

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

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

PO Box 4736, HIGGINS ACT 2615, Telephone (02) 6254 2961

Email [mcconnell@ffdlr.org.au](mailto:mcconnell@ffdlr.org.au) Web <http://ffdlr.org.au>

NEWSLETTER

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**NEXT Meeting**  
**Thursday 25 June 2009**  
at 7.30pm

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

## Editorial

### Lessons to be learned from rushed legislation

The ACT in 2004, and followed later by other states, enacted legislation to change the laws associated with illicit drugs. The changes followed from and drew heavily on, a report that attempted to establish uniform drug laws across Australia. The report, Model Criminal Code, Chapter 6; Serious Drug Offences, concentrated almost exclusively on the realm of trafficking but it did make a reference to users in the following sense:

*it has become increasingly apparent that significant elements in the harm which results from habitual use of illicit drugs are a consequence of criminal prohibitions and their effects on the lives of users. Quite apart from the risks of arrest and punishment, there are risks to health or life in consuming illicit drugs of unknown concentration and uncertain composition. The circumstances in which illicit drugs are consumed and the widespread practice of multiple drug use add to those risks. Medical intervention in emergencies resulting from adverse drug reactions may be delayed or denied because associates fear the criminal consequences of exposing their own involvement. The illicit consumer's expenditure of money, time and effort on securing supplies may lead to the neglect of other necessities. It will often impose substantial costs on the community, and the user, if the purchase of supplies is funded from property crime.*

*Further social costs result from the stigmatisation of habitual users as criminals and their alienation from patterns of conformity in employment, social and family life.*

The legislation was rushed through the ACT Legislative Assembly. FFDLR had some serious concerns that amongst other things the ACT legislation would have a net widening effect ie capturing or increasing the penalties for "normal practices" of some young drug users. The changes also reduced the capacity of cannabis users to grow their own and thus push them toward dealers to obtain their cannabis when weather conditions did not enable outdoor plants to be grown – overturning a fundamental principle of the ACT's Simple Cannabis Offence Notice (SCON) system.

The concerns raised by FFDLR were dismissed out of hand by the ACT Government and the legislation implemented.

Following passage of the legislation by the Assembly, the then leader of the opposition, Brendan Smith, undertook that if his party was elected, it would initiate a review of the laws. No such undertaking was given by the then leader of the government, Jon Stanhope. However later in response to a question without notice in the Legislative Assembly by Greens member Deb Foskey, Mr Stanhope agreed to a review.

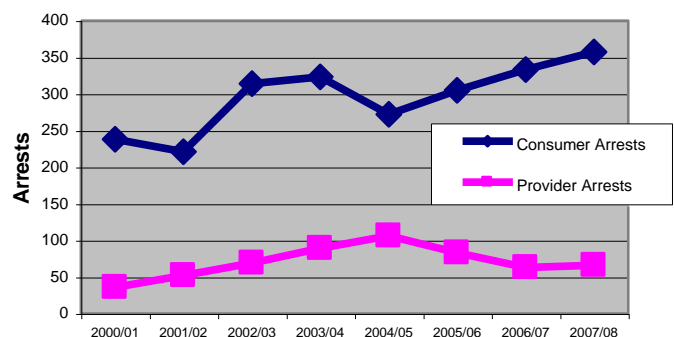
FFDLR followed this matter up this year, some five years after the legislation had been implemented. It wrote to the Chief Minister, Jon Stanhope to see if the review had been undertaken and the outcome. The letter was passed to the Attorney-General and the response was:

*"Presently, no evidence or information has been furnished to me that would warrant a review of these laws.*

Clearly the review had not been undertaken nor had any initiative been exercised within any relevant departmental organization to do so. But the question remains: has the legislation been effective or has it widened the net and captured more users contrary to its intention?

The Australian Crime Commission, each year publishes data on arrests of consumers (ie users) and providers (ie dealers/traffickers). A simple analysis of that data indicates that there could be a case for saying that the legislation has led to an increasing number of arrests of consumers since that legislation was introduced. See the graph below:

ACT All Consumer and Provider Arrests



The legislation was introduced in the year 2004/05 and the number of arrests of consumers in the ACT trends upward from that point while the number of providers trends downward. Clearly something is happening here that needs to be investigated.

Equally importantly are the lessons that should be learned from the implementation of this legislation. The report that gave rise to this legislation clearly identified that it was about prosecuting those who made a profit from the illicit drug trade not the users. But the rush to implement the act did not look for any underpinning evidence nor give full consideration to the unintended consequences. Since implementation, it would seem there has not been any attempt to evaluate the legislation.

This case study brings forward some principles that should underpin new or amending legislation:

1. The need for new or amended legislation should be based on evidence.
2. It should have clearly defined objectives that will enable the effectiveness of the legislation to be measured.
3. Wide consultation should be undertaken prior to implementing legislation. Those consultations to take into account a comprehensive range of matters.
4. The legislation should be designed to benefit the greater good but at the same time it should cause the least possible harm. That is this step should identify and examine any unintended consequences and such potential collateral damage should be kept to a minimum.
5. Finally a review date for the legislation must be established at which time, a review of the effectiveness of the legislation against the set objectives must be undertaken. In turn a notifiable decision (a decision notified to the parliament) to either extend the legislation with a new review date, amend the legislation or repeal the legislation must be undertaken.

## **German Bundestag approves controlled release of heroin to severely dependent users**

*The following is a translation of a report on Friday 29 May 2009 in the German on-line medical publication Deutsches Ärzteblatt on the Law passed the previous evening authorising the use of diamorphine as a standard treatment in Germany for severely dependent opiate users:*

Berlin – Following a year long debate the Bundestag on Thursday approved the controlled release of heroin to severely dependent users. In a recorded vote on the second reading 349 of 550 Deputies voted for a cross factional draft law and was confirmed on the subsequent vote on the third reading without a recorded vote.

The Law incorporates treatment with synthetic heroin – so-called diamorphine – as part of standard authorised health care insurance. A group of Union Deputies failed to secure a majority for their motion to provide for the time being only for the continuation of the pilot trial for the release of diamorphine.

In future under the approved law diamorphine will no longer be classified as an illegal drug but rather becomes an approved prescribable medication. Treatment with the synthetic heroin is required to be available only for

severely dependent opiate addicts who have not responded to existing methods such as methadone substitution. There is a requirement that patients be at least 23 to be eligible for consideration, have been addicted for at least five years and already have experienced two unsuccessful therapies.

In addition, facilities for diamorphine treatment under the approved Law will be restricted, designated personnel must satisfy standards and authorities must submit security plans. Concerning protections for pharmacies against robbery or break-in in relation to the procurement of heroin, the usual distribution system will not apply but rather facilities will be put in place for delivery directly from the manufacturer to the treating facility.

Local dispensing may be undertaken only by medical practitioners with qualifications in addiction medicine, while for the first half year State and Local Governments are obliged to finance patients' psycho-social care.

As early as 2007 CDU-led States of Hamburg, Hessen, Lower Saxon, North Rhine-Westfallen and Saarland tabled an identical draft law in the Bundesrat [Federal Council]. However, there was a majority against in the Union party. Deputies of the four other parties tabled this matter with their joint draft in the order of proceedings of the Bundestag. In the Bundesrat the approved Law is now not subject to approval.

In the at times heated debate in the Bundestag the health spokeswoman of the SPD party, Carola Reimann, stressed that the CDU-led Cities and States also supported the Law. "It is about reopening an opportunity for severely dependent users with massive health problems", she said. According to her information there are between 2,000 and 3,000 patients appropriate for treatment.

Jens Spahn (CDU) objected that there are still open questions concerning the treatment. At the same time there is treatment through the pilot trial. He stressed: "We are in dispute over how and not over whether."

The Federal Government Drug Representative, Sabine Baetzin, welcomed the Bundestag's decision. "That is a breakthrough for the treatment of severely dependent opiate users for whom we have long struggled. By means of the form of treatment we can secure the survival of severely dependent opiate users, for whom nothing else can help and give them again an outlook for their life." Now she wants to get started, so that medical treatment costs and drugs involved in the scope of diamorphine supported treatment become part of the standard benefits for authorised health care insurance.

## **Lord Patten of Barnes**

*On 7 June 2009 Lord Patten, Chancellor of Oxford, was interviewed on ABC's Background Briefing. The following is an extract from the transcript of that interview. The full interview can be found at: <http://www.abc.net.au/rn/backgroundbriefing/stories/2009/2588225.htm#transcript>*

The Chancellor of Oxford, Lord Patten of Barnes, draws on his experience as a public official – including his time as the last governor of Hong Kong – to talk about politics, public health and the importance of pubs.

...

**Chris Patten:** ... The third point I wanted to make on public health is the relationship between domestic politics and policies and international ones. I spent quite a lot of time at the weekend talking about Afghanistan and Mexico and Central America, and Colombia, countries which we often describe as failed states, because of their inability to deal with the drug production which takes place in those countries, fuelling the habits of societies which we would hate to hear described as failed like Britain and the United States. The United States, which consumes the cocaine from Colombia and the marijuana from Mexico and Canada, which isn't failed, Afghanistan which produces about 95% of the heroin which is injected every night in the streets of Oxford or in London. The surprising thing for me is the extent to which this issue which is important to international politics, is important in generating the principal income for organised crime, trade worth about \$300-billion a year, that this subject has so little serious attention in public debate in our own country, or in America.

There is, I think nowadays, a sort of consensus, our drugs policy has failed in Britain and America, there is equally a consensus that nothing can be done about it. And the argument that nothing can be done about it depends very much I think on the feeling that this is an issue where rational debate is made impossible by moralising tabloid newspapers and that the political costs of actually trying to address the issue as a serious public health issue, that this price is too high for any politician to attempt it.

But the situation today is plainly crazy. I don't want to compare, no-one can, the fatalities as a result of tobacco and alcohol with those as a result of the drugs that we deem illegal. I don't want to talk about the relationship between criminal violence and drugs as opposed to tobacco and alcohol, you know what the figures tell us. What is worth focusing on however is the fact that when Mr Blair as Prime Minister asked for a report on what impact our drugs policies in this country were having on the use and availability of drugs, he was told in a report which was leaked that drugs were becoming cheaper and were becoming more available, despite the fact that in the last ten years we have trebled the length of sentences for drug crime and doubled the number of people we put in prison. In the United States today there are half a million men, women, young men, women incarcerated. a very large proportion of them black, for drug offences which is 15 times the figure in 1980. And again, in the United States, the cost of drugs has fallen and use has gone up. In England there are now I think 280,000 dependent drug users, and in Scotland I think the figure is 50,000. Why isn't this a subject that we debate? As it happens I am in favour myself of total legalisation or decriminalisation but there's an argument to be had about it, and there's an argument which should be conducted, in my view, openly and rationally. I do think there's an important distinction to be made as we did in Hong Kong, not a notably socially permissive society, a distinction to be made between production, manufacture, sale of drugs, and use of drugs, and I wouldn't lock people up for using drugs, I would insist on mandatory

registration and I would regard it as a public health issue. But there are all sorts of models which have been suggested, not least by the Royal Society of Arts as to how this public health issue should be tackled, and I think it's extraordinary that we don't have the discussion at all in this country, though one thing which is predictable is that during the course of the, I fear, longish recession on which we embarked, drug use will increase and doubtless the number of people locked up will increase too.

## Drugs Won the War

By [NICHOLAS D. KRISTOF](#) June 14, 2009, Op-Ed Columnist, NY Times

This year marks the 40th anniversary of President Richard Nixon's start of the war on drugs, and it now appears that drugs have won.

"We've spent a trillion dollars prosecuting the war on drugs," Norm Stamper, a former police chief of Seattle, told me. "What do we have to show for it? Drugs are more readily available, at lower prices and higher levels of potency. It's a dismal failure."

For that reason, he favors legalization of drugs, perhaps by the equivalent of state liquor stores or registered pharmacists. Other experts favor keeping drug production and sales illegal but decriminalizing possession, as some foreign countries have done.

Here in the United States, four decades of drug war have had three consequences:

First, we have vastly increased the proportion of our population in prisons. The United States now incarcerates people [at a rate nearly five times the world average](#). In part, that's because the number of people in prison for drug offenses rose roughly [from 41,000 in 1980 to 500,000 today](#). Until the war on drugs, our incarceration rate was roughly the same as that of other countries.

Second, we have empowered criminals at home and terrorists abroad. One reason many prominent economists have favored easing drug laws is that interdiction raises prices, which increases profit margins for everyone, from the Latin drug cartels to the Taliban. Former presidents of Mexico, Brazil and Colombia this year jointly implored the United States to adopt [a new approach to narcotics](#), based on the public health campaign against tobacco.

Third, we have squandered resources. Jeffrey Miron, a Harvard economist, found that federal, state and local governments spend \$44.1 billion annually enforcing drug prohibitions. We spend seven times as much on drug interdiction, policing and imprisonment as on treatment. (Of people with drug problems in state prisons, only 14 percent get treatment.)

I've seen lives destroyed by drugs, and many neighbors in my hometown of Yamhill, Oregon, have had their lives ripped apart by crystal meth. Yet I find people like Mr. Stamper persuasive when they argue that if our aim is to reduce the influence of harmful drugs, we can do better.

Mr. Stamper is active in Law Enforcement Against Prohibition, or [LEAP](#), an organization of police officers, prosecutors, judges and citizens who favor a dramatic

liberalization of American drug laws. He said he gradually became disillusioned with the drug war, beginning in 1967 when he was a young beat officer in San Diego.

"I had arrested a 19-year-old, in his own home, for possession of marijuana," he recalled. "I literally broke down the door, on the basis of probable cause. I took him to jail on a felony charge." The arrest and related paperwork took several hours, and Mr. Stamper suddenly had an "aha!" moment: "I could be doing real police work."

It's now broadly acknowledged that the drug war approach has failed. President Obama's new drug czar, Gil Kerlikowske, told the [Wall Street Journal](#) that he wants to banish the war on drugs phraseology, while shifting more toward treatment over imprisonment.

The stakes are huge, the uncertainties great, and there's a genuine risk that liberalizing drug laws might lead to an increase in use and in addiction. But the evidence suggests that such a risk is small. After all, cocaine was used at only one-fifth of current levels when it was legal in the United States before 1914. And those states that have decriminalized marijuana possession have not seen surging consumption.

"I don't see any big downside to marijuana decriminalization," said Peter Reuter, a professor of criminology at the University of Maryland who has been skeptical of some of the arguments of the legalization camp. At most, he said, there would be only a modest increase in usage.

Moving forward, we need to be less ideological and more empirical in figuring out what works in combating America's drug problem. One approach would be for a state or two to experiment with legalization of marijuana, allowing it to be sold by licensed pharmacists, while measuring the impact on usage and crime.

I'm not the only one who is rethinking these issues. Senator Jim Webb of Virginia [has sponsored legislation](#) to create a presidential commission to examine various elements of the criminal justice system, including drug policy. So far 28 senators have co-sponsored the legislation, and Mr. Webb says that Mr. Obama has been supportive of the idea as well.

"Our nation's broken drug policies are just one reason why we must re-examine the entire criminal justice system," Mr. Webb says. That's a brave position for a politician, and it's the kind of leadership that we need as we grope toward a more effective strategy against narcotics in America.

## UN backs Australia's Asia AIDS fight

*SMH, May 3, 2009*

The United Nations says Australia's efforts to halt the spread of HIV/AIDS in Asia with policies advocating needle exchange and drug substitution are providing a model for nations throughout the region.

UNAIDS Asia Pacific director Prasada Rao said Australia's calls for Asian states to take a fresh look at

their drug laws and strategies to stem the spread of HIV/AIDS was gaining ground.

Australia has stepped up its calls for harm reduction strategies that include needle exchange programs among narcotic users in countries where tough penalties for possession and trafficking of narcotics, especially heroin, include the death penalty.

"Australia is a good model for harm reduction programs and also for looking at drug laws and revamping them," Mr Rao said in an interview with AAP.

"In fact quite a few countries in Asia have learnt their harm reduction strategies in good examples from Australia," he said.

The UN support for Australia came as Australia's Parliamentary Secretary for International Development Assistance Bob McMullan announced additional spending of \$640,000 to support non-government organisations working in Asia.

Mr McMullan said HIV remained a serious threat in the Asia-Pacific region.

"The story is we need to halt the spread of AIDS. It's prevention that counts. Of course we have to provide good treatment to people who are infected and there are five million in this region - so that's a big challenge," he said in a weekend interview.

Mr McMullan said it was still possible for regional countries to have effective prevention and harm reduction without encouraging injecting drug use.

"We don't want to stop them catching the criminals who are pushing the drugs or whatever - we work very strongly with them. That's a very big important part of the Australian government policy.

"But in terms of reducing the spread of HIV, we have to focus on prevention," he said.

The Australian government is currently providing an estimated \$130 million for HIV activities over 2008-2009 through multilateral, bilateral and regional channels. It is expected that by 2011, Australia will have invested \$1.0 billion on HIV/AIDS over the decade.

**AAP**

## Drug Action Week

Drug Action week will be conducted over 21 – 27 June 2009.

There are events being conducted all over Australia with the main theme being "Alcohol is a drug too"

This year, each day will have a sub-theme as follows:

- **Alcohol and Other Drugs in the Community** (Monday June 22)
- **Prevention and Treatment** (Tuesday June 23)
- **Indigenous People/Rural Australia** (Wednesday June 24)
- **Binge Drinking** (Thursday June 25)
- **Co-morbidity** (Friday June 26)

Details of events can be found for each day and for each state or territory on the Drug Action Week website at: <http://www.drugactionweek.org.au/>

Please make the effort to attend some of the events.