

Parliamentary Joint Committee on Law Enforcement

**Inquiry into crystal methamphetamine (ice)**

**Submission by the Attorney-General's Department, Australian  
Crime Commission, Australian Federal Police, Australian  
Institute of Criminology, Australian Transaction Reports and  
Analysis Centre, Immigration and Border Protection Portfolio**

**June 2015**

## Introduction

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1. The increasing availability of ice poses a unique set of challenges for government. However, Commonwealth law enforcement is well positioned to address the supply of ice in the Australian community, by drawing upon existing capabilities and collaborative arrangements for tackling illicit drugs and organised crime more generally.
2. This submission sets out recent trends in the Australian methylamphetamine and precursor chemical market, the current national approach to illicit drugs (including ice), ongoing collaboration with domestic and international partners, and a number of potential law and law enforcement initiatives to combat the increasing prevalence of ice.
3. The issues surrounding the ice problem are complex and multifaceted. While this submission provides a supply-side perspective, there is a demonstrable need for a three-pronged approach to the threat of ice in the Australian community, encompassing supply reduction, demand reduction and harm reduction strategies. This will require strong, ongoing engagement across law enforcement, health and education sectors.
4. This submission also uses the following key terms:
  - **Methylamphetamine:** Methylamphetamine is a synthetic drug produced from precursor chemicals that comes in crystalline, powder, base or liquid forms.
  - **Crystal methylamphetamine (ice):** This term refers to methylamphetamine in crystalline form, which is often colloquially referred to as 'ice'.
  - **Amphetamine-type stimulants (ATS):** This is a more generic term used as a drug category for the purposes of data collection. ATS includes methylamphetamine but also other substances such as MDMA or ecstasy.

## **The Methamphetamine and Precursor Chemical Market**

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5. The Australian methamphetamine market has experienced significant growth in recent years, both in terms of reported users and availability. The ACC reports that Australian drug users now prefer ice over methamphetamine in other forms, as it can be smoked rather than injected and is perceived to be more potent or ‘purer’ than powder (speed).
6. Ice poses a unique set of challenges for law enforcement as any response must tackle importation of the final product, as well as domestic manufacture of methamphetamine using legally available precursor chemicals. Adding to this complexity is the rising involvement of organised crime groups in the methamphetamine market, due to the potential for high profits and relative ease of manufacture.
7. This section will outline the use and availability of methamphetamine in the Australian market, the role of organised crime in the supply chain, and the unique set of challenges faced by law enforcement arising from the dual source of methamphetamine supply.

### **Methamphetamine Use and Availability**

8. Since 1999, the AIC has monitored drug use and crime trends across Australia through the Drug Use Monitoring in Australia program. Each quarter, detainees held in watch houses at various sites across Australia are asked to complete an interviewer-assisted self-report questionnaire.
9. In 2014, 72 percent of the 1,115 police detainees interviewed reported using methamphetamine in the 12 months prior to interview, with the majority of users consuming ice (45 per cent), followed by another form of crystal methamphetamine called white rock (31 per cent) on their last occasion of use.
10. Further, on a scale of 1 to 10 (with 1 being extremely hard to get and 10 being readily available or over-abundant), detainees across Australia rated methamphetamine availability to be at an 8 (on average). Approximately 40 per cent of detainees reported an increased number of sellers in the methamphetamine market.
11. Other recent studies have confirmed the increasing use of methamphetamine. In a project commissioned by Drug and Alcohol Services South Australia, the University of South Australia (Uni SA) analysed illicit drug metabolites in waste water twice a month between December 2011 and June 2014 to determine the prevalence of drug use in metropolitan Adelaide. The study tested waste water for a number of stimulants including cocaine, MDMA and methamphetamine. The results of the study showed methamphetamine to be consumed at the highest level across the stimulants tested and a

steady increase in the levels of methylamphetamine consumption from December 2012 until the conclusion of the study in June 2014.

12. Evidence also suggests an increasing demand for ice in regional, rural and Indigenous communities. The National Indigenous Intelligence Task Force (NIITF) reports that organised crime groups are trafficking methylamphetamine into regional and remote towns, using local Indigenous residents as ‘mules’ and suppliers or contractors working on infrastructure or mining projects in these areas. The prices paid for methylamphetamine are generally significantly higher than in larger cities and towns.

### **Case Study**

In late 2013, the NIITF received information that a group of 15 to 20 Indigenous women aged between 19 and 30 were regularly using ice. These women lived in a remote Aboriginal community with a population of 350. The women were smoking up to one gram per day (providing between two and four ‘hits’), and would not generally go more than four days without a hit.

The women informed their source that they are now smoking ice instead of drinking alcohol, as they believe the physiological impairment associated with ice is less debilitating than the impacts of alcohol. The women also preferred the high from ice over alcohol because they could pass a police breathalyser test, and feel that they are more capable of responding to attempts of domestic violence from their partners. The women also use ice as a coping mechanism for mental and emotional trauma from previous physical and sexual abuse.

## Role of Organised Crime

13. Methylamphetamine is a highly attractive commodity for organised crime groups due to its high profitability and ease of manufacture. More than 60 per cent of Australia's highest risk criminal targets on the National Criminal Target List are known to be involved in the methylamphetamine market.<sup>1</sup>
14. Some evidence suggests that organised crime groups previously operating in the heroin or cocaine markets are now focusing in part or predominantly on methylamphetamine, with the majority of targets involved in multiple drug markets. These groups are seeking to satisfy the increasing preference for ice, as opposed to pill or powder forms of methylamphetamine.
15. Outlaw Motor Cycle Gangs (OMCGs) are also significant players in the supply of methylamphetamine. Approximately 45 per cent of the highest risk criminal targets in the methylamphetamine market are characterised as OMCGs. The significant role of OMCGs in the Australian methylamphetamine market is enabled by strong linkages with domestic and transnational crime groups, access to precursor chemicals, established drug distribution networks, use of violence, access to weapons, and the use of specialised money laundering services.

### Case Study

Both the Comanchero and Lone Wolf OMCG have been linked to several high-value seizures in recent times, including seizures of:

- 8 kilograms of methylamphetamine in Perth, linked to the Comanchero OMCG
- 32 kilograms of methamphetamine in Sydney in late 2014, linked to the Comanchero OMCG, and
- 1 kilogram of methylamphetamine in Perth in 2015, linked to the Lone Wolf OMCG

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<sup>1</sup> The National Criminal Target List is a national listing of active and nationally significant organised crime groups operating in Australia, based on input from Commonwealth, state and territory agencies. The total number of listed entities is classified.

16. The involvement of transnational crime groups has become entrenched in all levels of the Australian methylamphetamine market. Serious and organised crime groups are increasingly involved in importation and trafficking, and are adept at exploiting regulatory weaknesses in Australia and overseas. China and Hong Kong-based organised crime groups are the most prominent transnational methylamphetamine actors in the Australian border environment, with approximately 70 per cent of the weight of all detected methylamphetamine in the last two years originating from China. West African and Mexican organised crime groups represent the next most significant groups involved in importations. Recent investigations have also identified organised crime groups importing methylamphetamine from or through Iran, Mexico, Canada, Indonesia, Nigeria, Kenya, Thailand, Singapore, Brazil, Congo, South Africa and India.

## Direct Importation

17. Australia is an attractive and profitable market for importations of methylamphetamine. Importations of amphetamine-type stimulants (predominantly methylamphetamine) continue to be the main drug type (in weight) detected at the Australian border. While domestic clandestine laboratories continue to drive the demand for precursor chemicals, the Australian market is being increasingly supplied by good quality and cheap methylamphetamine imported from China, Thailand, Hong Kong, Canada and Mexico. The consistently high inflow can be attributed to several drivers, notably the high demand for methylamphetamine in Australia as well as the significant profit potential.

### Case Study

Australian users of methylamphetamine pay a premium price compared to other countries. According to the United Nations Office on Drugs and Crime, the average street price in China was about AUD111 per gram of methylamphetamine, in the United States it was between AUD23 and AUD512 per gram, and in the United Kingdom it was between AUD81 and AUD162 per gram. In contrast, the Illicit Drug Data Report 2013-14 found that the median national price in Australia for ice was AUD675 per gram.

18. Methylamphetamine often transits through several countries before entering Australia as its final destination. Some organised crime groups use Pacific Island states and territories as a transit point for trafficking methylamphetamine to Australia and New Zealand. This is driven by permissive factors in the region such as porous borders, insufficient legislative or regulatory controls, and the increasing involvement of transnational crime groups.
19. All import streams are used in the methylamphetamine trade, with international mail (by number) and sea cargo (by weight) the primary methods of importation used in 2012-13. Authorities have also noted increasing use of the 'scatter imports' method of importation,

which involves sending large volumes of postal items, each containing a small amount of drugs, to multiple addresses or post box numbers.

### **Case Study**

In November 2014, members of the Joint Organised Crime Group (comprising officers from the ACC, the AFP, New South Wales Police, the Australian Customs and Border Protection Service (ACBPS) and the New South Wales Crime Commission) arrested six men in relation to the seizure of illicit drugs estimated to be worth up to \$1.5 billion on the street. Almost two tonnes of MDMA and more than 800 kilograms of ice were hidden inside a container load of furniture and unmarked boxes shipped to Australia from Germany.

Police conducted a controlled delivery of the consignment to an address in Blacktown (Sydney), where its contents were removed and transported to another location. The six offenders were arrested when they attempted to access boxes from the consignment at an address in Smithfield (Sydney).

## **Domestic Production**

20. Traditionally, the Australian methylamphetamine market has been largely supplied by domestic production. However, high Australian methylamphetamine prices have acted as a drawcard for transnational organised crime, resulting in increased importations of the finished product.
21. Irrespective of recent trends, a significant proportion of methylamphetamine is still produced domestically through the diversion of legally available chemicals and equipment. Methylamphetamine can be manufactured in relatively unsophisticated laboratories (including on a small scale), and is not dependent on any single chemical precursor or production methodology. Clandestine laboratories manufacturing methylamphetamine are the most commonly detected type of clandestine drug manufacturing laboratory in Australia.
22. The number of clandestine laboratories detected nationally has increased over the last decade, from 381 in 2004-05 to 744 in 2013-14. The 744 detections in 2013-14 is the third highest on record, though it is a slight decrease from the 757 detections in 2012-13.
23. Manufacturers of methylamphetamine readily adapt to law enforcement efforts to control the supply of precursor chemicals by changing production methodologies where alternative precursors are available. Many essential precursors and pre-precursors (i.e. chemicals that can produce precursors) to methylamphetamine are not prohibited internationally, at the border, or domestically due to their varied legitimate uses.

## **Importation of precursor chemicals**

24. There has been strong growth in illicit importations of precursor chemicals due to lower overseas prices and the ability to obtain large volumes of precursor chemicals offshore. Some Australian organised crime groups extend their activities to countries where precursors are freely available or that have large legitimate chemical and pharmaceutical industries, such as China and India, or operate in partnership with groups from those countries.
25. Illicit imports have been detected through the identification of mislabelling and concealments, or importations of quantities which appear inconsistent with the nominated intended use. One known method of importation is precursor masking, which involves altering the chemical structure of the substance to avoid detection at the border.

### **Case Study**

In October 2013, Operation Diamondback (a joint agency operation) seized 650 kilograms of pseudoephedrine (a chemical used to manufacture methylamphetamine) concealed within vanilla powder from India. This amount of pseudoephedrine could have been made into 100 kilograms of methylamphetamine, which would have an estimated potential street value of up to \$100 million.

## **Domestic diversion of precursor chemicals**

26. Increasing compliance with regulatory and voluntary controls on precursor chemicals has restricted the domestic market. However, inconsistency across jurisdictions continues to provide opportunities for diversion which organised crime groups are able to exploit.
27. Domestic diversion continues to occur in a number of different contexts, including hospitals and other medical settings, the legitimate transport chain, waste destruction facilities, pharmacies and chemical companies. Criminals can gain access to precursor chemicals through breaking and entering, exploitation of contacts within these facilities, or internet sales. Several instances have been identified in which organised crime group members, or their associates, have established a seemingly legitimate chemical-related business with the intention of using it as a cover for purchasing and possessing precursors.



## **A National Approach to Illicit Drugs, including Ice**

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28. The Australian Government's response to illicit drugs, including methylamphetamine, is underpinned by the National Drug Strategy 2010-15 (NDS).

### **The National Drug Strategy 2010-2015 and the Intergovernmental Committee on Drugs**

29. The NDS is a cooperative approach between the Australian, state and territory governments and the non-government sector. It is aimed at improving health, social and economic outcomes for Australians by preventing the uptake of harmful drug use and reducing the harmful effects of licit and illicit drugs in our society. It encompasses the three pillars of supply reduction, demand reduction and harm reduction.
30. The Intergovernmental Committee on Drugs (IGCD) oversees the NDS. The IGCD comprises senior officials from State and Territory police services and health agencies, as well as the Attorney-General's Department (AGD) and the AFP. The Department of Immigration and Border Protection (DIBP) and the ACC both have observer status.
31. The IGCD reports to health ministers through the Australian Health Ministers' Advisory Council, and to law and justice ministers through the Law, Crime and Community Safety Council.
32. An IGCD working group is currently developing the next iteration of the National Drug Strategy, which is expected to be provided to Ministers before the end of 2015.

### **Legislative Framework**

33. In Australia, responsibility for the control of illicit drugs and their precursor chemicals is shared between the Commonwealth, State and Territory governments. The Commonwealth Government is primarily responsible for controlling these substances at the border, whereas State and Territory governments have responsibility for other criminal laws and regulatory controls, such as those relating to the possession, trafficking or manufacture of illicit drugs, or the sale of precursor chemicals (including recordkeeping and reporting requirements).
34. From a legislative perspective, the response to methylamphetamine does not require a substantially different approach to that addressing other illicit drugs. There is no one law that deals specifically with methylamphetamine or its precursor chemicals under Commonwealth legislation, however there are a range of legislative and regulatory frameworks that address the threat posed by serious drugs more generally (including methylamphetamine).

35. The *Criminal Code Regulations 2002* lists methylamphetamine as both a border controlled and controlled drug to which the serious drug offences for importing, trafficking and possession apply. Penalties of up to life imprisonment are attached to importing methylamphetamine under the Criminal Code. The *Customs (Prohibited Import) Regulations 1956* also set out licensing and permit requirements which relate to the importation of serious drugs and precursor chemicals.
36. The precursor chemicals used in the production of illicit drugs are often common chemicals which are used and required by legitimate industry. The Criminal Code includes criminal offences for importing, manufacturing or possessing precursor chemicals without appropriate licences, with penalties of up to 25 years for importing precursor chemicals used in the manufacture of methylamphetamine (such as pseudoephedrine). The chemicals industry also applies a voluntary code of conduct to the use and sale of many precursor chemicals.

## The Operational Response

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37. Organised crime groups in the methylamphetamine market are highly resilient to traditional methods of law enforcement and readily adapt to gaps in the legal framework and the law enforcement response. Law enforcement is well positioned to address the methylamphetamine threat, drawing upon existing structures that target illicit drugs and organised crime more generally.
38. Reducing the supply of methylamphetamine requires strong, ongoing collaboration between law enforcement agencies. This occurs through a wide range of operational and training activities, as well as the development of collective policy responses (covered in the following section). This section sets out some of the existing collaborative arrangements between law enforcement agencies at the domestic and international level, including recent successes.

### Serious and Organised Crime Coordination Committee

39. The Serious and Organised Crime Coordination Committee (SOCCC) was established to support the prioritisation, endorsement and coordination of operational strategies for dealing with serious and organised crime investigations, targets and threats at a national level. The SOCCC comprises representatives from all police jurisdictions in Australia and New Zealand, as well as the ACC, ACBPS, AUSTRAC and the Australian Taxation Office.
40. Based on the ACC's recent methylamphetamine assessment, the SOCCC has recently developed a National Law Enforcement Methylamphetamine Strategy to encourage and facilitate operational coordination and a nationally harmonised approach to the problem. The Strategy will seek to enhance collaboration between agencies by defining roles and aligning responsibility for enforcement, and intelligence collection.
41. The Strategy will complement the work of the National Ice Taskforce, the NDS, and State and Territory operational responses. The Strategy will be supported and enhanced by local jurisdictional action and strategic plans.
42. The SOCCC is supported by State and Territory Joint Management Groups (JMGs) that manage serious and organised crime priorities within their own jurisdiction, and seek opportunities to implement multi-jurisdictional operational strategies. Joint Analyst Groups (JAGs) identify, coordinate and prioritise intelligence about targets and threats, and provide JMGs with information to support local decision making and de-confliction of cross jurisdictional targeting.



## Joint Agency Task Forces

43. The establishment of multi-agency, multi-disciplinary taskforces around Australia has played an important role in targeting and disrupting organised crime syndicates involved in the importation, manufacture or distribution of methylamphetamine. Significant operational results are achieved through sharing intelligence and resources and drawing on the capabilities of both law enforcement and other partners, such as the Australian Taxation Office and the Department of Human Services.

### Case Study

In Operation Acquatone, the ACC, AFP, ACBPS, AUSTRAC, NSW Police and Victoria Police worked to dismantle a major drug syndicate operating out of Australia and Vietnam.

Law enforcement targeted the drug syndicate after monitoring the financial activity and assets belonging to the suspects, most of whom were operating from Vietnam. Analysis of AUSTRAC information showed that over a 12 month period, approximately \$24 million was sent via international funds transfer instructions (IFTIs) to Vietnam. All IFTIs were paid for entirely with cash. Law enforcement also believed that the individuals sending the funds were using false driver licences and credit cards, and found that the large amounts of cash sent by the syndicate were inconsistent with the stated occupations of many of its members.

The investigation ultimately uncovered one of the most elaborate methylamphetamine operations in Australia's history. Eight members of the syndicate were arrested and charged with trafficking a large commercial quantity of methylamphetamine.

## **The Eligo National Task Force**

44. The Eligo National Task Force is one of Australia's most successful joint agency investigations, resulting in significant arrests, as well as cash and drug seizures. Since the Task Force's inception in December 2012, more than one tonne of illicit drugs and precursor chemicals have been seized, with methylamphetamine accounting for approximately 80 per cent of these seizures.
45. Analysing information drawn from a variety of sources, the Taskforce was able to detect and develop a greater understanding of emerging money laundering methodologies. Payments and profits from the sale of illicit drugs are known to be transferred through the remittance sector. Rather than traditional law enforcement efforts which focused on a single criminal entity, the Task Force has broadened the net to simultaneously track multiple individuals involved in suspicious money movements.

### **Case Study**

Based on intelligence collected by the Eligo National Task Force, four suitcases containing approximately 135 kilograms of ice were seized in a joint operation between the ACC and the AFP. The estimated street value of the seizure was approximately \$130 million, representing about 1.3 million street deals. Four men were subsequently charged with a range of drug related offences.

## **National Anti-Gangs Squad and the Australian Gangs Intelligence Coordination Centre**

46. The AFP-led National Anti-Gangs Squad (NAGS) provides a mechanism for the national coordination of investigations, as well as access to broader Commonwealth capabilities in support of State law enforcement activity. It also facilitates an enhanced ability to share information and conduct investigations in collaboration with international law enforcement partners. The NAGS comprises a number of critical components, including a National Coordination Team, the ACC-led Australian Gangs Intelligence Coordination Centre (AGICC), jurisdictional Strike Teams, regional Liaison Officers, regional technical capabilities, and a strengthened Criminal Assets Confiscation Taskforce.
47. As OMCGs become entrenched in the methylamphetamine supply chain, the NAGS and AGICC can assist in providing a vital intelligence picture of the domestic market. The AGICC facilitates intelligence collection on OMCG leadership and serious and organised crime targets, potential expansion efforts by OMCGs, and OMCG violence through the National Criminal Intelligence Fusion Capability. The collaborative relationship between NAGS Strike Teams and AGICC is designed to support and enable individual jurisdictions to identify and prioritise high value targets and effective initiatives in relation to OMCGs and the methylamphetamine market.

## **AFP Forensics Portfolio**

48. The AFP Forensics Portfolio generates strategic and operational intelligence through the collation and analysis of information from AFP drug seizures, including ice.
49. Chemicals for manufacturing methylamphetamine (including ice) are often diverted from legitimate chemical or pharmaceutical markets. The chemical profiling of methylamphetamine can determine the synthetic route by which the drug was manufactured, the key precursors and chemicals used in that process, as well as common points of diversion in legitimate industries from which those chemicals have been sourced.

## **National Drug Precursor Risk Assessment Capability**

50. The AFP prepared risk assessments on 106 precursor chemicals through the National Drug Precursor Risk Assessment Capability (NDPRAC) for the Precursor Advisory Group (see below under 'policy response'). NDPRAC risk assessments were informed by expert government and non-government perspectives and were completed in December 2014, with methylamphetamine precursors forming a large part of this work.
51. The information collated under the NDPRAC project on drug precursor chemicals will also be used by the AFP for the development of the Drug Monitoring System (DMS). The DMS will be a central repository of information on precursor chemicals that are used in illicit drug manufacture and new psychoactive substances. The DMS will enhance detection and identification capabilities, and allow States and Territories to share technical information to ensure that regulatory mechanisms are updated to address new threats.

## **Enhanced National Intelligence Picture on Illicit Drugs Project**

52. The AFP-led Enhanced National Intelligence Picture on Illicit Drugs (ENIPID) project has increased forensic profiling across Australia through cooperative partnerships between State, Territory and Commonwealth law enforcement and forensic agencies.
53. The analysis of seizure data from State and Territory police, through the ENIPID project, provides an opportunity to measure the spread of methylamphetamine across jurisdictions and allows law enforcement agencies to identify regions of origin and other manufacturing trends for seized methylamphetamine. Methylamphetamine currently accounts for approximately 75% of submissions to the ENIPID project by participating jurisdictions. The ENIPID project is also used as a policy development and response tool for health and education campaigns.

54. The compilation of operational and chemical profiling information also allows law enforcement to monitor the involvement of OMCGs in manufacture, importation and distribution of methylamphetamine into and across Australia, including the manufacturing methods favoured by specific OMCGs.

55. For example, ENIPID intelligence reporting has been used to:

- identify the emergence of Mexican organised crime groups in the large scale production and supply of methylamphetamine to Australia
- identify chemical profiling links between methylamphetamine manufactured in the Netherlands to samples submitted to the ENIPID project by NSW Police and WA Police, and
- match domestically seized methylamphetamine against reported clandestine laboratory detections.

### **International Mail Processing and Disruption Strategy and National Forensic Rapid Lab**

56. The AFP developed the International Mail Processing and Disruption Strategy to promote an intelligence-led and efficient approach to processing, examination and analysis of international mail seizures.

57. The Strategy responds to ACBPS intelligence which indicated a significant increase in the volume and frequency of illicit drug and precursor importations in the international mail stream, including the emergence of the ‘scattergun’ model of importation.

58. The National Forensic Rapid Lab (NFRL) was established as part of the International Mail Processing and Disruption Strategy. The NFRL collects and analyses illicit materials, including drugs and precursors, sent through the international mail system. This forensic intelligence allows law enforcement to pinpoint links between packages or groups of packages from a common origin or destination, with a view to identifying and targeting priority criminal syndicates.

59. A Joint Intelligence Cell (JIC), comprising AFP, ACBPS and ACC, has also been established. The JIC prepares intelligence convergence reports for dissemination to domestic and international law enforcement agencies to assist with the disruption of organised criminal activity.

### **International Collaboration**

60. Ongoing collaboration between law enforcement agencies and international partners is crucial in addressing the flow of illicit drugs across Australian borders. The AFP, the Immigration and Border Portfolio, and the ACC all work collaboratively with foreign

jurisdictions to disrupt criminal syndicates who import methylamphetamine and its illicit precursors from offshore.

### **Australian Federal Police**

61. The AFP's domestic efforts are complemented by its International Network, comprising 98 members at 37 locations in 29 countries. The Network facilitates the exchange of information with foreign law enforcement agencies to combat transnational organised crime at its source. The AFP also participates in the development of collective policy responses through forums such as the Heads of National Drug Law Enforcement Agencies for Asia and the Pacific, and major donor group activities.

#### **Case Study**

Operation Phlox represented the first trilateral joint operation between the AFP, the China Anti-Smuggling Bureau and Hong Kong Customs and Excise. As part of this operation, 100 kilograms of ice was seized in two sea cargo consignments entering Australia, with a further 65 kilograms seized in China. The AFP also seized 107 kilograms of the precursor 3, 4-Methylenedioxyphenylpropan-2-one (MDP2P), which is used in the manufacture of methylamphetamine. A total of eight people were arrested for their involvement in the drug operation.

#### **Case Study**

In April 2012, Operation Volante commenced an investigation into the activities of an international organised crime syndicate operating across five countries, including the importation and trafficking of substantial quantities of methylamphetamine into and around Australia. During Operation Volante, the AFP worked with Victoria Police, NSW Police, ACC and ACBPS, as well as international law enforcement partners in China, Macau, Thailand, Malaysia, Vietnam, Myanmar and Hong Kong, to target this syndicate.

In March 2013, the AFP and Victoria Police conducted 37 search warrants across Melbourne. A total of 27 people were arrested and charged with illicit drug and other offences, resulting in the seizure of more than 42 kilograms of drugs.

### **Immigration and Border Protection Portfolio**

62. The Immigration and Border Protection Portfolio has a strong history of cooperation on information sharing across the Border 5 (counterpart agencies in Canada, UK, USA and NZ), and with regional partners. For example, under the Customs Strategic Partnership Program (SPP), ACBPS and the General Administration of China Customs have been cooperating on countering the flow of illicit drugs and precursors to Australia. Since 2012



when the initial SPP was signed, the Anti-Smuggling Bureau of China Customs has made more than 100 seizures of illicit drugs and precursors destined for Australia.

63. In March 2015, ACBPS participated in Operation Westerlies 3: a joint enforcement operation organised by the World Customs Organisation (WCO) in collaboration with Japan Customs, targeting illegal trafficking in methamphetamine by air passengers. Detections of methylamphetamine through the air passenger stream at all airports were reported to the WCO to support international information sharing.

### **Australian Transaction Reports and Analysis Centre**

64. AUSTRAC is a global leader in anti-money laundering and counter-terrorism financing (AML/CTF) and the primary source for financial intelligence in Australia used in the investigation of organised crime and illicit drug-related activities.
65. AUSTRAC has agreements with 73 foreign counterparts for the exchange of financial intelligence information, and two further international agreements for the exchange of regulatory information. These agreements are used to exchange financial intelligence used in the investigation of organised crime and illicit drug-related activities.
66. AUSTRAC works closely with international organisations to support the development of global AML/CTF standards, and provide technical assistance and training initiatives to help countries strengthen their AML/CTF regimes. In particular, AUSTRAC undertakes capacity-building initiatives with key regional partners, such as the Indonesian Alternative Remittance and Cash Couriers Program and the Combating Corruption in Papua New Guinea Program.
67. AUSTRAC also plays a key role in a number of international organisations which target money laundering, terrorism financing and other financial crime, including the Financial Action Task Force, the Egmont Group of Financial Intelligence Units, and the Asia Pacific Group on Money Laundering.

### **Australian Crime Commission**

68. The ACC currently engages with overseas law enforcement bodies including its Five Eyes Law Enforcement Group partners, on issue or investigation-specific matters as well as accessing existing international networks including the AFP's international network. This engagement is complemented with bespoke international deployments focussed on specific international intelligence collection requirements.

## The Policy Response

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69. This section outlines recent policy responses that will assist law enforcement to address the ice problem. These measures are aimed at improving the current criminal and regulatory controls for reducing the supply of ice and its precursors. They will remedy identified gaps and inconsistencies in regulatory controls, and better enable Commonwealth criminal laws to deal with contemporary methodologies for trafficking illicit drugs and precursors.

### Proposed amendments to serious drug and precursor offences

70. On 19 March 2015, the Minister for Justice introduced the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015 (Powers, Offences and Other Measures Bill) into the House of Representatives. The Bill contains amendments to improve the operation of serious drug and precursor offences in the Criminal Code.
71. The amendments address a number of problems that the AFP and Commonwealth Director of Public Prosecutions (CDPP) have identified in prosecuting people involved in drug and precursor importation.
72. These amendments will target individuals who are part of a larger drug enterprise, but who deliberately ignore how their actions fit into the broader criminal operation. The new laws will also make it easier to prosecute people involved in importing the chemicals used to make illicit drugs, such as methylamphetamine and ice. The domestic production of these drugs relies heavily on the importation of precursors from overseas.

### Proposed ‘knowingly concerned’ amendments

73. The Powers, Offences and Other Measures Bill also contains amendments to reinsert the ‘knowingly concerned’ form of derivative criminal liability into the Criminal Code. A person may be held to be knowingly concerned in the commission of an offence where that person is knowingly and intentionally involved in the key elements of an offence.
74. These amendments will assist prosecutions for the importation of illicit drugs (such as ice), where an accused is actively and knowingly involved in key acts surrounding the commission of the offence, but where it cannot be proven that the accused personally committed the actual crime. This may occur, for example, where a member of a criminal group arranges or conceals the importation, but does not personally deliver or receive the drugs.
75. The knowingly concerned formulation focuses on the facts and evidence of the accused’s conduct in relation to the offence and therefore reduces the complexity of prosecutions involving secondary criminal liability.

## Precursor Advisory Group

76. The Precursor Advisory Group (PAG) is a cross-jurisdictional working group, comprising representatives from AGD, the AFP and the Therapeutic Goods Administration, as well as police and health department representatives from the States and Territories.
77. The PAG has recently finalised a discussion paper outlining recommendations for achieving greater national consistency of precursor controls. Commonwealth, State and Territory Ministers agreed to progress the recommendations at the Law, Crime and Community Safety Council meeting on 22 May 2015. Public consultations on the recommendations will take place in the second half of 2015.
78. The PAG has identified the current lack of consistency in precursor controls between jurisdictions as both a vulnerability which may be exploited by criminals and a source of regulatory burden to industry. These recommendations include:
- the adoption of consistent precursor controls by States and Territories, including harmonised lists of precursor chemicals (where practical)
  - the development of a national electronic End User Declaration system
  - the maintenance of a real time electronic recording system for pseudoephedrine sales
  - further consideration of new offences for possessing certain combinations of precursor chemicals, and
  - continued engagement with industry bodies to promote awareness of the risk of diversion.
79. The PAG consulted the Precursor Industry Reference Group (PIRG) in developing these recommendations. The PIRG includes representatives from industry, such as the Pharmacy Guild of Australia and the Plastics and the Chemicals Industry Association. Industry bodies are very supportive of moves towards greater national consistency as it will reduce the compliance burden on industry.

## **Potential Law and Law Enforcement Initiatives to Address Ice**

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The Commonwealth Government is leading a number of proposed law and law enforcement strategies to address the growing problem of ice in the Australian community. In particular, the National Ice Taskforce will build upon the existing efforts at all levels of government to develop a National Ice Action Strategy. The Taskforce will consider initiatives across law enforcement, health and education sectors to ensure a comprehensive and coordinated approach is taken.

The National Organised Crime Response Plan 2015-18 (Response Plan) also outlines a number of initiatives that Commonwealth, State and Territory governments will pursue over the next three years to address the supply of ice in the Australian community. These initiatives include the development of a National Criminal Intelligence System, broader use of 'waste water analysis' to inform law enforcement strategies, and the introduction of an electronic End User Declaration system for the sale of precursor chemicals.

### **National Ice Taskforce**

80. On 8 April 2015, the Prime Minister announced the establishment of a National Ice Taskforce to drive the development and implementation of a National Ice Action Strategy.
81. The National Ice Action Strategy will seek to improve coordination and collaboration by all levels of government in addressing the use of ice and its impacts, and will complement the new National Drug Strategy 2016-2021. The Taskforce is to complete the Strategy and put it to the Council of Australian Governments (COAG) for consideration before the end of 2015. The Taskforce will also provide an interim report to COAG in mid-2015.
82. The Taskforce will examine efforts across law enforcement, health and education sectors, and is currently seeking feedback from the community and expert groups, including in regional and rural areas.

### **National Organised Crime Response Plan 2015-18**

83. Commonwealth, State and Territory Ministers endorsed the new Response Plan at the Law, Crime and Community Safety Council meeting on 22 May 2015. AGD developed the Response Plan in consultation with Commonwealth law enforcement agencies and State and Territory police forces and justice agencies.
84. The Response Plan identifies that tackling the increasing prevalence of methylamphetamine (including ice) is one of six key initiatives that Commonwealth, State and Territory governments will address over the next three years. The Response

Plan also outlines a number of activities that jurisdictions will pursue that will impact on the supply of ice:

- developing an electronic End User Declaration scheme to capture declarations around the use of precursor chemicals and provide more information and intelligence to law enforcement agencies about the sale of precursors (explained in further detail below)
- pursuing national consistency of controls around precursor chemicals, including by developing consistent lists of controlled chemicals and reporting requirements
- developing a range of tools to assist officers responding to clandestine illicit drug laboratories, to ensure officers receive appropriate training to deal with the hazardous chemicals found in these laboratories, and
- exploring options for a national waste water analysis scheme to help provide better information on drug usage in the community (explained in further detail below).

85. The Response Plan is publicly available at:

<<http://www.ag.gov.au/CrimeAndCorruption/OrganisedCrime>>.

## **National Criminal Intelligence System**

86. Significant operational dividends could be achieved through investment in a dynamic data collection and information sharing capability, such as the introduction of a National Criminal Intelligence System (NCIS). An NCIS hosted by the ACC would increase collaboration and technical connectivity across law enforcement agencies and jurisdictional boundaries, enabling a more accurate and comprehensive intelligence picture on crime (including methylamphetamine) and the involvement of organised criminal groups.

87. Upgrading the national criminal intelligence system is one of the activities that will be pursued under the National Organised Crime Response Plan.

## **Waste Water Initiative**

88. Estimating the size of the Australian methylamphetamine market is important in identifying effective law enforcement, health and education response strategies. In at least two locations in Australia, analysis of illicit drug metabolites in sewage (waste water) accurately maps drug prevalence trends in the area being serviced by the treatment facility. Broader use of 'waste water analysis' may serve to augment existing methods of data collection and provide a comprehensive national picture on the rates of methylamphetamine use.

## **Electronic End User Declarations**

89. Strong links between industry and law enforcement is critical to limiting the diversion of precursor chemicals into illicit drug manufacture. A key aspect of this engagement is the recording of sales of scheduled precursor chemicals and equipment by completing an ‘end user declaration’.
90. End user declarations (EUDs) are documents which contain details of the supplier, purchaser and the purpose for which the chemicals or equipment are required. In most jurisdictions suppliers must retain these documents for a set period of time and make them available to law enforcement on request.
91. While the majority of States and Territories mandate the completion of EUDs, record keeping systems vary across jurisdictions and are largely paper-based, hindering the efficient flow and analysis of information by law enforcement agencies.
92. The result is that there is no central repository for information about precursor sales and no uniform regulation across Australia requiring the submission of EUDs or the provision of them to police, even in relation to suspicious purchases. Existing controls now lag behind the technical environment and contemporary drug markets, with serious and organised crime groups capitalising on gaps in the national framework for precursor controls.
93. A working party established by the Senior Officers Group on Organised Crime (SOG on OC) has recently finalised a discussion paper on the development and implementation of a national electronic EUD solution. NSW Police chairs the working group.
94. Under the proposal, an electronic EUD system would provide law enforcement agencies with immediate access to information about precursor sales through an online searchable database. This system would support a nationally coordinated approach that operates in real time and is capable of managing the dynamic market for illicit precursors in Australia. An electronic EUD system would also facilitate an intelligence function with the potential to ‘match’ suspicious transactions by identity, location or other factors. This function would enhance investigative opportunities, which are currently only available through manual, resource-intensive methods of analysis.

## **Attachment A – Role of Commonwealth Agencies**

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### **Australian Crime Commission**

The Australian Crime Commission (ACC) is Australia's national criminal intelligence agency, dedicated to discovering, understanding and responding to serious and organised crime.

The ACC aims to identify systemic and sectoral vulnerabilities which are being exploited by participants in high risk and emerging drug markets, and provides advice and support to partner agencies and Governments on legislative and policy responses to reduce the risk and impacts of these vulnerabilities. The ACC also enhances the national understanding of high risk and emerging drug markets through the production of both classified and unclassified intelligence assessments.

The Illicit Drug Data Report (IDDR) is one such assessment produced by the ACC. The IDDR provides a statistical overview of illicit drug border detections, national seizures, national arrests and user groups, as well as profiling the current situation, national impact and emerging trends. The IDDR is recognised as a valuable tool for law enforcement agencies, policy and decision makers, research bodies and other stakeholders in developing strategies to combat the threat posed by illicit drugs in Australia.

The ACC also produces the Organised Crime in Australia (OCA) assessment, which provides the context in which organised crime groups operate, including key illicit markets and activities which enable serious and organised crime. The OCA has consistently identified that the risk posed by methylamphetamine (and particularly ice) is the highest of all organised crime and illicit drug markets.

In 2013-2014, the ACC's activities led to 39 disruptions of criminal behaviour of entities, the seizure of illicit drugs worth more than \$386 million and the arrest of 371 people on 617 charges.

### **Australian Federal Police**

The Australian Federal Police (AFP) is the Commonwealth's principal investigative agency, responsible for enforcing Commonwealth criminal law and protecting Australia's national interests, including through cooperation with key international partners and State and Territory law enforcement. The AFP seeks to prevent, disrupt, investigate and prosecute persons involved in complex organised criminal activity, including the importation and manufacture of illicit substances, money laundering and economic crime.

The AFP has established partnerships with foreign law enforcement agencies around the world, through an extensive International Liaison Officer Network, to service the needs of all

Australian law enforcement agencies. The Network provides a whole of government approach to fighting crime at its source and facilitates the exchange of information between Australian and foreign law enforcement agencies.

The trafficking of methylamphetamine within the Australian drug market continues to be a growing trend influencing AFP operations and disruptions. Between 2004 and 2010, less than 250 kilograms of methylamphetamine was seized annually. This has increased significantly in recent years, to approximately 680 kilograms in 2011, 1.1 tonnes in 2012, and over 2 tonnes in 2013.

## **Immigration and Border Protection Portfolio**

From 1 July 2015, the DIBP and the ACBPS will be consolidated into a single Department, and a single frontline operational entity, the Australian Border Force (ABF), will be established within the Department. As a result of the consolidation, ACBPS will be abolished as a statutory agency by 1 July 2015 through repeal of the *Customs Administration Act 1985*. Policy, regulatory and corporate functions of DIBP and ACBPS will be integrated into DIBP, where the ABF will be responsible for operational and enforcement activities.

The ABF will have statutory responsibilities to enforce customs, immigration and other related border law and to deliver specialised border capabilities. It will perform investigation, compliance, detention and enforcement functions offshore and onshore, across Australia's air and seaports, and land and maritime domains. It will also be responsible for the collection of border-related revenue

Following the integration of ACBPS and DIBP, the Immigration and Border Protection Portfolio will continue to work closely with other law enforcement agencies to address the threat posed to the community by illicit drugs, including ice.

## **Attorney-General's Department**

The Attorney-General's Department (AGD) has responsibility for Commonwealth law enforcement policy and criminal law (including illicit drugs policy), anti-corruption and fraud policy, mutual assistance and extradition arrangements and international legal cooperation and related assistance. AGD also advances crime cooperation through overseas capacity-building work with regional partners.

## **Australian Transaction Reports and Analysis Centre**

The Australian Transaction Reports and Analysis Centre (AUSTRAC) is Australia's anti-money laundering and counter-terrorism financing regulator and financial intelligence unit. AUSTRAC's financial intelligence is extensively used in targeting domestic and international organised crime threats. Complementing this function, AUSTRAC's regulatory activities are



designed to ensure that regulated businesses report transactions, and to harden these businesses against misuse by criminals. AUSTRAC has memorandums of understanding with financial intelligence units in other countries which enable it to exchange financial reporting information.

Criminals involved in the importation and distribution of methylamphetamine are motivated by profit. AUSTRAC is able to analyse its financial transaction reports and use advanced analytics to give its partners actionable intelligence, including business rules that monitor suspicious matter reports for references to 'methylamphetamine', 'ice' and other drug related terms. This intelligence can be referred to relevant law enforcement agencies to assist in identifying members of syndicates, associates, locations of potential activity and corroborating evidence.

### **Australian Institute of Criminology**

The Australian Institute of Criminology is Australia's national research and knowledge centre on crime and justice which undertakes and communicates evidence-based research to inform policy and practice.