of seizures that the availability of amphetamine-type stimulants is growing significantly and becoming used by more young people. It is essential that the Government improve its sources of information to obtain timely warning of such alarming developments. It is done for cannabis: it can and should be done for drugs that the evidence indicates are more harmful and which have more potent links to crime and mental illness.

Recommendation: 2

The Government commission continuing monitoring with at least annual reports of trends in availability and usage of amphetamine-type stimulants and all other illicit drugs that are ingested otherwise than by injection.

The stress that families have been put under from the behaviour of drug taking family members who have moved to amphetamine-type stimulants is repeatedly brought to the attention of Families and Friends for Drug Law Reform. We have reports of cars being taken without permission and crashed, money demanded with threats and actual assaults. This occurs in moods of remorseless intensity. We have heard parents look forward to the return of heroin – a drug that at least gave the family some respite when the user was under its influence. Drug workers and even, we understand, the police have experienced something of the same.

Amphetamine-type stimulants have “a reputation of facilitating social interactions.” They are “often used in a casual fashion accompanied by alcohol”.²⁶

25. *Australian illicit drug report 2000-01* (2002), fn 17, p. 46.

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Their use is thus a potent factor in domestic violence. Much of the violence associated with amphetamine-type drugs takes place in the home and is not reported.

It is likely that crime trends in the Australian Capital Territory illustrate the serious impact of amphetamine-type stimulants and cocaine on crimes of violence. During 2001 when the heroin drought was severely felt in Canberra methamphetamine continued to be easy or very easy to obtain and cocaine was now easy to obtain.²⁷ It was being taken by people who had not injected drugs as well as by many injecting heroin users who were no longer able to obtain their drug of choice. The Institute of Criminology observed that “the trend towards increased methamphetamine and cocaine use presents serious health and law enforcement challenges for the ACT community. Methamphetamine use has been shown to be associated with violence and it can induce severe paranoid and psychotic episodes among users.”²⁸ During the same time property offences fell by a big margin: 23.2% for burglary, 20.2% for unarmed robbery and 25% for armed robbery. This was associated with a police operation and changes to bail legislation that resulted in the detention of a large number of “heroin addicts” for property crimes. In the same period the number of reported assaults remained stable and the sexual assaults and other offences rose by an alarming 34.7% some of which may have been associated with methamphetamines.²⁹

4. CRIME ASSOCIATED WITH DRUG TRAFFICKING

4.1. ORGANISED CRIME

Drugs are at the heart of sophisticated criminal enterprises. This organised crime has been taking on transnational dimensions. In the words of the Australian Federal Police it has been assisted by economic globalisation.

“Globalisation, through advances in technology and communications, has enabled the deregulation of markets and commerce, greater international and regional interdependencies, and more rapid movement of people, capital, information and goods.

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26. Australia, Department of Human Services and Health, *Handbook for medical practitioners and other health care workers on alcohol and other drug problems* (Australian Government Publishing Service, Canberra, 1994) p. 63. The comments are made in relation to the group of amphetamine drugs including methamphetamines.
 27. Paul Williams and Cathie Rushforth, “ACT drug trends 2001” (NDARC Technical Report no. 128) (National Drug and Alcohol Research Centre, 2002) p. 14 & 19-20.
 28. Australian Institute of Criminology, Media Release, “The ACT heroin drought turning drug users to methamphetamine and cocaine,” 29 November 2001.
 29. Monika Boogs, “Sex crime up, but most offences down” in *Canberra Times*, 16 August 2002, p. 3.

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“Globalisation has significantly expanded the opportunities for sophisticated illegal activity and facilitated closer interaction between organised criminal groups from different locations and cultures. While these groups are largely involved in illicit drug trafficking and people smuggling, they are also involved in serious crimes such as money laundering.”³⁰

There is greater integration yet flexibility in criminal activities with enterprises becoming involved in different levels of the production, importing and distribution of different sorts of drugs and in crime other than drugs.³¹ The National Crime Authority paints a chilling picture:

“ . . . [O]rganised crime constitutes a major threat to society. Organised crime has proved adaptive to the particular circumstances extant in its area of interest and resilient to attempts to combat it. Nation states are threatened by a phenomenon akin to parallel social and economic forces that are anti-democratic and a threat to the conventional global intercourse of communities. Its perpetrators are sophisticated, well resourced and able to utilise the latest in technology and the best in expert professional advice. Organised crime groups are amorphous, banding together to form criminal syndicates, then disbanding, the individuals re-forming as they engage in other criminal activities.”³²

While crime at this gigantic and global level may seem far removed from crime in the community which constitutes the terms of reference of this Committee’s inquiry, it is not. The drug deals that take place throughout the whole of the Commonwealth – from its remotest corner to the heart of its biggest city – feed that evil realm. This Committee can recommend little that will have any lasting impact on community crime unless it takes that overshadowing presence into account.

4.2. CORRUPTION

The 1988 United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances refers to “the links between illicit traffic and other related organized criminal activities which undermine the legitimate economies and threaten the stability, security and sovereignty of States”. Australia may not be a “narco state” but a string of royal commissions and standing commissions that investigate corruption have uncovered corruption at the highest level of some

30. Australian Federal Police, *Annual Report 2000–2001* (Australian Federal Police, Canberra, 2001) p. 17.

31. See evidence given on 16 August 2002 of Mr Ben McDevitt, general manager, Australian Federal Police National Operations, to the House Family and Community Affairs Committee inquiry into substance abuse in Australian communities.

32. National Crime Authority, *NCA Commentary 2001* (August 2001) p. 43 in *NCA Commentary 2001.pdf* at <http://www.nca.gov.au/html/index.html> visited 19/12/01.

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Australian governments and their agencies, including law enforcement ones. To take one example, the Wood Royal Commission in New South Wales found that:

"Much of the corruption identified in this inquiry was connected to drug law enforcement. The huge sums of cash associated with the drug trade, and the apparent inability of conventional policing to make any impact on the illegal market in narcotics creates cynicism among police working in the field. It also creates an environment in which corrupt conduct flourishes:

- of the conventional kind, involving protection and bribery;
- of the kind that involves direct criminal activity, such as theft and supply of drugs; and
- in the various forms of process corruption"³³

The police corruption that is coming to light in Victoria and through the Royal Commission underway in Western Australia are further chapters of a continuing saga. The apparent impossibility of every getting on top of the illicit drug market is demoralising for the vast majority of police who are honest and who put everything into their difficult work.

4.3. TERRORISM

Drug money feeds terrorism:

- The Brussels-based International Crisis Group published the following late in 2001: "The problems associated with drugs in Afghanistan and Central Asia have steadily worsened over the past two decades. Opiates have fuelled conflict throughout the region and are likely to have been a significant source of financial support for terrorist organisations with a global reach."³⁴
- In May this year Senator Herron referred in the Senate to reports he became aware of in Europe that a subsidiary organisation of the Irish Republican Army "was involved in selling drugs to fund weapons purchase".³⁵ In Denmark and Sweden he learnt that "it was alleged that the Palestinian Liberation Organisation was behind part of the drug trade."³⁶

33. Royal Commission into the NSW Police Service, *Final report, May 1997* (NSW Government, [Sydney], 1997) (Wood Royal Commission) vol. II, p. 223, para. 2.10.

34. International Crisis Group, *Central Asia: Drugs and Conflict* (ICG Asia Report, no. 25) 26 November 2001 37 pp. at <http://www.crisisweb.org/projects/showreport.cfm?reportid=495> p. i.

35. Senate, *Daily Hansard*, p. 1,550.

36. *Ibid.*, p. 1,551.

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- The International Convention for the suppression of the financing of terrorism adopted by the United Nations General Assembly in 1999 refers to the financing of terrorism through organisations “which are also engaged in unlawful activities such as illicit arms trafficking, drug dealing and racketeering”.³⁷

The instances can be multiplied.

For all the menace of terrorism, organised crime is a more insidious threat to Australia than terrorism because an organisation engaging in terrorism to pursue political goals is effective only if it makes its presence known. In contrast, the last thing that a criminal organisation wants is to reveal itself. It seeks to make money anonymously and, as that string of Royal Commissions has shown, has been prepared to buy influence in police forces and other high places to facilitate this.

5. VICTIMS

Proponents of a hard line have a point when they take issue with the description of illicit drug use as “a victimless crime”. In the context of Australian society nothing is further from the case. In the narrowest sense the term correctly signifies that the acts of obtaining and using an illicit drug are consensual between the party (or parties) immediately involved. In the normal run of events none of them has any interest in complaining to the police or anyone else. They thus stand in contrast to those who have had their drink spiked with a view to sexual assault or robbery.

The household survey figures suggest that the absence of anyone to complain holds good for a significant proportion of the Australian population who consume on a continuing basis, probably without adverse consequences, the popular illicit drug, cannabis, as their recreational drug of choice. For example, 10.7% of the population between 40 and 50 used it within the last 12 months.³⁸ Moreover, if there are adverse health consequences these are likely to be of the same order as arise from smoking tobacco (if smoking is the chosen method of ingestion).

On the other hand it is obvious that many serious harms are associated with illicit drug use – harms for the user, their family and the broader community. These harms are a mixture of the effect on the user of the drug in question and, demonstrably, law enforcement and other community response to the illicit activity. In other words often, though far from always, there are many victims directly and indirectly associated with illicit drug use. It is to these that this submission now turns.

5.1. ILLICIT DRUG USERS AS VICTIMS

Illicit drugs themselves, of course, carry their own risks. Heroin, particularly when used with other drugs such as alcohol, poses a high danger of overdose, even

37. *International legal materials*, vol. 39, pp. 270-280 (March 2000).

38. *2001 National drug strategy household survey: first results* (2002), fn 24, table 3.13, p. 23.

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though the Commonwealth's handbook for medical practitioners describes the drug as an analgesic that is "safe, effective and has a wide safety margin."³⁹ As is notorious, overdose can lead to death. Less known is that unless resuscitation occurs promptly, overdose can cause brain damage from lack of oxygen. As described below in section 7.2.1 use of amphetamine-type stimulants and cocaine are associated with psychoses and other mental illnesses. Cannabis, when used in large amounts over a long period, can also have serious consequences for the mental health and general well being of a small proportion of users.⁴⁰

Because users of illicit drugs are engaging in an illegal activity they have a status approaching that of an outlaw. The harms inherently associated with the drug concerned can be aggravated for the user by circumstances associated with the illegal status of the drug; a status that was originally established with the sole purpose of protecting the user from harm. The additional harms can include:

- (a) Health risk from drugs of uncertain quality;
- (b) Incentive to engage in drug using practices that magnify harms;
- (c) Poor chronic health associated with the life style;
- (d) Disincentive to access health and other support services in situations of acute need; and
- (e) Crimes against users.

Thus, by one means or another the user of illicit drugs often becomes a victim.

5.1.1. Health risk from drugs of uncertain quality

Illicit drugs can be cut with unknown substances and can vary greatly in purity and doses can vary in size. These can have severe adverse health effects. Amphetamine-type stimulants of crude composition and uncertain quality are passed off as ecstasy (MDMA). This is of particular concern for young party goers who are in no way addicted. The solvents such as lemon juice that most injectors of heroin use to dissolve the powder they purchase can produce serious complications.⁴¹

5.1.2. Incentive to engage in drug using practices that magnify harms

Law enforcement action directed at users or their suppliers (who often are also users) can have serious, even fatal consequences. It is plainly documented that intensive policing to "clean up" street drug scenes as has occurred in Cabramatta has

39. *Handbook for medical practitioners and other health care workers* (1994), fn 26, p. 43.

40. Nadia Solowij, *Cannabis and cognitive functioning* (Cambridge University Press, 1998) and *The regulation of cannabis possession, use and supply: a discussion document prepared for the Drugs and Crime Prevention Committee of the Parliament of Victoria* (National Drug Research Institute, Curtin University of Technology, April 2000) pp. 26-36.

41. *Handbook for medical practitioners and other health care workers* (1994), fn 26, pp. 43-44.

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serious impacts on the health of users. Dr Maher and her colleagues from the National Drug and Alcohol Research Centre and the Faculty of Law of the University of New South Wales found, for example, that:

“The overt police presence has clearly exacerbated the incidence of high-risk injecting episodes in the area. Injecting episodes in Cabramatta have become, in one user’s terms, ‘a major stress period’. In public health terms this means a high level of risk-taking behaviours. Heroin users who inject in public or semi-public settings are anxious to ‘get on’ and ‘get out’. This can mean using any syringe that is available if they don’t have one: either borrowing one or picking one up off the ground.”⁴²

Vigorous street level policing tends to disperse sellers and consumers to new locations making drugs available in new neighbourhoods and may encourage failed user-dealers to resort to other forms of crime to raise the money they need.⁴³

5.1.3. Poor chronic health associated with their drug use and life style

Many severely dependent drug users are in poor health. A frenetic lifestyle to obtain the wherewithal to obtain their next dosage or because of stimulants generally means that these users have poor nutrition, lack sleep and have a range of mental or physical health problems. “Medical conditions associated with illicit drug use are overdose, HIV/AIDS, hepatitis C (HCV), low birth weight, malnutrition, infective endocarditis (i.e. inflammation of lining of the heart), poisoning, suicide and self-inflicted injury.”⁴⁴

“A survey of injecting drug users in 2000 showed that more than half tested positive to the HCV [hepatitis C virus] antibody, and the data show a clear association between a history of injecting drug use and the presence of HCV antibody. The test for HCV antibody was positive for 73% of drug users who had been injecting drugs for the last 10 years or more, compared with 26% of those injecting for less than 3 years.”⁴⁵

42. Lisa Maher, David Dixon, Michael Lynskey and Wayne Hall, *Running the risks: heroin, health and harm in south west Sydney* (NDARC monograph no. 38) (National Drug and Alcohol Research Centre, University of New South Wales, 1998) p. 107.

43. *Ibid.*, pp. 111-14; *Sydney Morning Herald*, 21 July 1998 p. 5; editorial in the *Daily Telegraph* (Sydney) Friday, 11 December 1998, p. 10 and J.L. Fitzgerald, S. Broad & A. Dare, *Regulating the street heroin market in Fitzroy/Collingwood* (Issues series) (Department of Criminology, University of Melbourne & VicHealth, 1999) p. 63.

44. *Australia’s health 2002*, fn 10, p. 148.

45. *Ibid.*, p. 152.

5.1.4. Disincentive to access health and other support services in situations of acute need

The health risks from law enforcement are not confined to those who fit the stereotype of the “drug addict”. The story of my own son demonstrates this. He had a first class record at school. He was a good athlete and had published a book on computer programming when he was only 16. He came from a family that loved him and that was close. He had a good paying job. The first that his sister, his mother or I knew that he was using heroin was when he was admitted to hospital following an overdose of a more potent grade than he was used to. The police also attended the scene of his overdose and were there at his hospital bedside when he came to. Our son was so scared that he discharged himself from hospital and left home. Some weeks later he overdosed again. This time he was not so lucky. He had no one with him.

The death from heroin overdose of the daughter of another of our members illustrates this. Her "friends" abandoned her to die close to a Canberra hospital where, it seems, they had been injecting. The coroner labelled the conduct of these "friends" who did not call for assistance as disgraceful.⁴⁶ That may well be so but in all likelihood to have called for assistance would probably have required them to overcome panic, the effects of drugs that they too had been taking and fear of getting into trouble with the police. Courage may have been lacking but kids should not have been put into this situation.

The sister described to us in these words the predicament that the friends of her brother faced:

"His friends were too whacked to see that he was in trouble with the fatal dose, and when they did realise, they were too scared of police recrimination to call an ambulance."

My own son's death took place 10 years ago. We are pleased that since then a number of jurisdictions have issued instructions that police should avoid attending drug overdoses in the absence of special circumstances. As a report shows of the street heroin market in Fitzroy and Collingwood in Melbourne, even the instruction against attending overdoses is ignored when it should not be:

“Strategies to encourage police to avoid overdose incidents have been undertaken in a number of states. However, drug users in this study reported that police in Fitzroy routinely arrived at overdose incidents to question overdose victims . . .”⁴⁷

5.1.5. Crimes against users

There is a strong correlation between risks of victimization and criminal life styles. The outlaw status of many illicit drug users, their need to deal with criminals to obtain drugs, the large amount of money that most dependent users require leads them to being preyed on by others. They may be ripped off by dealers. Often a drug

46. *Canberra Times*, 9 August 1995, p. 3.

47. Fitzgerald, Broad & Dare (1999) fn 43, p. 65.

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dependent prisoner will have amassed big debts while in detention. On release he will be required to repay those debts upon threats of violence, which will induce him to commit further crime.

Judging by press reports, children are being engaged more and more in drug dealing by principals wishing to distance themselves as far as possible from transactions with users where they are most vulnerable.⁴⁸ In extreme cases children can be murdered. Social workers in Victoria have reported this occurring. According to a 1997 report “at least 50 young people a year in the Melbourne area died from apparent heroin overdoses that were undetected homicides”.⁴⁹ On their face these allegations have credibility. Families and Friends for Drug Law Reform is aware of bereaved parents in other States who suspect foul play of this nature.

5.2. FAMILIES AS VICTIMS

Shame, self-blame, isolation and not knowing what to do are common reactions of families of illicit drug users. Something of the sense of what many go through is captured in the following extract from a poem submitted to a national conference on drugs organised by Families and Friends for Drug Law Reform and Family Drug Support:

“Somebody’s daughter, son, grandson, mother, father or brother.
Is it real? Can it be? It is. It’s not just a nightmare.
It is real. It is happening to us and to him, our son.
Pain, shame heartache and grief. Hopelessness.
Drugs, crime, depression, psychosis, suicide thoughts,
Spiralling dysfunction.

“Police, court, jail, probation, the street.
How can it be? What can we do? Where can we go?
A merry-go-round of try this, go here, go there.
No room. Go home. How can we stand this another moment?”⁵⁰

For some families the pain is watching powerless while a child, sister or brother they love is overwhelmed in a battle against illicit drugs. Other families have holes bashed in the walls of the family home, windows broken, money stolen and lies continually told. Some of the most heart-rending stories come from grandparents who try to take on the job of bringing up a grandchild who is on drugs. Family savings disappear on expensive treatments by some less than ethical medical practitioners who hold out dubious “cures” to desperate people.

48. See press report quoted in section 2.3 above.

49. *Canberra Times*, 12 May 1997, p. 4.

50. Brian McConnell & Tony Trimmingham (eds), *National Families & Community Conference on Drugs: “Voices to be heard”*: Conference proceedings, 10-11 November 2000 (Families and Friends for Drug Law Reform, Canberra, July 2001) p. 72 at www.ffdlr.org.au.

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Only occasionally is any of the domestic crime discussed here reported or apprehended violence orders taken out. The best outcomes arise where families have succeeded in keeping some sort of link with the user but the restless turmoil of those heavily using amphetamine-type stimulants can snap even those links.

5.3. COMMUNITY AS VICTIM

The community is a victim of drug abuse in numerous ways: the syringes discarded in playgrounds and public places, vulnerable small businesses held up, houses burgled, cars stolen, distressing open drug scenes. Many of these harms inflicted on the community are avoidable by strategies that are known to help but which excite controversy and for that reason are not implemented at all or not enough to meet the demand. The benefits of methadone maintenance are solidly established yet the programme still meets opposition (see section 3.1). Already the limited data from the trial of a medically supervised injecting room in Kings Cross is demonstrating solid benefits for the users but the establishment of similar facilities in other areas of need is likely to be years away. It is obvious from careful trials overseas that the medical prescription of heroin for severely dependent opiate users holds out even more benefits (sections 3.1 and 7.2.1). Heroin remains the drug of choice of a large proportion of the injecting drug users including those who may have moved to other drugs during the heroin drought. Heroin prescription in combination with other treatments holds out the prospect of undermining the black market (section 7.3).

You will appreciate that I and others in Families and Friends for Drug Law Reform who have had similar experiences with family members who became dependent on heroin approach the subject of the legal process with strong feelings. While virtually all of us came from a position of acceptance that existing drug laws and their enforcement were correct we have moved to the realisation that almost certainly our children would be alive today had that law or the enforcement of it been different.

- Had the law not stigmatised the illegal drugs as something beyond the pale that barred dialogue between my son and the rest of his family, we could have talked through solutions;
- Had the law allowed controlled availability of drugs my son might never have taken them up because he would not have been exposed to the pervasive criminal distribution network that flourishes by flogging more and more potent drugs to young new recruits like my son;
- Had the law ensured the purity of the drugs my son was taking it is unlikely he would have overdosed because of the potency of a particular batch;
- Had the law been otherwise it is less likely that I and my family would have been as paralysed with the despair and sense of helplessness that we felt when we learnt of my son's drug use;
- Had the law been otherwise those professionals we consulted might not have felt constrained or influenced by propaganda according to which there was little we could do to help him;

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- Had the police not intervened when my son was in hospital he would not have fled from medical treatment and beyond the reach of any support that the hospital and his family could provide.

In short, the law and its implementation:

- (a) not only failed to keep drugs from my son but probably promoted their availability;
- (b) multiplied the dangers inherent in drug taking;
- (c) impeded effective self help or intervention by others in tackling his drug dependency;
- (d) marginalised him from his family and the rest of the community.

6. FEAR OF CRIME

With good reason, illicit drugs are at the bottom of a lot of fear of crime. It is the diagnosis that police generally seem to give when visiting home owners whose houses have been broken into. The female shopper or elderly citizen is in fear of the young hooligan on drugs snatching her bag in the car park. The owners of and workers in small businesses that are so often the soft targets held up by a young man or woman desperate for his or her next fix. The attempt may be half bungled but it still inspires terror and leaves disabling psychological if not other scars on the victims. So much of drug related crime by consumers crowds in our home, our work and intrudes into the public spaces we frequent.

Fear of crime is a lucrative sales pitch for security and other products. Families and Friends for Drug Law Reform know of insurance company agents who seek to induce home owners to take out insurance with a spiel that emphasises the number of break-ins by “junkies” that have occurred in the neighbourhood. A recent promotional article for a store selling security goods uses rising crime trends as a sales pitch:

“He [the owner] believes it is an idea whose time has come: ‘The director of the Bureau of Crime Statistics and Research, Don Weatherburn, was quoted in the media recently as saying that in an international crime survey of 17 countries, Australia ranked second highest in the world in terms of motor vehicle theft, highest for burglary, third-highest for personal theft and highest for assault. That reinforces figures from the Australian Bureau of Statistics which revealed that in Australia in 1999 there was one unlawful break-in of a home every minute of the day and one motor vehicle stolen every four minutes.’ His [the owner’s] aim is to offer the latest advances in technology in an effort to create a safer environment.”⁵¹

Crime and other dysfunctional activity largely contributed to by illicit drugs is a corrosive influence on the fabric of our society. Old people are set against the young; children against parents; drug users needing treatment against the rest of the

51. *Canberra Times*, 29 July 2002, p. 17.

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community. Users themselves who are drawn overwhelmingly from the young are exposed to a criminal world that is beyond the protection of the law. Our justified insecurity is fanned by a security and insurance industry. Our fears encourage us to withdraw inside our home made secure by bars and alarm systems. In lots of little ways we “take precautions” and withdraw just that bit more from neighbourhood and community involvement. The glue that holds us together as a community is loosened.

7. RESPONSES TO DRUG RELATED CRIME

The close link between drugs and community crime is beyond dispute. What should be done to counter the problem? After examining some strategies that have shown themselves to be of limited effectiveness, this submission will turn to others that offer more hope.

7.1. STRATEGIES OF LIMITED EFFECTIVENESS

7.1.1. Law enforcement directed at interdicting supply

Traditionally, the underlying strategy of drug policy has been to deploy law enforcement to prevent supplies of illicit drugs reaching consumers. Even so it has long been recognised that elimination of supplies is impossible. Instead, law enforcement has focussed on disrupting the supply with a view to reducing the amount on the market.

In a study written 23 years ago of a United States academic commentator with experience in the Drug Enforcement Agency and other close links to government described the objective of law enforcement in the following terms:

“ . . . the objective [of supply reduction effort] presented here acknowledges that despite our best efforts, drugs will reach illicit markets. Given an appropriate unyielding commitment to the maintenance of civil liberties, and competing claims for resources, the government is simply unable to mount a supply reduction effort that will keep all drugs from reaching illicit markets. The problem is cast in terms of minimizing the rate at which drugs move to illicit markets (and measuring this effect in terms of availability) rather than stopping all drugs. Clearly this is a more realistic objective than stopping all drugs.”⁵²

If successful, not only would there be less drugs on the retail black market but, so the theory goes, the price would rise beyond the reach of many consumers. Price and availability are thus key indicators of the success of supply side law enforcement. Another indicator is the purity of the drugs. If supply is plentiful purity is likely to be high; if scarce, low.

Judged by these indicators, over the years the trend has been for more drugs to be available on the Australian black market. This is clearly shown in data methodically collected since 1996 as part of the Illicit Drug Reporting System

52. Mark H. Moore, "Limiting supplies of drugs to illicit markets" in *Journal of Drug Issues*, vol. 9, no. 2, pp. 291-308 (Spring 1979) at pp. 293-94.

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(IDRIS). The notable exception which is discussed below is the decline in availability of heroin during the heroin drought.

For its part the Government continues to publicise large drug seizures as evidence of the effectiveness of its law enforcement policy. In fact such evidence is ambiguous. As the Australian Federal Police has acknowledged, increased seizures may in fact indicate greater availability of drugs: “While seizure rates do not necessarily correspond with production, they can be a good indicator of production trends.”⁵³

7.1.1.1. *Estimating seizure rate and the amount of illicit drugs consumed in Australia*

It is possible to reach accurate estimates of the amount of drugs reaching the Australian market from surveys that give the size of the drug using population and studies of average usage rates. Why this is not done as a matter of course suggests a wish in Government to remain ignorant of the facts. A recitation of the amounts of drugs seized is meaningless without a sense of the amounts that do reach the consumer.

The National Crime Authority (the NCA) in its *Commentary 2001* conservatively estimated the quantity of heroin available on the streets of Australia as 6.7 tonnes. This was important because it was a rare published estimate from an authoritative source of the amount of heroin available. The commentary concluded “that the illicit drug trade continues to flourish in our country”. The authority estimated that law enforcement was seizing only about 12% of the heroin that was being imported. There was, it added, “an observable trend towards increased involvement in drug trafficking and an ongoing preparedness of criminals to meet market demand for different illicit substances.” The battle could not “be won by law enforcement alone or in partnership with the health sector.” The scale of the problem, he said, demanded the “highest attention of government and the community” and it urged “a co-ordinated and holistic approach”. An extract from the National Crime Authority’s commentary is reproduced in appendix B.

The seizure rate put forward by the NCA is on the high side of earlier estimates. The 1995-96 Australian illicit drug report of the Australian Bureau of Criminal Intelligence states, for example, of heroin that:

“While no empirical data is available on the percentage of imported heroin seized by law enforcement agencies, the figure is probably very low. The NSW Police Drug Enforcement Agency believes only 10 per cent of available heroin is interdicted. As such there has not been much success in New South Wales in reducing supply.”⁵⁴

53. Sandy Gordon, “Technology impacts on drug production in Asia: The role of amphetamines in Asia’s growing drug problem” in *Platypus Magazine*, no. 72, pp. 17-22 (Sept. 2001) p. 18.

54. Australian Bureau of Criminal Intelligence, *1995-96 Australian illicit drug report* (Australian Bureau of Criminal Intelligence, Canberra, December 1996) p. 62.

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A study by Mr Prunckun, a researcher at the University of South Australia who was an intelligence analyst with the National Crime Authority and Senior Research Officer with the South Australia Police estimated that heroin supply to users in Australia grew from 950 kg in 1988-89 to 1,700 kg in 1995-96. "In its 'best' year, law enforcement seized approximately 21 percent (1994-95) of the heroin coming into the country, and during its 'worst' year (1992-93), only 3 percent was seized. The average for the period was about 10 percent."⁵⁵

1. The report of the Australian Bureau of Criminal Intelligence goes on to cite a 1995 study by Weatherburn and Lind in NSW which found that:

"... there was no detectable relationship between the price, purity or perceived availability of heroin at street-level in Cabramatta and average amount of heroin seized, either (a) across Australia, or (b) within New South Wales."⁵⁶

More generally, the same report concluded that:

"... attempts to increase the street-price of heroin by creating a shortage of the drug, at least in Australia, would seem to have failed."⁵⁷

In his paper Mr Prunckun describes in some detail the methodology that he used. The NCA employed a similar methodology to arrive at its estimate and Families and Friends for Drug Law Reform also has employed it to estimate other drug availability.

Those calculations estimate conservatively that in 2001, 28 tonnes of cannabis and 9 tonnes of amphetamine were available on the street. Seizures for that year amounted to 4 tonnes and 0.8 tonnes respectively, i.e. seizure rates of 16% and 8.6%.

For that same year heroin availability is estimated to be 1.4 tonnes, reflecting the shortage of heroin referred to above.

It is recommended that following refinement this methodology be used to estimate the extent of drug usage and as a basis for measuring the effectiveness of supply control.

Recommendation 3:

55. Henry W Prunckun, Jr, "If you can measure it, you can manage it: estimating the size of Australia's heroin trafficking problem" (1997) in electronic form from slezak@dove.net.au and published in *Australian Police Journal* (March 1998). Comments by the author on interim results that he issued are reported in *Herald Sun* (Melbourne) 1st ed. Wednesday 15 October 1997, p. 5 & *Adelaide Advertiser*, Wednesday 15 October 1997, p. 3.

56. Don Weatherburn & Bronwyn Lind, "The efficacy of heroin law enforcement in Australia" in Australian Bureau of Criminal Intelligence, *1995-96 Australian illicit drug report* footnote 54, p. 194.

57. *Ibid.*, p. 195.

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The Government estimate annually the amount of illicit drugs consumed in Australia.

7.1.1.2. *2001 Heroin Drought*

A remarkable exception to the trend of increasing availability of illicit drugs is the shortage of heroin that made itself felt from the beginning of 2001: the so-called heroin drought. The price of that drug increased by 50% or more, its purity dropped and users reported much less around.⁵⁸

The heroin drought aside, the data point to law enforcement being ineffective to reduce supply. This makes it so important to analyse the causes of the heroin drought – an event unique in Australia and, in this instance, confined to Australia – for the light that it throws on the operation of the black market and the efficacy of existing strategies. The huge drop in deaths from heroin overdoses, and in some place in crime, shows the sorts of benefits that can be expected from reductions in supply.

The Federal Government and some statements from the Australian Federal Police have credited Australian law enforcement with the result. On the other hand others, including Mr Ryan, the former NSW Police Commissioner have denied that it was a win for law enforcement.⁵⁹ Other plausible explanations are possible. Indeed the AFP Commissioner himself disclosed in June 2001 police intelligence that there had been: “a business decision by Asian organised crime gangs to switch from heroin production as their major source of income to the making of methamphetamine, or speed, tablets.”⁶⁰ “[T]heir market research tells them that these days people are more prepared to pop a pill than inject themselves.”⁶¹ Mr Ben McDevitt, general manager, Australian Federal Police National Operations confirmed the correctness of this intelligence in evidence he gave on 16 August 2002 to the House Family and Community Affairs Committee inquiring into substance abuse in Australian communities.

This sinister marketing decision and a world shortage of the product explain the drought. Poor weather conditions, particularly in Burma, the source of most of Australia’s market, and the Taliban’s ban on planting of opium crops led to a

58. Libby Topp, Sharlene Kaye, Raimondo Bruno et ors, *Australian drug trends 2001: finding of the illicit drug reporting system (IDRS)* (NDARC monograph no. 48) (NDARC, 2002) pp. 44 ff.

59. Linda Doherty and Brigid Delaney, “Police losing drugs war, says Ryan” in *Sydney Morning Herald*, Friday, 10 August 2001 at <http://www.smh.com.au/news/0108/10/national/national5.html> visited 18/12/01.

60. Keith Moor, “Drug lords push deadly new deals” in *Herald Sun* (Melbourne) Tuesday, 19 June 2001, p. 10.

61. Keith Moor, “Drug gangs' new threat” in *Herald Sun* (Melbourne) Tuesday 19 June 2001, p. 1.

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dramatic reduction of opium. The UNDP has estimated world heroin production fell from 469 tonnes in 2000 to 163 tonnes in 2001, a two thirds reduction.⁶²

At the same time there is a lot of evidence to the effect that the drought of heroin was accompanied by a flood of methamphetamines and other stimulants like cocaine (see section 3.2). For example, in the last 12 months telephone calls to Family Drug Support about heroin have dropped 68% (to 16% of the total number of calls from 51% three years ago) while the number of calls on speed has increased by 575% (from 4% to 23% of calls) and cocaine calls have increased by 300% (from 2% to 6% of calls). The prospect is chilling that criminals could have manipulated the illicit market by pushing a product attractive to a wider and younger group of consumers.

Families and Friends for Drug Law Reform has made a careful examination of public statements and other evidence that bears on the drought. This is available at www.ffdlr.org.au.⁶³ It concluded that the weight of evidence strongly supported this conclusion. Mr Ben McDevitt, general manager, Australian Federal Police National Operations acknowledged in evidence he gave on 16 August 2002 to the House Family and Community Affairs Committee that there were a range of probable factors responsible for the heroin drought, only some of which were law enforcement successes. In contrast to the uncertainty of its police on the issue, the Government statements have made the claim with few if any qualifications that the heroin shortage and drop in overdose deaths were the result of law enforcement efforts associated with the Tough on Drugs Strategy.

Because of its crucial implications for national security as well as drug policy, Families and Friends for Drug Law Reform calls for an independent, judicial inquiry into the causes of the heroin drought and flood of other drugs. The inquiry must have full access to information from sensitive security and law enforcement sources. Only an inquiry of this nature will be able to gather and assess the evidence.

Recommendation 4:

That the Government establish a judicial inquiry into the most likely causes of the heroin drought.

7.1.2. Abolition of the National Crime Authority

In section 7.1.1.1.1 above we referred to the commentary issued by the National Crime Authority in August 2001.⁶⁴ It will be recalled that the commentary included the important if disturbing assessment that there was “an observable trend towards increased involvement in drug trafficking and an ongoing preparedness of

62. United Nations Office for Drug Control and Crime Prevention, *Global Illicit Drug Trends 2002*, p. 47.

63. W.M. Bush, “The Australian heroin drought: The case for an inquiry into its causes and the flood of methamphetamines” (February 2002).

64. National Crime Authority, *NCA Commentary 2001* (August 2001) in *NCA Commentary 2001.pdf* at <http://www.nca.gov.au/html/index.html> visited 19/12/01.

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criminals to meet market demand for different illicit substances.” The battle could not “be won by law enforcement alone or in partnership with the health sector.” The scale of the problem, it said, demanded the “highest attention of government and the community” and it urged “a co-ordinated and holistic approach”. Families and Friends for Drug Law Reform understands that this commentary was cleared with all police commissioners before its issue.

Families and Friends for Drug Law Reform is alarmed that moves are afoot to change the NCA out of recognition and rebadge it as the Australian Crime Commission. The NCA was established in 1984 as a standing Royal Commission with unique authority to carry out investigations across federal boundaries. The changes being discussed will eliminate the independence of the Authority and undermine its capacity to operate quickly and efficiently in response to very sophisticated and highly resourced criminals. The changes will install a large committee, of mostly police commissioners, which will make the management more cumbersome and introduce crime fighting by committee – a recipe for inefficiency and impotence. Furthermore, such a structure will leave the new commission subject to political influence, exposed to corrupt influences that may again reach high levels in political circles and the police and be paralysed by the competition between law enforcement agencies that have long found it difficult to agree on the allocation of resources and establishment of priorities. In short, endowments essential for a Royal Commission to get at the truth will be lost.

Recommendation 5:

The Government retain the National Crime Authority, secure its independence and enhance its capacity to investigate organised crime.

7.1.3. Apprehension of users

Apprehension of drug dependent users involved in dealing or property crime to maintain their habit may well lead to a reduction in crime rates but this action is likely to have only a short term effect. The large reduction in property offences in Canberra over the past year (see section 3.1) may well have been attributable to law enforcement effort as well as the heroin drought. A police operation focussed on property crime (Operation Anchorage) and, after that ceased, police continued to detain repeat offenders in which they were assisted by changes to bail legislation.

The long term unsustainability of an approach that focuses on incarceration to reduce the crime rate is admirably expressed by Mr Don Weatherburn, director of the NSW Bureau of Crime Statistics and Research:

“You need to bear in mind that [targeting of repeat offenders is] not going to work forever, and it didn’t work forever in New South Wales. After about two years, the reduction in crime bottomed out, and then it slowly began to increase again. So you get some leverage from increasing the arrest rate if you target the right sorts of people, but it’s not a magic wand, and nor is imprisonment. . . . [T]argeting repeat offenders won’t drive your crime rate

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down forever, and you're going to need some longer-term strategies as well."⁶⁵

7.1.4. Education

Drug and life-style education in school can have benefits but those programmes appear to have little effect on the extent to which children try illicit drugs. Indeed there is evidence that a number of well meaning programmes lead to greater illicit drug usage.

A study of the DARE program in the USA, that relies largely on police to provide drug education in schools, has shown that far from reducing drug uptake, children exposed to the program show increased drug uptake.

An analysis of youth drug education programmes in the United Kingdom⁶⁶ showed that 73% of programmes produced no change. In other words only 27% of the programmes produced a detectable change. Of those that led to reduced drug use the size of the benefit was only 3.7% and that dissipated over time.

In 1989 a study of the Life Education program concluded that the program, at best, did not reduce drug use but could possibly have increased drug use. Life Education have since revised their program but there has been no published report of any evaluation of the changed program.

7.2. EFFECTIVE STRATEGIES

7.2.1. Strategies focusing on treatment and psycho-social support of users

A highly regarded study on the control of cocaine undertaken by the Drug Policy Research Center of RAND in California strikingly points out the large cost-benefit of treatment over various forms of law enforcement. The benefit was measured in terms of reduction in the number of users, the quantity of the drug consumed and the societal costs of crime and lost productivity that arise from use of the drug. The study estimated that "the costs of crime and lost productivity are reduced by \$7.46 for every dollar spent on treatment." Described in other terms, domestic law enforcement, the most efficient form of law enforcement, "costs 4 times as much as treatment for a given amount of user reduction, 7 times as much for consumption reduction, and 15 times as much for societal cost reduction."⁶⁷

Given that addiction is a chronic relapsing condition, it is to be expected that many users will leave treatment early or relapse before they achieve long term

65. ABC Radio National, Background briefing, 14 July 2002 at <http://www.abc.net.au/rn/talks/bbing/index/bbchronoidx.htm>.

66. Educating young people about drugs: a systematic review, David White and Marian Pitts, *Addiction* (1998), 93(10)

67. C. Peter Rydell and Susan S. Everingham, *Controlling cocaine: supply versus demand programs prepared for the Office of National Drug Control Policy, United States Army* (RAND, Drug Policy Research Center, Santa Monica, 1994) pp. xv-xvi.

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abstinence. To the objection that for this reason treatments tend to be ineffective the study has an interesting response:

“ . . . this report concludes that treatment of heavy users is more cost-effective than supply-control programs. One might wonder how this squares with the (dubious) conventional wisdom that, with treatment, ‘nothing works.’ There are two explanations. First, evaluations of treatment typically measure the proportion of people who no longer use drugs at some point after completing treatment; they tend to underappreciate the benefits of keeping people off drugs while they are in treatment—roughly one-fifth of the consumption reduction generated by treatment accrues during treatment. Second, about three-fifths of the users who start treatment stay in their program less than three months. Because such incomplete treatments do not substantially reduce consumption, they make treatment look weak by traditional criteria. However, they do not cost much, so they do not dilute the cost effectiveness of completed treatments.”⁶⁸

In a number of respects the Government is moving to give effect to the principle. More money is being allocated to treatment under the Tough on Drugs Policy but there is a long way to go. When law enforcement and treatment budgets of all governments around the country are taken into account Australia is probably still only allocating a small proportion to treatment. Something like two-thirds continues to flow to law enforcement.

Recommendation 6:

The Government work to ensure that the total of resources allocated by governments to drug treatment should at least equal the resources allocated to drug law enforcement.

Governments are implicitly recognising the inadequacy of law enforcement processes to handle people with an addiction. 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 addicted offenders to treatment. The Commonwealth has encouraged States to put in place police diversion schemes. Several jurisdictions (including the ACT and South Australia) have expiation systems to deal with minor cannabis offences. Western Australia is likely to introduce such a system shortly. Treatments such as methadone have been introduced into a number of prisons.

Families and Friends for Drug Law Reform welcomes all such initiatives but regrets that more resources are not directed to treatment needs to prevent users getting entangled in the law in the first place. Far more value for money would be obtained by such a step than is obtained by providing Rolls Royce treatment for a small number of offender-users under drug court programmes.

Recommendation 7:

68. *Ibid.*, pp. xvii-xix.

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As a crime prevention measure, more resources should be directed to interventions that treat of addicted drug users before they become heavily involved in crime.

The recognised need for law enforcement processes to be adapted as much as they are to deal with people dependent on illicit drugs shows the inappropriateness of law enforcement in the first place. The medical and psychological issues surrounding addiction are essentially the same whatever the substance a person is addicted to. It matters not whether it is a legal or illegal drug. The role of the criminal law directed at users was to prevent them using certain substances. It fails to achieve that and indeed encourages uptake and use by making drugs more available (see section 7.3.2). It certainly should have no role in the treatment of people who have become addicted to the very substances that law was intended to protect them from.

Users of illicit drugs who commit property and other offences should, of course, continue to be dealt with by the criminal law. Their treatment within the criminal justice system for an addiction should be just as independent of correctional and other processes as is the treatment of any other medical condition that they may have.

Recommendation 8:

The criminal law should cease to have any direct role in the treatment or rehabilitation of anyone suffering from an addiction.

It is obvious that the more effective a treatment is in retaining a user the greater the margin of benefit of that intervention over law enforcement. It is thus of the greatest importance that methadone maintenance programmes are retained and expanded. (Methadone maintenance is referred to as the gold standard of treatment.) It is no valid object that some users on methadone maintenance relapse or continue using some illicit drugs. They use much less than they would have.

The Government is therefore to be congratulated on trialling other promising treatments and in introducing buprenorphine within the last year.

In contrast, the Government's opposition to the trial of the medical prescription of heroin is to be lamented. In both Switzerland and The Netherlands where careful trials have been carried out medical prescription of heroin was singularly successful in retaining the highly dependent users who were admitted to the trials: users that had failed other treatments. There were marked improvements in their social functioning measured in terms of their housing situation, employment status and circle of friends.⁶⁹ The large reduction in the number of users engaged in

69. Switzerland, Federal Office of Public Health, *Treatment with prescription heroin: Arguments concerning the popular vote on the Urgent Federal Ordinance on the medical prescription of heroin (treatment with medically prescribed heroin) on 13 June 1999* (GEWA, Zollikafen, April 1999). Translation at www.ffdlr.org.au of a French version at <http://www.admin.ch/bag/sucht/drog-pol/abstimmg/f/index.htm>.

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crime and the even bigger reduction in the overall number of crimes was mentioned in section 3.1 above.

The Dutch trial, the initial report of which was released earlier this year, confirmed that the benefits seen in the Swiss trial did, in fact, come from the heroin prescription rather than the psycho-social support that accompanied it. (The absence of a control group in the Swiss trial left open this theoretical possibility). The Dutch included control groups. Some were treated with methadone and some with heroin in combination with methadone. The latter proved more effective. The proportion of patients with a favourable response in the group that received heroin was 20-25% higher than in the group that received methadone alone.⁷⁰ Germany is now conducting a further trial. Families and Friends for Drug Law Reform understand that from a scientific point of view the Dutch trial was a particularly solid piece of work and that its results can be relied on with an unusually high degree of confidence.

Recommendation 9:

The Government should permit and encourage the Australian Capital Territory and other jurisdictions willing to do so to carry out large scale trials of the medical prescription of heroin to develop protocols appropriate for its application to Australian conditions as a standard intervention.

An alarming aspect of the increasing availability of amphetamine-type stimulants is the absence of anything like the same range of treatments for dependency on those drugs as there is for opiates. Indeed, the problem is not just one of dependency. Those affected by the drugs are much less likely to present themselves for treatment. Moreover, the serious mental disorders that are associated with those stimulants are likely to put grave additional strain on mental health budgets.

Recommendation 10:

The Government should support research into and establishment of effective medical and related interventions into disorders associated with amphetamine-type and other stimulants.

7.3. REDUCING THE AVAILABILITY OF DRUGS

There is little doubt that treatment compared to law enforcement has large benefits for the users, for their families and for the community in terms of reduction in crime and other costs. The obstacle in the way of permitting the medical prescription of heroin is that to do so would “send the wrong message”. This expresses a concern that to permit such a treatment would encourage newcomers, particularly children, to try the drug. A similar concern arises regarding the range of harm minimisation measures that some see as removing the obstacles in the way of

70. The Netherlands, Central Committee on the Treatment of Heroin Addicts, *Medical co-prescription of heroin two randomized controlled trials*, (Utrecht, February 2002) at www.ccbh.nl.

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illicit drug taking. These considerations raise the whole question of availability. In the main, illicit drugs have long been frighteningly easy to come by.

The big drop in opiate overdose deaths during the heroin drought points to the benefits that can be expected if the availability of drugs is reduced. Families and Friends for Drug Law Reform supports policies that demonstrably make dangerous drugs less available.

There are strong reasons to believe that Australia has been following policies that have the reverse effect: the efforts to cut off supply have in fact been counter productive. They have made the drugs more available and at the same time they have magnified the harms to users.

The market for illicit drugs, as for any other commodity, depends on demand by end users. Enforcement of the criminal law ostensibly aims to prevent drugs reaching the consumers or, failing that, is expected to act as a disincentive to use. Australia in company with other countries has failed to prevent considerable quantities of illicit drugs reaching the level of consumers. It is universally accepted, even by countries like Sweden that pursue the goal of a drug free society, that it is impossible to eliminate the supply of illicit drugs.⁷¹ Even so, law enforcement is still seen to act as a disincentive to drug use. This is based on the assessment that things would be worse if there was no law enforcement to control supply.

Families and Friends for Drug Law Reform challenges the benefit of even this qualified role for enforcement of the criminal law at the consumer level. It does so on the ground of the known dynamics of the retail drug distribution system and other evidence pointing to enforcement of the criminal law at that level being a net stimulus of drug consumption. In other words, the evidence points to enforcement of the criminal law having unintended and counter-intuitive consequences that outweigh its disincentive value.

7.3.1. Law enforcement as a disincentive to drug consumption

Law enforcement at the consumer level paradoxically acts as an incentive as well as a disincentive to drug consumption. It acts as a disincentive in two ways: firstly by raising the price, thus, on economic principles, putting the drugs out of reach of consumers and, secondly, inhibiting potential consumers who are not prepared to break the law.

Law enforcement clearly has an effect on price. In an unregulated market the drugs would be many times cheaper. With law enforcement illicit drugs are more valuable than gold. In the words of the Prime Minister, this feeds “an international, multi-billion dollar enterprise with its undisclosed and untaxed profits rivalled by

71. “Sweden is not a completely drug-free society, but the target has been achieved in that use of drugs in Sweden occurs on a limited scale by international standards” (Swedish National Institute of Public Health, *Drug policy: the Swedish experience* (Swedish National Institute of Public Health, Stockholm, 1995) p. 33.

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few industries.”⁷² Thus, while the high price of illicit drugs may act as a disincentive to some users, it stimulates criminals to supply and expand the market.

As to the second disincentive, a few surveys have suggested that the prohibition on use embodied in the law does inhibit some from trying drugs. Some other surveys of attitude suggest that relaxation of the law would lead to an increase in cannabis usage. A small survey of university students in Western Australia indicated that 92% of existing users would not use more in the event of legalisation and virtually none of the non-users would take it up.⁷³ On the other hand in a NSW survey of cannabis users and non-users only 86.2% of all those asked “whether they would use cannabis more frequently if it were legal” would neither definitely nor possibly use more.⁷⁴

It is evident that for an overwhelming proportion of the large number who have tried drugs, the law has not acted as a disincentive. The 2001 household survey revealed that some 2,657,857 or 16.9% of the population above 14 years old used an illicit drug at least once in the last 12 months and 37.7% have done so at least once in their life. Most striking is that the rate of use of illicit drug use is very high among young people: 62.6% of those between 20 and 29 and 37.7% of teenagers have tried illicit drugs.⁷⁵ On the evidence of the two Australian surveys on cannabis, the law has not been a factor behind the abstention of non-users. This is consistent with what we understand of youth behaviour that puts a premium on experimentation and risk taking.

7.3.2. Law enforcement against consumers as a stimulus to greater availability

So much for the inhibitory effects of the law. There are cogent reasons for believing that, overall, the criminal status of drugs makes them decidedly more available. The interaction between the following factors means that law enforcement at the consumer level actually serves to increase the availability of illicit drugs:

- (a) It is overwhelmingly difficult to police drug laws at the consumer level because, for the most part, the activity is unobtrusive and there is no one

72. “The production and distribution of drugs is increasing across the globe. The illicit drug trade is now an international, multi-billion dollar enterprise with its undisclosed and untaxed profits rivalled by few industries. Estimates of the size of the illicit drug trade range from US \$300-\$500 billion of the United States per annum” (<http://www.pm.gov.au/news/speeches/1998-/interpol.htm> visited 3/01/02).

73. Kenneth W. Clements & Mert Daryl, *The economics of marijuana production* (Economic Research Centre, Department of Economics, The University of Western Australia, 1999) pp. 46-47.

74. Don Weatherburn & Craig Jones, *Does prohibition deter cannabis?* (NSW Bureau of Crime Statistics and Research, study B58, August 2001).

75. *2001 National drug strategy household survey: first results* (2002), fn 24, table 3.10, p. 20.

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likely to complain about it. Even a police state would find it hard to put an end to consumption. The resources required for effective policing of consumption are many times beyond those ever likely to be available. Widespread and intrusive policing would be required in the lives of people, particularly the young. The public controversy in New South Wales over the use of sniffer dogs illustrates the nature of public objections to concerted law enforcement campaigns against users.

- (b) Overwhelmingly drugs are distributed to consumers by informal, dispersed and changing networks of peers. Again, it is beyond the resources of police to have a widespread and lasting impact on these.
- (c) Because many illicit drugs are intensely pleasurable and addictive the demand for them is largely price inelastic. An addicted user will pay whatever is necessary to get his or her drug.
- (d) The peer group distribution network stimulates the uptake of a range of drugs. Typically a dealer will have a smorgasbord. It is for this reason that cannabis is a gateway drug for other drugs. Interventions that divide the market can undermine this dynamic and thus limit the progression from one drug to another. This strategy informs the Dutch policy towards cannabis with apparent success: the average age of the heroin using population is growing older indicating a lack of younger recruits.
- (e) Dealing is the main avenue by which someone addicted to an illicit drug finances his or her habit. There is thus an in-built imperative at the user end to sustain and expand the market. A dramatic reduction in dealing was evident among those receiving heroin prescription in Switzerland. Police reported at 57% reduction in contacts for drug trafficking.⁷⁶ On the basis of self report (which is generally accurate) the reductions are even more than the contact rate suggests: 91% less dealing incidents involving “hard drugs” and 70% less dealing incidents involving “soft” drugs.⁷⁷
- (f) Law enforcement against users themselves does not solve addiction which on the best medical advice is a chronic relapsing condition. The shock of arrest or other contact with the police is thus unlikely to have a long term effect. The pervasiveness of drugs in prisons illustrates the inefficacy of law enforcement.⁷⁸ Where law enforcement has beneficial effects regarding drug taking it is associated with treatment and other non-law enforcement

76. Table 3 for shows an incidence rate of 0.119 for police contacts for drug trafficking 6 months before admission to the program and a rate of 0.051 six months after admission (Killias, Aebi & Ribeaud (1999) fn 16).

77. *Ibid.*, table 1.

78. Australian Bureau of Criminal Intelligence, *Australian illicit drug report 1997-98* (Australian Bureau of Criminal Intelligence, Canberra, March 1999) chapter 9.

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interventions which for all we know would have beneficial effects unaccompanied by law enforcement.

(g) Seizures do not directly translate into decreased availability of illicit drugs on the retail market. The point is made in the RAND study in the on cocaine. Seizure, it stated, “does not directly decrease the supply of cocaine reaching the retail market. Free entry into the cocaine business, at all levels, allows supply to expand to cover the losses due to seizures. To a first-order approximation, suppliers simply produce the market what they would have produced anyway plus enough extra to cover anticipated government seizures.”⁷⁹ A former Tasmanian Police Commissioner and member of the Board of the Australian Bureau of Criminal Intelligence described Australian experience this way:

“I don't think [police action is] having any effect on the supply in Australia. I think that what we do quite regularly when we catch some of the Mr Bigs is that we make life much easier for some of the other Mr Bigs who haven't been prosecuted and caught. We've put their competition in prison and left the world open for them and they're extremely difficult to catch and they go on with their business”⁸⁰

The colossal profit margin — for heroin something like 3000 times the farm-gate price⁸¹ — to be gained from trafficking in illicit drugs ensures that any elimination of a dealer from the distribution network is quickly replaced. The profitability of synthetic drugs is, if anything, higher than the profit margin for heroin.⁸² Production cost of amphetamine-like drugs is very low compared to its wholesale price. “While heroin may be a more valuable product per kilogram at both retail and wholesale levels, from the producers'

79. Rydell and Everingham (1994) fn 67, p. 6.

80. Australian Parliamentary Group for Drug Law Reform, *Drug lore: the questioning of our current drug law; a report based on the transcripts of the Parliamentarians' Inquiry and on papers presented to the seventh International Conference on the Reduction of Drug Related Harm, Hobart, Tasmania, 4-6 March 1996* (Australian Drug Law Reform Foundation, Canberra, February 1997) p. 30.

81. “Illegal drugs” in *Access Economics economics monitor*, October 1997, pp. 14-18 at p. 14.

82. Sandy Gordon, “Technology impacts on drug production in Asia: The role of amphetamines in Asia's growing drug problem” in *Platypus Magazine*, no. 72, pp. 17-22 (Sept. 2001) at p. 20; Mr Keelty the AFP Commissioner, quoted in Keith Moor, “Drug lords push deadly new deals” in *Herald Sun* (Melbourne) Tuesday, 19 June 2001, p. 10; quotation from Mr Keelty in Australian Federal Police media release dated 17 October 2001.

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point of view, the mark-up can be considerably greater for methamphetamine.”⁸³

(h) Australian surveys over many years of price, purity and other indicators of availability of illicit drugs in Australia have shown an overall steady increase in availability. The 2001 heroin drought that is discussed in section 7.1.1.2 is the exception.

(h) Relaxation of the law regarding cannabis has not led to increases in consumption in South Australia and the ACT (where minor offences are subject to an expiation notice),⁸⁴ certain States of the United States where changes were made⁸⁵ and The Netherlands where by virtue of the operation of the Dutch expediency principle, cannabis is virtually legalised for consumers. Indeed for all its relaxed laws, illicit drug usage is much lower in The Netherlands than Australia. The percentage of people who have used cannabis in the last twelve months in The Netherlands is 5% compared to 13% in Australia.⁸⁶ Families and Friends for Drug Law Reform understands that even clearer evidence of the negative correlation between the relaxation of law enforcement and usage is provided in a study comparing Bremen, Los Angeles and Amsterdam that will be published shortly. The study shows that the usage rate of cannabis is significantly lower in Amsterdam. At the very least these examples prove the inverse, that relaxation of drug laws does not necessarily lead to an increase in drug consumption.

7.3.2.1. *Need for drug policies that reduce availability*

Lasting reduction in the uptake and spread of illicit drugs will be achieved only if effective measures are taken to reduce the availability of those drugs. This paper has shown that law enforcement against supply has failed to halt rises in the availability of drugs. Indeed the evidence regarding the heroin drought points to the illicit drug market being extraordinarily sensitive to decisions by the criminal organisations that supply it. If this is correct - and an independent judicial inquiry is required to assess the evidence - it would show that Australia is made to dance to the tune of crime bosses.

Law enforcement at the consumer end is not just ineffective; it is counterproductive. There is irrefutable evidence that stringent law enforcement aggravates the suffering and multiplies the harms to the very people whose interest it

83. Gordon (Sept. 2001) fn 82, p. 20).

84. National Drug Strategy monograph 37, p. 3 and *Drug related health in the ACT* (ACT Department of Health & Community Care, December 1999) p. 23.

85. *The regulation of cannabis possession, use and supply* (April 2000), fn 40, pp. 93-94.

86. *Q & A drugs: a guide to Dutch policy 2002* (Information and Communication Division, Ministry of Foreign Affairs, 2002) annex IV and *2001 National drug strategy household survey: first results* (2002), fn 24, p. 22.

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should assist: the dependent users. Not only does law enforcement at the consumer level fail to keep drugs from the young but there are strong reasons to believe that it actually serves to make them more available. To repeat yet again the words of the National Crime Authority, the battle against illicit drugs cannot “be won by law enforcement alone or in partnership with the health sector.” A “co-ordinated and holistic approach” is required. The “scale of the illicit drug problem and its onward progression is such as to demand the highest attention of government and the community”. In short, to do something effective about cutting community crime requires a root and branch rethink of drug policies.

Recommendation 11:

The Australian Government should adopt drug policies that, consistent with minimising the harm to drug users, secure a demonstrable reduction in availability of dangerous drugs on the black market.

Brian McConnell
President,
Families and Friends for Drug Law Reform

22 August 2002

APPENDICES

APPENDIX A

SWISS TRIAL OF MEDICALLY PRESCRIBED HEROIN

Extract from: Switzerland, Federal Office of Public Health, *Treatment with prescription heroin: Arguments concerning the popular vote on the Urgent Federal Ordinance on the medical prescription of heroin (treatment with medically prescribed heroin) on 13 June 1999* (GEWA, Zollikafen, April 1999). Translation at www.ffdlr.org.au of a French version at <http://www.admin.ch/bag/sucht/drog-pol/abstimmg/f/index.htm>

VII — Some facts and figures concerning treatment with prescription heroin

The following data is drawn from the synthesis report of June 1997⁸⁷ and recent evaluations and inquiries of the Institute of Addiction Research at Zurich⁸⁸ and of the Institute of Forensic Science and Criminology of the University of Lausanne⁸⁹.

Tables of figures 1, 2.1, 2.2 and 3.1 are based on information furnished by 632 people who undertook heroin prescription treatment in the second half of 1997. To take into account differences that may exist between the groups of patients in treatment for different periods, three sub-groups have been established for the evaluation:

- 269 patients who, at the time of enquiry, were in treatment for less than two years
- 219 patients who, at the time of enquiry, were in treatment from two to three years
- 144 patients who, at the time of enquiry, were in treatment for more than 3 years

1 Social integration at the start of treatment and during it

1.1 Housing situation

| Housing situation | Patients in treatment for less than 2 years (n=269) | | Patients in treatment from 2 to 3 years (n=291) | | Patients in treatment for more than 3 years (n=144) | |
|-------------------|-----------------------------------------------------|------|-------------------------------------------------|------|-----------------------------------------------------|------|
| | on entry | 1997 | on entry | 1997 | on entry | 1997 |
| stable | 53% | 81% | 47% | 74% | 59% | 82% |
| unstable | 47% | 19% | 53% | 26% | 41% | 18% |

87 A. Uchtenhagen, F. Gutzwiller, A. Dobler-Mikola (édit.) : *Essais de prescription médicale de stupéfiants, Rapport final des mandataires de la recherche, rapport de synthèse*; Zurich, juin 1997 [For an English summary see Ambros Uchtenhagen, *Programme for a medical prescription of narcotics: final report of the research representative: summary of the synthesis report* (University of Zurich, Zurich, 1997).]

88 Internal evaluations not yet published of the Institute of Addiction Research of the University of Zurich.

89 Internal evaluations not yet published of the Institute of Forensic Science and Criminology of the University of Lausanne

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The housing situation is considered stable when there is long term assurance of psychologically and physically tolerable conditions. On this basis a positive change was observed in the three groups of patients. The patients succeed in stabilising notably their housing conditions.

1.2 Employment

| Employment situation | Patients in treatment for less than 2 years (n=269) | | Patients in treatment from 2 to 3 years (n=291) | | Patients in treatment for more than 3 years (n=144) | |
|------------------------------|-----------------------------------------------------|------|-------------------------------------------------|------|-----------------------------------------------------|------|
| | on entry | 1997 | on entry | 1997 | on entry | 1997 |
| full time employment | 9% | 10% | 7% | 13% | 9% | 16% |
| part time employment | 5% | 9% | 3% | 6% | 6% | 15% |
| temporary training housework | 10% | 38% | 8% | 40% | 17% | 31% |
| unemployment benefits | 44% | 36% | 45% | 31% | 30% | 30% |
| unable to work | 16% | 6% | 17% | 7% | 17% | 8% |
| street crime prostitution | 16% | 1% | 19% | 2% | 20% | 1% |

A significant growth in forms of legal employment in the three sub-groups was ascertained. In particular temporary employment clearly increased, but one also observes this tendency in full time employment and part time employment. On the other hand, those who gravitate to the neighbourhood of the drug scene had clearly diminished.

1.3 Circle of friends

| Circle of friends | Patients in treatment for less than 2 years (n=269) | | Patients in treatment from 2 to 3 years (n=291) | | Patients in treatment for more than 3 years (n=144) | |
|------------------------|-----------------------------------------------------|------|-------------------------------------------------|------|-----------------------------------------------------|------|
| | on entry | 1997 | on entry | 1997 | on entry | 1997 |
| no friends | 28% | 29% | 30% | 26% | 26% | 23% |
| drug dependent friends | 29% | 18% | 30% | 22% | 31% | 16% |
| friends not on drugs | 43% | 54% | 40% | 53% | 44% | 61% |

People interviewed who had no friends at the start of treatment had barely changed in the course of treatment. On the other hand, among people interviewed who had friends, a displacement towards friends outside the drug milieu is observed. The longer treatment lasts, the greater the number of friendships established outside the drug scene increases.

2 State of health at commencement of treatment and during it

2.1 Physical health

| Physical health | Patients in treatment for less than 2 years (n=269) | | Patients in treatment from 2 to 3 years (n=291) | | Patients in treatment for more than 3 years (n=144) | |
|-----------------|-----------------------------------------------------|------|-------------------------------------------------|------|-----------------------------------------------------|------|
| | on entry | 1997 | on entry | 1997 | on entry | 1997 |
| very good | 6% | 11% | 3% | 8% | 1% | 6% |
| good | 74% | 82% | 76% | 81% | 74% | 86% |
| bad | 19% | 8% | 20% | 11% | 24% | 8% |
| very bad | 1% | 0% | 1% | 1% | 1% | 0% |

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2.2 Psychological health

| Psychological health | Patients in treatment for less than 2 years (n=269) | | Patients in treatment from 2 to 3 years (n=291) | | Patients in treatment for more than 3 years (n=144) | |
|----------------------|-----------------------------------------------------|------|-------------------------------------------------|------|-----------------------------------------------------|------|
| | on entry | 1997 | on entry | 1997 | on entry | 1997 |
| very good | 3% | 4% | 3% | 6% | 1% | 9% |
| good | 58% | 77% | 61% | 74% | 53% | 76% |
| bad | 36% | 18% | 34% | 17% | 45% | 15% |
| very bad | 2% | 1% | 3% | 3% | 1% | 1% |

Re 2.1 and 2.2: Heroin prescription treatment has a positive influence on the evolution of the physical and psychological health of the patients. Already after a short time, nearly 90% are in good physical health and more than 80% in good psychological health. It should be noted, though, that the state of health of these people should always be evaluated taking account of the fact that one is dealing with people who are seriously heroin dependent.

2.3 Reduction in acute illnesses (n-147)

| Acute illnesses | during the first month after entry | after 18 months of treatment |
|--------------------|------------------------------------|------------------------------|
| skin illnesses | 49% | 6% |
| digestive troubles | 10% | 3% |
| anaemia | 5% | 1% |
| epileptic attacks | 5% | 0.5% |
| intoxication | 4% | 1% |

3 Crime at the commencement of treatment

3.1 Illegal and semi-illegal income (petty dealing and prostitution)

(The data is that furnished by the people questioned)

| Psychological health | Patients in treatment for less than 2 years (n=269) | | Patients in treatment from 2 to 3 years (n=291) | | Patients in treatment for more than 3 years (n=144) | |
|----------------------------------|-----------------------------------------------------|------|-------------------------------------------------|------|-----------------------------------------------------|------|
| | on entry | 1997 | on entry | 1997 | on entry | 1997 |
| no illegal income | 33% | 89% | 28% | 86% | 35% | 83% |
| only petty dealing | 20% | 3% | 17% | 8% | 17% | 8% |
| only illegal income | 20% | 7% | 21% | 4% | 23% | 6% |
| petty dealing and illegal income | 27% | 0% | 35% | 2% | 25% | 4% |

The results show clearly that all forms of illegal and semi-illegal income have reduced during treatment.

3.2 Patients having committed crimes registered by the police (data drawn from police registers)

| Observation period | Before commencement of treatment | After commencement of treatment | Reduction |
|--------------------|----------------------------------|---------------------------------|-----------|
| 6 months (n=604) | 45.4% | 25.8% | 43.2% |
| 12 months (n=336) | 53.6% | 32.1% | 40.1% |
| 18 months (n=153) | 66.7% | 39.2% | 41.2% |
| 24 months (n=108) | 73.1% | 44.4% | 39.3% |

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The number of patients having committed crimes registered by the police has reduced by about 40% during treatment, independently of the period of observation.

3.3 Average number of crimes per patient registered by the police (data drawn from police registers)

| Observation period | Before commencement of treatment | After commencement of treatment | Reduction |
|--------------------|----------------------------------|---------------------------------|-----------|
| 6 months (n=604) | 1.92 | 0.61 | 68.2% |
| 12 months (n=336) | 3.16 | 1.00 | 68.4% |
| 18 months (n=153) | 4.56 | 1.38 | 69.7% |
| 24 months (n=108) | 5.84 | 1.69 | 71.1% |

The reduction in average number of crimes per patients is close to 70%.

4 Reasons for leaving treatment (as at March 1999)

| Motives | Left during the 1st semester | | Left during the 2nd semester | | Left during the second year | | Left after the 2nd year | | Total | |
|----------------------------------|------------------------------|-------------|------------------------------|-------------|-----------------------------|-------------|-------------------------|-------------|------------|------------|
| | Number | % | Number | % | Number | % | Number | % | Number | % |
| Abstinence based treatment | 34 | 27.0 | 26 | 27.1 | 29 | 34.5 | 45 | 32.8 | 134 | 30.2 |
| Prescription methadone treatment | 43 | 34.1 | 43 | 44.8 | 22 | 26.2 | 54 | 39.4 | 162 | 36.6 |
| Hospitalisation | 3 | 2.4 | | | 4 | 4.8 | 1 | 0.7 | 8 | 1.8 |
| Exclusion | 8 | 6.3 | 4 | 4.2 | 5 | 6.0 | 10 | 7.3 | 27 | 6.1 |
| Put in detention | 7 | 5.6 | | | 1 | 1.2 | 3 | 2.2 | 11 | 2.5 |
| Moved from the area | 1 | 0.8 | 1 | 1.0 | 1 | 1.2 | 2 | 1.5 | 5 | 1.1 |
| Died | 4 | 3.2 | 6 | 6.3 | 2 | 2.4 | 5 | 3.6 | 17 | 3.8 |
| Left without explanation | 24 | 19.0 | 15 | 15.6 | 11 | 13.1 | 16 | 11.7 | 66 | 14.9 |
| Other reasons | 2 | 1.6 | 1 | 1.0 | 9 | 10.7 | 1 | 0.7 | 13 | 2.9 |
| Total | 126 | 28.4 | 96 | 21.7 | 84 | 19.0 | 137 | 30.9 | 443 | 100 |

A total of 456 people left treatment from the start of the trials of heroin prescription treatment up to March 1999. Data on 443 people whose length of treatment varied, is able to be analysed: 27% to 34% have opted for abstinence based treatment, 26% to 45% have chosen prescription methadone treatment.

APPENDIX B

**SECTION ON ILLICIT DRUGS OF THE COMMENTARY ISSUED BY THE
NATIONAL CRIME AUTHORITY IN AUGUST 2001**

National Crime Authority, *NCA Commentary 2001* (August 2001) in NCA Commentary 2001.pdf at <http://www.nca.gov.au/html/index.html> visited 19/12/01

ILLICIT DRUGS

In dealing with the question of law enforcement's capability to control illicit drugs, much of which are imported, we must have regard to realities. Australia has 25,760 kilometres of coastline to watch. In the 1999/2000 financial year, Australian ports received 1,623,006 containers, loaded and empty. During the same period there were 8,317,030 arrivals through Australian airports.²⁷

Illicit drugs are currently the most lucrative commodities for organised crime in Australia. The estimated cost of illicit drug abuse to the Australian community is at least \$1.7 billion annually.²⁸ The scourge of illicit drugs is pervasive in our community and is recognised by government, law enforcement, and the Australian community, as a major threat. Notwithstanding the best efforts of all involved, there is little room for complacency.

The illicit drug trade in Australia is centred on heroin, cocaine, cannabis and amphetamine-type substances, including MDMA (ecstasy). The Commonwealth Government's Household Survey of Drug Use Patterns conducted in 1998 indicated that the number of heroin users (annual prevalence) is 0.7% of the population aged fifteen and above, up from 0.4% in 1995. The United Nations Office for Drug Control and Crime Prevention (UNDCP) observes that these levels are high compared to Western Europe and North America.²⁹

Deaths caused by opioid overdoses, including heroin, are not only costly in terms of the health dollar, they have a terrible impact on families and society. Research conducted during the past ten years into opioid overdose deaths among those aged 15 to 44 across Australia show the number of these deaths has risen. In 1989 there were 302 overdose deaths; in 1999 there were 958. The upward trend is apparent even when factoring in changes of overall population.³⁰

The impact of crime associated with illicit drug use is broad. In surveys conducted in NSW during 1999, four out of five offenders detained on property offences tested positive to an illicit drug of some sort.³¹

While the linkage is not necessarily causal, there are offenders who depend on the sale of stolen goods to fund their illicit drug purchases. Increased property theft increases household and retail insurance premiums for all, as well as having an impact on health costs through stress-related factors. For example, armed robbery is known to traumatise bank staff and lead to additional workers' compensation costs.

There are clear links between heroin dependency and some instances of prostitution, associated criminal activity particularly in relation to violence and illegal immigration, and related health risks. Methylamphetamine, which is the second most frequently used illicit drug in Australia,³² has been linked to violent and psychotic behaviour.³³ Numerous studies have uncovered physical and psychological damage

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caused by MDMA, a drug commonly known as ecstasy.³⁴ One Australian study conducted during 2000 revealed that 59% of the sample reported occupational problems (including high incidence of sick leave) or study problems attributed to regular ecstasy use, with 49% reporting relationship problems including violence.³⁵ Illicit drug use generally has been linked to otherwise preventable industrial and car accidents, both affecting insurance and compensation premiums as well as costs to the health and well-being of non illicit drug users.

Because of the criminality and severe attendant penalties, it is difficult to gain access to the relevant data necessary to accurately measure the quantity of substances available. It is to be noted that all careful and credible estimates necessarily resort to a range of figures.

HEROIN

- During the period 1984-1987 the National Drug and Alcohol Research Council (NDARC) estimated the number of dependent heroin users in Australia as being approximately 34,000. Using a consumption rate of .5 grams a day with a conservative 50% purity rate, the annual consumption rate of heroin at that time was more than 3 tonnes.
- In a more recent estimate of dependent opioid users in Australia published last year NDARC estimated the number of dependent heroin users had grown to a range of 67,000 to 92,000 with a median of 74,000 users. Based on the median figure of 74,000 dependent users and a consumption rate of .5 grams per day at a purity rate of 50%, the approximate consumption rate of heroin each year in Australia can now be assessed as approximately 6.7 tonnes. This represents a doubling of the situation from 17 years ago. If the higher end figure is used then a consumption rate of in excess of 8 tonnes per year is possible.
- Law enforcement has interdicted only a fraction of the illicit drugs circulating in the community. In the year 1999/2000 Australian law enforcement agencies seized a total of approximately 5.3 tonnes of illicit drugs in Australia. Of this 5.3 tonnes, approximately 734 kilograms was heroin. Based on a conservative consumption rate of approximately 6 tonnes as illustrated above this represents just 12% of the heroin being consumed. If the higher consumption rate of 8 tonnes is considered the interdiction rate is even more alarming” (NCA (August 2001) pp. 21-22).
- One of the most striking examples of the influx of narcotics into the community is its relative affordability. In 1979 the effective street price per ounce of pure heroin was approximately \$16,000. In 1999 it was \$5000 and the difference is even greater when inflation is taken into account.⁴²

The harm inflicted on the Australian community by illicit drugs is substantial. Its impact causes a diminution of the lives of all of us, whether it be directly via actual substance abuse or indirectly through increased costs associated with law enforcement and health care or disruption, grief or anguish to families. Much of that

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harm is attributable to the organised crime networks responsible for importing, manufacturing and distributing illicit drugs.

WHAT NOW AND WHAT NEXT?

The NCA's current operational knowledge and experience, details of which cannot be publicly exposed, is such that the illicit drug trade continues to flourish in our country. To the NCA's knowledge the previously mentioned statistics and information reflect an observable trend towards increased involvement in drug trafficking and an ongoing preparedness of criminals to meet market demand for different illicit substances.

While unrelenting concentration should be directed towards apprehending those who traffic and profit from the misery and degradation of others, there is a need for strategies to be constantly reviewed. This is a field where the dynamics do not remain static. The risk and cost to the community may well mount to a point where different measures or a different concentration of measures should be considered. There are always balances to be struck. It does, however, seem safe to observe at this moment that there is hardly a household in Australia that does not have personal knowledge or experience of the evils of drug addiction and its associated effects.

This Commentary is not the appropriate place to rehearse different contentions in the long running public debate as to our drug problem. Suffice to say that experience should encourage us not to rule out consideration of new options or reconsideration of options previously deemed unpalatable. We must respond to the ongoing progression of this problem. Among the many measures worthy of consideration is to control the market for addicts by treating the supply of addictive drugs to them as a medical and treatment matter subject to supervision of a treating doctor and supplied from a repository that is government controlled.

Whatever steps are taken, the scale of the illicit drug problem and its onward progression is such as to demand the highest attention of government and the community - it simply is not a battle that can be won by law enforcement alone or in partnership with the health sector. A co-ordinated and holistic approach is required, building upon and updating the foundation already established.

27 Internal documents.

28 Extrapolated from research by David J Collins and Helen M Lapsley (1996) The social costs of drug abuse in Australia in 1988 and 1992, National Drug Strategy, Monograph Number 30, Commonwealth Department of Human Services and Health, p. vii (<http://www.health.gov.au/pubhlth/publicat>) cited in Tough on Drugs (2001) "Families" booklet, p. 5.

29 UNDCP (2001) Global Illicit Drug Trends 2000 p. 185.

30 National Drug and Alcohol Research Centre (2001) Australian Drug Trends 2000: Findings of the Illicit Drug Reporting System (IDRS), National Drug and Alcohol Research Centre Monograph No. 47, University of NSW, pp 61-63.

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- 31 Toni Makkai, Jacqueline Fitzgerald and Peter Doak (2000) "Drug Use Among Police Detainees", Crime and Justice Bulletin, NSW Bureau of Crime Statistics and Research, No 49, p. 6.
- 32 Cannabis is the first mostly widely used illicit drug. ABCI (2001) Australian Illicit Drug Report 1999-2000, Canberra p.52.
- 33 R Berkow, et al (2000) "Drug Dependence and Addiction" The Merck Manual of Medical Information-Home Edition, New Jersey; and Koch Crime Institute (2000) Methylamphetamine: Frequently Asked Questions http://www.kci.org/meth_info/faq_meth.htm.
- 34 The full name of the drug is 3,4- Methylendioxyamphetamin. MDMA is an analogue of methylamphetamine, which has both stimulant and hallucinogenic properties.
- 35 National Drug and Alcohol Research Centre (2001) NSW Party Drug Trends 2000, National Drug and Alcohol Research Centre Technical Report No. 113, University of NSW, p. 31.
- 36 The consumption rate is based on an indicative figure of 2.5 hits a day of .2grams of heroin with an indicative purity level of 50%. This rate has been used previously in law enforcement assessments.
- 37 The figures for the number of dependent opiod users can be found in "How Many Dependent Opioid Users are There in Australia?"; Monograph 44, NDARC; Hall, Ross, Lynskey, Law & Degenhardt (2000)
- 38 A purity level of 50% is a conservative figure designed to be indicative only. Purity levels of heroin seized in NCA operations is often significantly higher.
- 39 The actual rate of consumption is notoriously difficult to assess due to the lack of reliable data and variables such as purity levels of the heroin consumed, patterns of use between individual addicts, unreported consumers and consumption by 'casual' users. These figures are a guide only.
- 40 ABCI (2001) Australian Illicit Drug Report 1999-2000, Canberra, p.123. These statistics include amphetamine-type substances, heroin, other opioids, cocaine, cannabis, steroids, hallucinogens and other illicit drugs. These figures include only those seizures for which a drug weight was recorded. There is no present way to adjust for some double counting of seizures resulting from joint operations between law enforcement agencies.
- 41 ABCI (2001) Australian Illicit Drug Report 1999-2000, Canberra, p.11
- 42 "How Many Dependent Opioid Users are There in Australia?"; Monograph 44, NDARC; Hall, Ross, Lynskey, Law & Degenhardt (2000)