

# Families and Friends for Drug Law Reform

*committed to preventing tragedy that arises from illicit drug use*

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## NEWSLETTER

## June 2010

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**NEXT Meeting**  
**Thursday 24 June 2010**  
at 7.30pm

**Venue:** St Ninian's Uniting Church, cnr  
Mouat and Brigalow Sts, Lyneham.  
**Refreshments will follow**

### Editorial

#### **Illicit Drug Data Report**

Recently the Home Affairs Minister Brendan O'Connor launched the 2008 - 09 Australian Crime Commission's (ACC) Illicit Drug Data Report. John Lawler, the Chief Executive Officer of the ACC introduced it in part in this way:

*....Serious and organised crime is principally motivated by money and power, and the illicit drug market continues to be the main source of profit for serious and organised crime. ...*

*The Australian Crime Commission's Illicit Drug Data Report (IDDR) is the most authoritative picture available of Australia's illicit drug environment, working closely with both our State and Territory, and Commonwealth partners—including law enforcement, forensic laboratories and government agencies from across the country—we collate data into one unique document. Significantly, the report assists decision-makers and our partners working to address the impact of illicit drugs, as well as informing the general public, academics and international organisations.*

*The 2008–09 edition of the IDDR highlights law enforcement's success in the battle against illicit drugs, with over 13 tonnes of illicit drugs seized and close to 84 000 arrests made. Law enforcement methodologies must consistently evolve to be ahead of organised crime. ...*

*Despite a change in the make up of the arrest data, the number of illicit drug arrests has remained relatively level over the past decade.*

There is no doubt that the report is a very informative and useful document. But it has its own bias – it is by and large a report of law enforcement activity in relation to illicit drugs. It provides some information about the illicit drug market but it is by no means the total picture and if not read objectively it can possibly lead to wrong conclusions.

The CEO, John Lawler, describes it a success, that 13 tonnes of illicit drugs were seized and 84,000 arrests were made. But then states that the number of illicit drug

arrests has remained relatively stable over the past decade. If there had been any progress or success over that past decade one would expect that the number of arrests would be declining!

It is easy to understand this concept by looking at another population that like the drug market is hidden from direct observation. If for example one wanted to know the relative number of fish in a favourite spot. It could be deduced that a stable catch size on each visit meant that the fish population was stable. Likewise a decreasing catch size indicates decreasing fish stocks. So what does it mean that *“the number of illicit drug arrests has remained relatively level over the past decade”*?

Delving a little closer into the detailed data of the report one can see that the majority of the arrests are of drug users – some 81% of the 84,000 arrests are of drug users. The report is silent about their fate. Having been arrested one would expect that they would be processed through some section of the criminal justice system but at what cost to the taxpayer?

One state, South Australia, has taken a more effective approach. In that state some 10,000 drug related arrests were made but almost 7,000 of those were given a Cannabis Expiation Notice (CEN) (a system that still regards cannabis use as illegal but treats it as a civil offence with a fine). Thus saving police time and the time of the courts. There are also many benefits to users in keeping them away from the criminal justice system with all the social and personal problems that having a criminal record brings.

Many other states have systems similar to the SA CEN system but they do not use it to any great extent.

If the report was truly one *“to assist decision makers”* and a tool to help, then they should at least follow the SA example. The resource savings alone would make it worthwhile.

**drug**  
**action week®**  
**20 – 26 June**

The theme this year is

**“Looking after YOUR mind!”**

Drug Action Week (DAW) 2010, which is an initiative of the Alcohol and other Drugs Council of Australia (ADCA), is a week of activities held nationally to raise awareness about alcohol and other drugs (AOD) issues in Australia. It also highlights the achievements of the dedicated individuals who work within the AOD sector to reduce alcohol and drug-related harm.

The National Launch was held on Tuesday 15 June at Campbell High School. The main speaker was Hon. Mark Butler MP, Parliamentary Secretary for Health.

Each year, a diverse range of voices including State/Territory AOD organisations, non-government organisations, community groups, the education sector, and the media join ADCA to speak out about alcohol and other drug-related issues.

Unfortunately FFDLR have not organised an event during this week but expect to organise a forum soon.

For details of events happening in your state/territory check the website at:

[www.drugactionweek.org.au](http://www.drugactionweek.org.au).

## AP-US Drug War Has Met None Of Its Goals

Martha Mendoza, Associated Press, May 13, 2010

MEXICO CITY - After 40 years, the United States' war on drugs has cost \$1 trillion and hundreds of thousands of lives, and for what? Drug use is rampant and violence even more brutal and widespread.

Even U.S. drug czar Gil Kerlikowske concedes the strategy hasn't worked.

"In the grand scheme, it has not been successful," Kerlikowske told The Associated Press. "Forty years later, the concern about drugs and drug problems is, if anything, magnified, intensified."

This week President Obama promised to "reduce drug use and the great damage it causes" with a new national policy that he said treats drug use more as a public health issue and focuses on prevention and treatment.

Nevertheless, his administration has increased spending on interdiction and law enforcement to record levels both in dollars and in percentage terms; this year, they account for \$10 billion of his \$15.5 billion drug-control budget.

Kerlikowske, who coordinates all federal anti-drug policies, says it will take time for the spending to match the rhetoric.

Nothing happens overnight," he said. "We've never worked the drug problem holistically. We'll arrest the drug dealer, but we leave the addiction."

His predecessor, John P. Walters, takes issue with that.

Walters insists society would be far worse today if there had been no War on Drugs. Drug abuse peaked nationally in 1979 and, despite fluctuations, remains below those levels, he says. Judging the drug war is complicated: Records indicate marijuana and prescription drug abuse are climbing, while cocaine use is way down. Seizures are up, but so is availability."

To say that all the things that have been done in the war on drugs haven't made any difference is ridiculous," Walters said. "It destroys everything we've done. It's saying all the people involved in law enforcement, treatment and prevention have been wasting their time. It's saying all these people's work is misguided."

In 1970, hippies were smoking pot and dropping acid. Soldiers were coming home from Vietnam hooked on heroin. Embattled President Richard M. Nixon seized on a new war he thought he could win.

This nation faces a major crisis in terms of the increasing use of drugs, particularly among our young people," Nixon said as he signed the Comprehensive Drug Abuse Prevention and Control Act. The following year, he said: "Public enemy No. 1 in the United States is drug abuse. In order to fight and defeat this enemy, it is necessary to wage a new, all-out offensive."

His first drug-fighting budget was \$100 million. Now it's \$15.1 billion, 31 times Nixon's amount even when adjusted for inflation.

Using Freedom of Information Act requests, archival records, federal budgets and dozens of interviews with leaders and analysts, the AP tracked where that money went, and found that the United States repeatedly increased budgets for programs that did little to stop the flow of drugs.

and Prevention says drug overdoses have "risen steadily" since the early 1970s to more than 20,000 last year.

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Harvard University economist Jeffrey Miron says the only sure thing taxpayers get for more spending on police and soldiers is more homicides.

Current policy is not having an effect of reducing drug use," Miron said, "but it's costing the public a fortune."

From the beginning, lawmakers debated fiercely whether law enforcement - no matter how well funded and well trained - could ever defeat the drug problem.

Then-Alaska Sen. Mike Gravel, who had his doubts, has since watched his worst fears come to pass.

Look what happened. It's an ongoing tragedy that has cost us a trillion dollars. It has loaded our jails and it has destabilized countries like Mexico and Colombia," he said.

In 1970, proponents said beefed-up law enforcement could effectively seal the southern U.S. border and stop drugs from coming in. Since then, the U.S. used patrols, checkpoints, sniffer dogs, cameras, motion detectors, heat sensors, drone aircraft - and even put up more than 1,000 miles of steel beam, concrete walls and heavy mesh stretching from California to Texas.

None of that has stopped the drugs. The Office of National Drug Control Policy says about 330 tons of cocaine, 20 tons of heroin and 110 tons of methamphetamine are sold in the United States every year - almost all of it brought in across the borders. Even more marijuana is sold, but it's hard to know how much of that is grown domestically, including vast fields run by Mexican drug cartels in U.S. national parks.

The dealers who are caught have overwhelmed justice systems in the United States and elsewhere. U.S. prosecutors declined to file charges in 7,482 drug cases last year, most because they simply didn't have the time. That's about one out of every four drug cases.

The United States has in recent years rounded up thousands of suspected associates of Mexican drug gangs, then turned some of the cases over to local prosecutors who can't make the charges stick for lack of evidence. The suspects are then sometimes released, deported or acquitted. The U.S. Justice Department doesn't even keep track of what happens to all of them.

In Mexico, traffickers exploit a broken justice system. Investigators often fail to collect convincing evidence - and are sometimes assassinated when they do. Confessions are beaten out of suspects by frustrated, underpaid police. Judges who no longer turn a blind eye to such abuse release the suspects in exasperation.

In prison, in the U.S. or Mexico, traffickers continue to operate, ordering assassinations and arranging distribution of their product even from solitary confinement in Texas and California. In Mexico, prisoners can sometimes even buy their way out.

The violence spans Mexico. In Ciudad Juarez, the epicenter of drug violence in Mexico, 2,600 people were killed last year in cartel-related violence, making the city of 1 million across the Rio Grande from El Paso, Texas, one of the world's deadliest. Not a single person was prosecuted for homicide related to organized crime.

And then there's the money.

The \$320 billion annual global drug industry now accounts for 1 percent of all commerce on the planet.

A full 10 percent of Mexico's economy is built on drug proceeds - \$25 billion smuggled in from the United States every year, of which 25 cents of each \$100 smuggled is seized at the border. Thus there's no incentive for the kind of financial reform that could tame the cartels.

For every drug dealer you put in jail or kill, there's a line up to replace him because the money is just so good," says Walter McCay, who heads the nonprofit Center for Professional Police Certification in Mexico City.

McCay is one of the 13,000 members of Medford, Mass.-based Law Enforcement Against Prohibition, a group of cops, judges, prosecutors, prison wardens and others who want to legalize and regulate all drugs.

A decade ago, no politician who wanted to keep his job would breathe a word about legalization, but a consensus is growing across the country that at least marijuana will someday be regulated and sold like tobacco and alcohol.

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Mexican President Felipe Calderon says if America wants to fix the drug problem, it needs to do something about Americans' unquenching thirst for illegal drugs.

Kerlikowske agrees, and Obama has committed to doing just that.

And yet both countries continue to spend the bulk of their drug budgets on law enforcement rather than treatment and prevention.

President Obama's newly released drug war budget is essentially the same as Bush's, with roughly twice as much money going to the criminal justice system as to treatment and prevention," said Bill Piper, director of national affairs for the nonprofit Drug Policy Alliance. "This despite Obama's statements on the campaign trail

that drug use should be treated as a health issue, not a criminal justice issue."

Obama is requesting a record \$15.5 billion for the drug war for 2011, about two thirds of it for law enforcement at the front lines of the battle: police, military and border patrol agents struggling to seize drugs and arrest traffickers and users.

About \$5.6 billion would be spent on prevention and treatment.

For the first time ever, the nation has before it an administration that views the drug issue first and foremost through the lens of the public health mandate," said economist and drug policy expert John Carnevale, who served three administrations and four drug czars. "Yet it appears that this historic policy stride has some problems with its supporting budget."

Carnevale said the administration continues to substantially over-allocate funds to areas that research shows are least effective - interdiction and source-country programs - while under-allocating funds for treatment and prevention.

Kerlikowske, who wishes people would stop calling it a war" on drugs, frequently talks about one of the most valuable tools they've found, in which doctors screen for drug abuse during routine medical examinations. That program would get a mere \$7.2 million under Obama's budget.

People will say that's not enough. They'll say the drug budget hasn't shifted as much as it should have, and granted I don't disagree with that," Kerlikowske said. We would like to do more in that direction."

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## **Free rein for blood borne disease in our prison: A no-brainer**

By Bill Bush

It is sadly ironic that it should have been during hepatitis C week that the Government revealed an apparent case of a prisoner contracting hepatitis C while in custody in the new ACT prison. The Canberra Time's heading, "Hep C-infected inmate could sue Govt" (May 19, p. 4), highlights one aspect: the apparent failure by the Government in its duty to keep safe those within its care. The Chief Minister himself put it this way to the Assembly: "We have a responsibility to the ACT community, to our prisoners and to their families to provide opportunities for persons sentenced to imprisonment to turn their lives around." A prisoner may be sentenced to a loss of liberty when found guilty of a crime - not to a life threatening and stigmatising disease.

Exposure of the Government to a legal claim is just one of the angles when it comes to the transmission of the blood borne diseases of hepatitis C and HIV. There are the public health dimensions. The incident raises human rights issues. Should sterile syringes be provided? There is the obligation to provide a safe working environment for staff and there are budgetary implications.

As for common law liability, there has been a string of cases from the High Court down in support of the proposition that "The control vested in a prison authority

is the basis of a special relationship which extends to a duty to take reasonable care to prevent harm stemming from the unlawful activities of third parties.” This clearly covers protecting prisoners from assaults and apparently also the obligation to provide protection against the contraction of infectious diseases. Litigation in 1990 before the NSW Court of Appeal involving a prisoner who contracted HIV while in prison forced the hand of NSW Corrections to provide condoms to prevent the spread of that disease.

The public health argument in support of needle exchanges in the prevention of blood borne diseases is beyond serious dispute. For example, HIV prevalence in Glasgow where sterile syringes were available was less than 5% but more than 30% in nearby Edinburgh when there was no such program. Dr Peter Sharp of Winnunga Nimmityjah has warned that “Prisons are little concentrations of Hep C all around the country from where it is going to spread out.” And there are examples of the very explosion that he warns: in Lithuania in 2002, almost 300 new cases of HIV were identified in a correctional facility through sharing of drug injection equipment. 260 prisoners contracted HIV in a Russian correctional colony in 2001.

Australia congratulates itself on the low level of HIV prevalence. One hears argued because of this, that prison syringe programs are unnecessary and in the next breath that because there is a high prevalence of hepatitis C in prisons there is no point in providing syringes because injecting drug users in prison will contract blood borne diseases anyway. It is by good luck rather than good management that we have not had the same explosion of HIV in prisons as in Eastern Europe. This Canberra case shows uninfected prisoners may contract hepatitis C in prison or may have their health further compromised by picking up a different genotype of the disease. To quote Dr Sharp again: “We know absolutely that the big problem is the sharing of intravenous equipment and it is self-evident to everybody that if we are to stop this epidemic we must stop this and we must provide clean injecting gear.”

Under international human rights law, people in prison have a right to the highest attainable standard of physical and mental health. Bodies as different as the UN Office on Drugs and Crime Control and the World Health Organization have called on governments to work with all groups of civil society to address the gap in access to services for injecting drug users in all settings, including prisons. In spite of this, the ACT is showing signs of retreating from the principle enunciated in its drug strategies that prisoners, detainees and remandees should have full access to health services and treatments that are available to the community.

In the light of the evidence, it is no wonder that the Health Minister, Katy Gallagher, has called opposition to a needle syringe program a “no-brainer” and the Corrections Minister, Simon Corbell, has publicly supported the program. The Government nevertheless seems to use the proclaimed opposition of prison officers as a reason for not proceeding. It has accorded them a veto on the issue and has encircled its promised

review of the need for such a program with a palisade of eternal procrastination. The Government requires:

- 1) An evaluation of drug policies and services “18 months after the commissioning”
- 2) A decision after the evaluation whether “further consideration of a trial needle exchange program is warranted”
- 3) ACT Health to investigate the feasibility of introducing such a trial
- 4) A decision by the Government whether to introduce a trial.

Another irony is that there is a strong OH&S case for the introduction of an NSP. Searching for contraband syringes is hazardous. A high percentage of needle stick injuries suffered by staff occurs while doing so. This risk is eliminated in the 60 prisons in eleven countries where sterile syringes are provided. Moreover there has been no case of such a syringe being used in an assault in contrast to this happening in NSW leading to the death from AIDS of the officer in 1997.

If health and human rights do not cut ice, then costs might do so. The ACT Government is facing mounting health bills for hepatitis C treatment. While the number of patients who develop liver failure is relatively few, those who reach that stage 20 years on from infection have extremely high costs of treatment. Under the Howard Government a cost benefit analysis was commissioned which showed huge savings from needle-syringe programs as a result of avoided hepatitis C and HIV infections. A revision of the study published last year found that every \$1 spent on syringe programs saves the community \$27, including the business sector through prevented lost productivity.

## Qld Parliamentary Inquiry

The Social Development Committee of the Qld parliament has been conducting an inquiry into Addressing Cannabis-Related Harm in Queensland. Families and Friends for Drug Law Reform made a submission to the inquiry and Bill Bush and Brian and Marion McConnell appeared before the committee and gave evidence. The submissions and other information about the inquiry can be found at:

[parliament.qld.gov.au/view/committees/SDC.asp?SubArea=inquiries\\_cannabis](http://parliament.qld.gov.au/view/committees/SDC.asp?SubArea=inquiries_cannabis)

## Remembrance Ceremonies

Remembrance Ceremonies will be held in the following venues and dates. Put the relevant date in your diary now.

Newcastle – Sunday 25<sup>th</sup> September. Enquiries: 0401305522

Sydney – Saturday 16<sup>th</sup> October. Enquiries 47829222

Canberra – Monday 18<sup>th</sup> October, 12.30pm at Weston Park ACT. Enquiries: 62542961

Further information will be given closer to the dates.