

Chapter 1

Introduction

Conduct of the inquiry

1.1 On 18 March 2015, the Parliamentary Joint Committee on Law Enforcement (the committee) initiated an inquiry into crystal methamphetamine (ice), which lapsed at the end of the 44th Parliament. Submissions had been received and a number of hearings held at the time the inquiry lapsed.

1.2 On 12 October 2016, during the 45th Parliament, the committee re-instated the inquiry. The committee resolved that documents received in the 44th Parliament, including Hansard transcripts and submissions, would be considered in respect of the re-instated inquiry. The committee also accepted additional submissions.

1.3 The terms of reference for the inquiry were as follows:

Pursuant to the committee's functions set out in paragraph 7(1)(g) of the Parliamentary Joint Committee on Law Enforcement Act 2010, the committee will examine the criminal activities, practices and methods involved in the importation, manufacture, distribution and use of methamphetamine and its chemical precursors, including crystal methamphetamine (ice) and its impact on Australian society.

In particular, the committee will examine:

1. the role of Commonwealth law enforcement agencies in responding to the importation, manufacture, distribution and use of methamphetamine and its chemical precursors;
2. the adequacy of Commonwealth law enforcement resources for the detection, investigation and prosecution of criminal activities involving the importation, manufacture, distribution and use of methamphetamine and its chemical precursors;
3. the effectiveness of collaborative arrangements for Commonwealth law enforcement agencies with their regional and international counterparts to minimise the impact of methamphetamine on Australian society;
4. the involvement of organised crime including international organised crime and outlaw motorcycle gangs in methamphetamine related criminal activities;
5. the nature, prevalence and culture of methamphetamine use in Australia, including in indigenous, regional and non-English speaking communities;
6. strategies to reduce the high demand for methamphetamines in Australia; and
7. other related issues.

1.4 On 6 September 2017, the committee tabled its first report. That report primarily considered law enforcement responses to the crystal methamphetamine

problem in Australia. It also detailed background information on crystal methamphetamine and its use in Australia, and Australia's drug strategies. The committee made eight recommendations:

1. All progress reports and the mid-point review provided to the Ministerial Drug and Alcohol Forum and Council of Australian Government on the implementation of the National Drug Strategy 2017–2026 and its sub-strategy, the National Ice Action Strategy (NIAS), are made publicly available, and include but are not limited to:
 - reporting on the implementation and achievement of actions outlined in the NIAS, with reference to qualitative and/or quantitative key performance indicators as appropriate;
 - reporting on steps taken to enhance co-operation between health and law enforcement agencies;
 - data on the prevalence of crystal methamphetamine use, particularly among vulnerable groups;
 - information on new and existing treatment options, their accessibility and costs (to both government and patients);
 - statistics from the justice system, including the number of crystal methamphetamine prosecutions, convictions and rates of recidivism in each Australian jurisdiction;
 - reporting on the implementation and efficacy of drug courts and drug diversionary programs;
 - reporting on local initiatives implemented through the Primary Health Networks; and
 - the quantum of funding derived from proceeds of crime and allocated to initiatives to address crystal methamphetamine use.
2. Commonwealth, state and territory governments commit long term funding for the implementation, maintenance and ongoing use of the National Criminal Intelligence System (NCIS).
3. Commonwealth, state and territory governments, as a matter of urgency, agree and enact nationally consistent unexplained wealth legislation.
4. Subsequent to a national review of drug diversionary programs articulated by the National Ice Taskforce (NIT) and in the NIAS, states and territories commit to improving, expanding, or where no drug diversionary program(s) currently exists, implementing such programs across their jurisdictions.
5. Australian governments implement the electronic End User Declaration System as soon as practicable.
6. The Commonwealth government strengthens eligibility criteria for Aviation Security Identification Cards (ASIC) and Maritime Security Identification Cards (MSIC) to address current inadequacies, particularly

the use of criminal intelligence where a person may have links with serious and organised crime.

7. The Australian government expand its leadership in relevant international fora and considers:
 - strengthening ties with countries in the Asia Pacific, beyond existing ties with China, Cambodia and Thailand;
 - collaborating to develop regional law enforcement and health and welfare responses to crystal methamphetamine;
 - sharing its practices with a particular focus on demand reduction and harm reduction; and
 - enhancing co-operation with the United Nations Office on Drugs and Crime (UNODC). And,
8. Australian law enforcement agencies, in addition to the number and volume of drug seizures, assess and report on the availability, purity and price of illicit drugs, particularly at the street level, to better determine the impact of law enforcement and other strategies on the illicit drug market.¹

1.5 As at 26 March 2018, the Commonwealth government had not responded to the committee's first tranche of recommendations.

1.6 Lists of submitters, additional documents, answers to questions on notice and the details of public hearings can be found in the opening chapter and appendices of the first report.

1.7 This second report should be considered alongside the committee's first report, in particular, chapter 2 (the overview of crystal methamphetamine and its use in Australia) and chapter 3 (Australia's drug strategies). As per the definitions provided in the first report, this second report refers to crystal methamphetamine, methamphetamine or amphetamine, as appropriate, unless directly quoting evidence where another name for the drug was used.

1.8 The purpose of this second report is to examine treatment and harm reduction measures that are in place in Australia to assist crystal methamphetamine users, their families and communities. This report also considers the funding of treatment services as part of the NIAS and the decriminalisation of illicit drugs, drawing from the committee's visit to Portugal.

1.9 Although many of the issues outlined in this second report are outside the committee's core law enforcement focus, the evidence before the committee reveals a consistent message articulated by alcohol and other drug (AOD) experts, governments, the NIT and law enforcement agencies, that is: a person's drug use is a health issue and for this reason, Australian governments and law enforcement agencies cannot arrest their way out of it.

1 Parliamentary Joint Committee on Law Enforcement, *Inquiry into crystal methamphetamine (ice): First Report*, September 2017, pp xi–xii.

1.10 That said, many submitters and witnesses acknowledged the important role of law enforcement agencies, for example in targeting serious and organised crime groups and outlaw motorcycle gangs, which are primarily responsible for the importation and distribution of illicit drugs, including crystal methamphetamine. However, many submitters and witnesses questioned the effectiveness of law enforcement responses as a means of addressing problematic drug use and the possession of small quantities of illicit drugs. This report outlines evidence that argues that treatment and harm reduction measures, not law enforcement, are more appropriate responses.

1.11 While numerous submitters and witnesses argued that treatment and harm reduction measures play an essential role in assisting individuals with problematic drug use, historically law enforcement, or supply reduction policies, have received the majority of AOD funding in Australia. Chapter 5 of this report considers the three pillars of Australia's National Drug Strategy (NDS) and calls for the rebalancing of funding across these three pillars: supply, demand and harm reduction measures. It also considers AOD funding more broadly, AOD funding announced as part of the NIAS and the use of the confiscated assets to resource AOD treatment services.

1.12 The report concludes with discussion of the committee's visit to Portugal and consideration of Portugal's response to problematic drug use: decriminalisation. Although decriminalisation exists in many different policy contexts in numerous countries (including Australia), evidence to the committee frequently identified Portugal's decriminalised drug policy as a model of best-practice. This report concludes with the committee's consideration of decriminalisation within the Australian context.

Update on methamphetamine use in Australia

1.13 As already noted, the committee considered methamphetamine use in Australia in its first report. Since the committee's first report was published, the National Drug and Alcohol Research Centre (NDARC) released preliminary findings for the Illicit Drug Reporting System (IDRS).² The IDRS is a national illicit drug reporting system to identify illicit drug trends in Australia. The preliminary findings will inform the final figures for 2017, which are due to be released in early 2018.³

2 Nationally, the National Drug and Alcohol Centre (NDARC) surveyed 888 people in 2017 (877 people in 2016), of that total: 67 per cent were male; 98 per cent came from an English speaking background; 19 per cent were Aboriginal and/or Torres Strait Islander; 60 per cent were single; 87 per cent were heterosexual; and 84 per cent were unemployed. 38 per cent of participants had participated in the survey for 2016 and participants were primarily recruited through needle and syringe programs and by word of mouth. See NDARC, *Australian Drug Trends 2017: Preliminary findings from the Illicit Drugs Reporting System*, October 2017, pp 4–5, <https://ndarc.med.unsw.edu.au/resource/illicit-drug-reporting-system-idrs-2017-key-findings> (accessed 18 October 2017).

3 NDARC, *Australian Drug Trends 2017: Preliminary findings from the Illicit Drugs Reporting System*, October 2017, p. 1.

1.14 Patterns of methamphetamine use show that: 71 per cent of participants had reported use of methamphetamine (in any form) in 2017, a decline when compared to 2016 (75 per cent). The NDARC reported that this decline is largely due to a decrease in the use of crystal methamphetamine (68 per cent in 2017 compared to 73 per cent in 2016). The results show, however, that frequency of methamphetamine use remained stable, with 61 per cent of participants reporting 'weekly or more often' use (59 per cent in 2016).⁴

1.15 There was a decline in the number participants that reported crystal methamphetamine's purity as high (30 per cent in 2017 compared to 37 per cent in 2016); however, no decline was seen in the median price per point (the median national price remained at \$50 for all forms of methamphetamine).⁵ Participants described the availability of methamphetamine (all forms) as 'easy' or 'very easy' to obtain, consistent with 2016 findings.⁶

1.16 Across all drug types, cannabis remained the drug most commonly used on a regular (weekly and daily) basis. Heroin was the next most frequently used drug and the most commonly nominated drug of choice. Thirty-two per cent of participants reported methamphetamine as their drug of choice.⁷

1.17 The NDARC's Senior Drug and Alcohol Drug Research Officer, Ms Amanda Roxburgh, told the national broadcaster, the Australian Broadcasting Corporation (ABC), that these findings show that many at-risk methamphetamine users are not seeking treatment services and that:

...one of the big things is stigma, methamphetamine and particularly crystal methamphetamine is highly stigmatised in [Australia]. It means people aren't likely to come talk about their crystal methamphetamine use. We really do need to get people in; it's been relatively low across Australia.⁸

1.18 The issue of stigma is considered in chapter 4 of this report.

National Wastewater Drug Monitoring Program

1.19 In November 2017, the Australian Criminal Intelligence Commission (ACIC) released its third report as part of the National Wastewater Drug Monitoring Program (wastewater program). The third report found that methamphetamine remained the

4 NDARC, *Australian Drug Trends 2017: Preliminary findings from the Illicit Drugs Reporting System*, October 2017, p. 2.

5 NDARC, *Australian Drug Trends 2017: Preliminary findings from the Illicit Drugs Reporting System*, October 2017, p. 17.

6 NDARC, *Australian Drug Trends 2017: Preliminary findings from the Illicit Drugs Reporting System*, October 2017, p. 2.

7 NDARC, *Australian Drug Trends 2017: Preliminary findings from the Illicit Drugs Reporting System*, October 2017, p. 2.

8 Stephen Smiley, 'Ice use down but risky behaviour among ecstasy users', *ABC Radio: AM*, 3 October 2017, <http://www.abc.net.au/radio/sydney/programs/am/ice-use-down-but-risky-behaviour-among-ecstasy-users/9009846> (accessed 18 October 2017).

most prevalent⁹ illicit drug tested¹⁰ as part of the wastewater program, for both capital and regional testing sites. South Australia recorded the highest level for a capital city, and Western Australia recorded the highest level for a regional site.¹¹ The ACIC found:

Comparing the latest findings of drug use with previous data for sites in Queensland and Western Australia, current methylamphetamine levels have shown an overall decline since historical highs in October 2016. The South Australian level also showed a decline during the past year, except for the August 2017 collection when levels returned to previous highs. Methylamphetamine levels in Victoria remained steady.¹²

International Engagement Methamphetamine Disruption Strategy

1.20 On 19 September 2017, the Commonwealth Law Enforcement International Engagement Methamphetamine Disruption Strategy (international methamphetamine strategy) was launched. The purpose of this strategy is to enhance the relationships and co-operation between domestic and international partners, with a primary aim of 'disrupting the supply and demand of methamphetamine and its precursors in Australia'.¹³

1.21 Participating agencies¹⁴ will facilitate the international methamphetamine strategy by:

- better understanding the international methamphetamine environment;

9 It should be noted that cannabis is not tested as part of the National Wastewater Drug Monitoring Program (wastewater program). Other wastewater analysis, such as the South Australian (SA) wastewater program includes cannabis as a tested drug. See SA Health, *Drug use in Adelaide Monitored by Wastewater Analysis*, October 2017, <http://www.sahealth.sa.gov.au/wps/wcm/connect/f801a20045027e445f4005ba75f87/Standard+report+October+2017+data.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-f801a20045027e445f4005ba75f87-m3EwM.1> (accessed 21 February 2018).

10 The wastewater program tested for the following substances: methylamphetamine, amphetamine, cocaine, 3,4-methylenedioxymethylamphetamine (MDMA), 3,4-methylenedioxyamphetamine (MDA), heroin, JWH-018, JSWH-073, mephedrone, methylone, oxycodone, fentanyl, nicotine and alcohol. See Australian Criminal Intelligence Commission (ACIC), *National Wastewater Drug Monitoring Program—Third report*, November 2017, p. 8, https://www.acic.gov.au/sites/g/files/net3726/f/national_wastewater_drug_monitoring_program_report_3.pdf?v=1513140704 (accessed 21 December 2017).

11 ACIC, *National Wastewater Drug Monitoring Program—Third report*, November 2017, p. 16.

12 ACIC, *National Wastewater Drug Monitoring Program—Third report*, November 2017, p. 16.

13 Australian Federal Police (AFP), 'International methamphetamine strategy launched, taking the fight against illicit drugs offshore', *Media release*, 19 September 2017, <https://www.afp.gov.au/news-media/media-releases/international-methamphetamine-strategy-launched-taking-fight-against> (accessed 21 December 2017).

14 The AFP, the Attorney-General's Department, the Department of Immigration and Border Protection, Department of Defence, Department of Foreign Affairs and Trade, Department of Prime Minister and Cabinet, Department of Health, Australian Transaction Reports and Analysis Centre, Australian Border Force, and the ACIC.

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- enhancing co-operation between law enforcement and border security;
 - providing targeted capacity building and capability development; and
 - maximising advocacy and political engagement with international partners.¹⁵

Structure of the report

1.22 This report considers the following issues in five chapters.

1.23 Chapter 2 considers treatment options and access to treatment for AOD use. It provides an update on the NIAS, followed by a brief overview of Australia's treatment profile for amphetamine in 2015–16. This is followed by a discussion of some key issues, including:

- waiting lists for AOD treatment services;
- residential treatment services, including demand for and availability of such facilities;
- private treatment facilities and the need for a national quality framework;
- mandatory residential treatment; and
- methamphetamine use and treatment in Australia's correctional facilities.

1.24 The chapter concludes with an update on pharmacotherapy treatment of meth/amphetamine addiction.

1.25 Chapter 3 examines additional issues for two of Australia's at-risk communities: rural and remote communities and Indigenous Australians. The chapter also considers support and treatment services for families with children, followed by consideration of initiatives to address methamphetamine use in at-risk workplaces.

1.26 Chapter 4 considers harm reduction initiatives together with further commentary on rebalancing Australia's drug harm minimisation policy. This chapter also looks at the stigmatisation of drug users in the media and calls for the establishment of national guidelines for press reporting on AOD issues. It also discusses education initiatives to improve the public's understanding of crystal methamphetamine and other drugs; needle and syringe programs; and safe injecting rooms. The chapter concludes with consideration of harm reduction measures in the context of the darknet.

1.27 Chapter 5 first considers the NDS and the prioritisation and funding across the three pillars of the NDS (demand, supply and harm reduction strategies). It then considers the funding of AOD services as part of the NIAS, specifically:

- the rollout and distribution of funding to the Public Health Networks (PHNs);
- the allocation of funding;

15 AFP, 'International methamphetamine strategy launched, taking the fight against illicit drugs offshore', *Media release*, 19 September 2017.

- the allocation of NIAS funding to regions with more problematic crystal methamphetamine use;
- the timing of and timeframe for AOD service providers to tender for NIAS funding;
- delays in the distribution of NIAS funding; and
- concerns about the transparency of NIAS funding.

1.28 Finally, chapter 5 considers use of the *Proceeds of Crime Act 2002* Confiscated Assets Account (CAA), and the distribution of funding from the CAA to law enforcement and AOD treatment services.

1.29 Chapter 6 considers decriminalisation, the committee's visit to Portugal and the appropriateness of decriminalisation in the Australian context.