

June 2000

Ms Shelley McInnis  
Secretary  
House of Representatives Standing Committee  
on Family and Community Affairs  
Parliament House  
CANBERRA ACT 2600

Dear Ms McInnis

**INQUIRY INTO SUBSTANCE ABUSE IN AUSTRALIAN COMMUNITIES**

I refer to your letter of 12 April and Mr Carnell's reply of 3 May regarding the inquiry by the House of Representatives Standing Committee on Family and Community Affairs into Substance Abuse in Australian Communities.

My Department is pleased to be able to make a contribution to the inquiry. The attached submission represents a coordinated response on behalf of my Department and relevant portfolio agencies: the Australian Federal Police, the Australian Customs Service, the National Crime Authority, and the Australian Transaction Reports and Analysis Centre.

**The submission reflects the Commonwealth's particular role and responsibilities under the National Drug Strategy in reducing the supply of illicit drugs. For example, my Department is responsible for developing and implementing policy in the areas of crime prevention, money laundering, extradition and mutual assistance. The Australian Customs Service enforces the Government's controls on illicit drugs and controlled substances at Australia's border, while the Australian Federal Police has primary responsibility for investigating offences associated with the importation of illicit drugs into Australia and for disrupting the international supply of illicit drugs.**

While the submission focuses principally on the various dimensions of illicit drug law enforcement from a Commonwealth perspective, it also reflects the importance of strong partnerships and strategic linkages between health and law enforcement agencies in tackling the problem of illicit drug usage.

Yours sincerely

**ROBERT CORNALL**



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**ABBREVIATIONS OF ORGANISATIONS**

ABCI	Australian Bureau of Criminal Intelligence
ACS	Australian Customs Service
AFP	Australian Federal Police
AGD	Commonwealth Attorney-General's Department
AIHW	Australian Institute of Health and Welfare
ANCD	Australian National Council on Drugs
APG	Asia/Pacific Group on Money Laundering
ATO	Australian Taxation Office
AUSAID	Australian Agency for International Development
AUSTRAC	Australian Transaction Reports and Analysis Centre
BINLEA	United States Bureau of International Narcotics and Law Enforcement Affairs
BCSR	New South Wales Bureau of Crime Statistics and Research
CDPP	Commonwealth Director of Public Prosecutions
CND	United Nations Commission on Narcotic Drugs
COAG	Council of Australian Governments
DHAC	Commonwealth Department of Health and Aged Care
DOFA	Commonwealth Department of Finance and Administration
FATF	Financial Action Task Force
HONLEA	Heads of National Drug Law Enforcement Agencies
IGCD	Inter-Governmental Committee on Drugs
IGC-NCA	Inter-Governmental Committee on the National Crime Authority
INCB	International Narcotics Control Board
INTERPOL	International Criminal Police Organisation
MCDS	Ministerial Council on Drug Strategy
NCA	National Crime Authority
PJC-NCA	Parliamentary Joint Committee on the National Crime Authority
UN	United Nations
UNDCP	United Nations International Drug Control Program
UNODCCP	United Nations Office of Drug Control and Crime Prevention
WCO	World Customs Organisation

## **EXECUTIVE SUMMARY**

It has been over 20 years since the Commonwealth Parliament last conducted a broad-ranging national inquiry into drug abuse in Australia. A feature of the report of the previous inquiry, by the Senate Standing Committee on Social Welfare in 1977, was its compilation of a 'declared strategy' that it considered Australian governments should adopt to counter the impact of drug abuse. Over two decades on, two elements of the declared strategy remain particularly relevant:

Existing programs aimed at reduction of supply and demand must be broadened. In the reduction of supply, a higher priority should be given to increasing international cooperation in preventing the illicit production of drugs. In the reduction of demand, increased attention should be given to prevention, constructive early intervention and better access to rehabilitation services.

Efforts to reduce the supply of and demand for drugs are complementary and interdependent, and Commonwealth programs should be based on a balance between them.

A key feature of the Australian policy framework in 2000, both at a domestic and an international level, is its continued pursuit of an approach that aims to manage the diverse health, social and economic consequences of illegal drug use through comprehensive and consistent policies of demand, supply and harm reduction. Through the *Tough on Drugs* strategy, first announced by the Commonwealth Government in November 1997, Australia continues to adopt a balanced approach to combat the illicit drug problem through prevention, early intervention and treatment initiatives.

The focus of Commonwealth law enforcement agencies is directed to illicit drugs, to the extent that actions by individuals or organisations involving illicit drugs are in breach of Commonwealth laws. While the AFP, in its national role, exercises no direct responsibility for licit drugs, circumstances can arise where indirect involvement in respect of crimes involving such substances may occur. For example, the AFP conducts investigations into serious fraud committed against the Commonwealth. This can include activity under the *Crimes (Taxation Offences) Act 1980*, where fraud may be perpetrated on government revenue relating to licit substances such as tobacco and alcohol.

### **International Cooperation**

Australia is committed to a concerted international effort to curb abuse of, and trafficking in, illicit drugs and their precursors. It recognises the importance of building effective partnerships internationally to augment efforts to reduce illicit drug use around the world.

Australia's approach to drug control recognises the increasing globalisation of networks involved in the production and supply of illicit drugs and their precursors. For this reason, Australia has adopted a collaborative approach in the fight against illicit drugs at the international level, with a particular focus on the Asia/Pacific region. Australia is committed to fostering bilateral and regional cooperative efforts to reduce the production of, trafficking in, and profit from trafficking, in illicit drugs. This commitment is demonstrated through Australia's ongoing support of, and cooperation with, the activities of international organisations such as the UNDCP, FATF and the drug enforcement areas of INTERPOL and the WCO.

The *Tough on Drugs* strategy recognises that illicit drug abuse is an international problem and that Australia shares a responsibility with other countries to address both its causes and its impact. International cooperation in tackling the illicit drug problem is vital, not only to protect the Australian community, but also to: enhance the well being of the international community; advance international development; and bolster regional and global stability.

Through the *Tough on Drugs* strategy the Commonwealth Government seeks to target cultivation, production, transit, distribution and supply networks. Under *Tough on Drugs*, the Commonwealth has, *inter alia*, developed a Law Enforcement Cooperation Program with overseas law enforcement agencies; created new AFP overseas liaison posts in key transit countries to enhance Australia's ability to combat international illicit drug trafficking and transnational crime; and increased the capacity of the NCA to intensify its targeting of south-east Asian crime, in particular heroin importation.

Additionally, to support the efforts of the UN to eradicate illicit crops and replace them with alternative sustainable development, the Commonwealth Government has extended international aid activities to tackle illicit drug production and supply, particularly in Burma.

### **Changing Nature of Crime**

The changing nature of crime, particularly illegal drug supply, which is motivated entirely by high profits, defies national and regional boundaries. Efforts to reduce the supply of illicit drugs will increasingly be influenced by the collective ability of law enforcement agencies to respond to the changing nature of crime, including the emerging technologies of electronic commerce that facilitate money laundering activity.

Australia has positioned itself as a world leader in this regard, through a sophisticated legislative framework; highly developed analytical and law enforcement techniques; and a successful strategy of inter-agency cooperation. Australia's success in combating money laundering has been recognised by the FATF, the leading international body against money laundering.

The rise of electronic commerce is having a major effect on the capacity of law enforcement agencies to counter trade in illicit drugs. This is an area where the capabilities of law enforcement agencies are being tested in relation to detecting, investigating and prosecuting crime. The financial aspects of organised crime, such as drug trafficking, are becoming more difficult to police, given the rise of Internet banking and it is an increasing challenge for law enforcement agencies to 'follow the money trail'. As electronic commerce transactions are more rapid than previous transactions, the 'window of opportunity' for law enforcement intervention is reduced.

The changing nature of crime is recognised under the *Tough on Drugs* strategy. Under *Tough on Drugs*, AUSTRAC, Australia's anti-money laundering agency, has received additional resources to enhance its ability to monitor suspicious financial transactions. In addition, AUSTRAC is increasingly able to provide significant financial intelligence to other Commonwealth law enforcement agencies to assist in and initiate drug investigations. The *Tough on Drugs* strategy also provides funding for the secretariat of the APG, a regional forum that was established, with strong support from Australia, to combat money laundering in the Asia/Pacific.

Australia's efforts in the fight against crime in the future will involve not only the seizure of drugs but also an increase in the capacity to disrupt criminal networks and confiscate proceeds of crime. A report by the Australian Law Reform Commission on the *Proceeds of Crime Act 1987* has recommended a major overhaul of the Act, including the introduction of a civil forfeiture scheme (that is one that enables the forfeiture of the proceeds of crime by civil proceedings without a requirement for a criminal conviction).

### **Costs of Drug Abuse and Domestic Partnerships**

It is recognised that drug problems do not occur in isolation. They are often connected with other social problems, such as unemployment, low self esteem, educational 'failure', poor housing, income inequities, boredom and physical, psychological or family problems.

Unemployment is an important factor in the drug taking habits of individuals. International surveys have shown that drug use among the unemployed is consistently higher than among the employed. The cost of unemployment to society is great, and is manifested in lost production, lost income generation and therefore lost job opportunities for the unemployed population on a recurring basis. There is a potential for individuals to become trapped in a cycle of unemployment and drug use.

Family and community factors are also important. Family factors that lead to, or intensify, drug abuse include prolonged or traumatic parental absence, harsh discipline, failure to communicate on an emotional level and parental use of drugs. Lack of household stability triggered by low and irregular income and unemployment may increase the stress on a family



and its vulnerability to drug abuse. While the family can itself be the source of drug problems it can also be a potent force for prevention and treatment. Families have a clear interest in preventing individual family members from falling prey to drug abuse and are potentially a powerful ally of government in the development of prevention programs.

A key initiative under the *Tough on Drugs* strategy that recognises the importance of involving families, community and voluntary organisations, law enforcement officers, health professionals, governments and the wider community in efforts to address illicit drug abuse is diversion. The diversion program enables police to divert minor illicit drug offenders away from the criminal justice system and into rehabilitation. Diversion aims to prevent people from entering into long-term illicit drug abuse, where the consequences could include health problems, financial destitution, social dysfunction and, in some cases, acts of violence and property crime.

Research has found that illicit drug abuse also imposes significant economic costs on governments. Although available studies show that illicit drug law enforcement generally attracts more expenditure than illicit drug health programs, relative expenditure by governments on health and law enforcement is not the central issue: what is important is that health and law enforcement agencies work in partnership to reduce the harms caused by illicit drugs. This will not necessarily equate to an equal distribution of the available budget.

'Building partnerships' is a priority under the National Drug Strategic Framework, with emphasis on the need for cooperation between all levels of government, community-based organisations, researchers, health professionals, educators, law enforcement authorities, drug users and the wider community to tackle the harmful social, health and economic effects of drug abuse.

The approach of Commonwealth law enforcement to illicit drug detection is based on a risk assessment process combined with intelligence developed at strategic, operational and tactical levels, use of technology, highly skilled staff and cooperation between agencies. The 'community protection' focus of law enforcement underpins its active partnerships with the community sector and health agencies under the National Drug Strategic Framework. Law enforcement agencies work in partnership with the community, demonstrating a commitment to reduce the harms caused by illicit drugs through a cooperative approach. It is important to recognise that law enforcement initiatives do have an impact on the success of public health initiatives and the health of individuals, just as public health initiatives have an impact on criminal activity.

Law enforcement continues to evolve in respect of the way it conducts its business. Monitoring and evaluation is an iterative process – and it is fundamental to the way law enforcement agencies operate in the current environment, particularly given the changing nature of crime, and the inter-

relationships that exist between drug crime and emerging criminal behaviour, such as money laundering.

## **Drugs and Crime**

One of the most significant of the social and economic consequences of drug abuse is crime, particularly acquisitive and violent crime.

The costs of crime and drug abuse can be divided into two main categories – actual drug offences and drug-related crime, including violence and anti-social behaviour. Statistics on drug offences, which include possession, use, manufacture and trafficking of illicit drugs, are relatively simple to collate, and the numbers of sentenced prisoners with drug offences as their 'most serious offence' is documented by individual jurisdictions.

The second category, drug-related crime, refers to property and violent crime committed by drug users and to the association between the use of drugs and the commission of that crime. The relationship between drugs and property and violent crime includes the abuse of both licit drugs, particularly alcohol, and illicit drugs.

The first annual results from the Drug Use Monitoring in Australia (DUMA) project appear to confirm the existence of a strong relationship between illicit drug use and criminal behaviour. The DUMA data does not allow researchers to extrapolate that illicit drug use causes criminal behaviour. However, the DUMA findings suggest that by reducing levels of drug dependency amongst the criminally active population, there could be significant benefits for society, in the form of a decrease in criminal activity.

Research has shown that the perceived 'risk' of arrest is a major factor affecting which markets users operate in, how they use drugs and the likelihood of their entry into treatment. Further research on persons detained by police shows that the use of drugs by this group complicates law enforcement's approach to drug-related crime; they are dealing with both a 'crime' and a 'health' problem and the challenge is to achieve a balance between community protection and protecting the drug-using individuals.

## **Conclusion**

This submission does not attempt to make recommendations in respect of the social and economic costs of drug abuse in Australia. Its intention is to describe the illicit drug problem, from a Commonwealth law enforcement perspective, and the efforts of law enforcement agencies to combat this problem, under the four headings outlined above.

The Commonwealth Government is committed to the monitoring and evaluation of all its anti-drug initiatives, including those under the *Tough on Drugs* strategy. It recognises that such processes are essential to formulate

anti-drug policies that are relevant and effective in the future. The AGD and agencies within the portfolio have provided substantial input to monitoring and evaluation activities that are underway. Under *Tough on Drugs*, the Commonwealth has demonstrated an ongoing commitment to research, recognising the central role of such activity in informing future policy development.

There are no short-term solutions to the illicit drug problem: it is a long-term challenge that needs to be tackled on many fronts, reducing demand as well as supply and assisting those addicted to illicit substances. The efforts to reduce supply, combined with other elements of the *Tough on Drugs* strategy which act to strengthen the resolve of users to cease taking illicit drugs and for non-users not to start, give Australia a sound basis on which to develop as a minimum drug using society.

1 THE GLOBAL ILLICIT DRUG PROBLEM

## 1.1 Extent of the Illicit Drug Problem

The UNDCP makes the following observations about the extent of the international illicit drug problem:

One indicator of the magnitude of the [illicit drug] problem from an economic perspective are the estimates of the turnover of the global illicit drug industry. Due to the clandestine nature of the industry, its complexity and greatly differing assumptions on its operations, estimates of the turnover of the illicit drug industry vary considerably, from about \$US100 billion to more than \$US1000 billion a year. The most frequently found figures in the literature range from \$US300 billion to \$US500 billion a year and seem to be the most reasonable estimates.<sup>1</sup>

It is suggested by the UNDCP that such a turnover would be equivalent to approximately 8 per cent of international trade: it would be larger than the international trade in iron and steel and motor vehicles and about the same size as the trade in textiles, oil and gas and world tourism.

## 1.2 Illicit Drug Production

Illicit crop cultivation is concentrated in certain areas, but frequently shifts within and between subregions, sometimes appearing in areas where it was not previously noted. The *Australian Illicit Drug Report 1998-99* (1999 AIDR) notes that although illicit poppy cultivation occurs in most parts of the world, the three main areas are the 'Golden Triangle' (Burma, Thailand and Laos), the 'Golden Crescent' (Afghanistan and Pakistan) and Latin America (Colombia and Mexico).<sup>2</sup> Shifting production, however, makes countries such as Colombia and the Central Asian republics potentially major producers of opiates. Coca production, by contrast, is more concentrated, and three Andean countries (Bolivia, Peru and Colombia) account for more than 98 per cent of world supplies.<sup>3</sup>

### 1.2.1 Heroin

The *International Narcotics Control Strategy Report 1999* (1999 INCSR) reports that a second year of unfavourable growing conditions in 1999 reduced opium cultivation in the Golden Triangle region of south-east Asia by 29 per cent over the year. According to United States Government estimates, in 1999 an estimated 112,135 hectares of opium poppy was

<sup>1</sup> United Nations International Drug Control Program (1998), *Economic and Social Consequences of Drug Abuse and Illicit Trafficking*, New York, p. 3.

<sup>2</sup> Australian Bureau of Criminal Intelligence (2000), *Australian Illicit Drug Report 1998-99*, Canberra, p. 33.

<sup>3</sup> United Nations International Drug Control Program (1997), *World Drug Report*, Oxford University Press, New York, p. 18.

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cultivated in the Golden Triangle, potentially producing 1,236 tonnes of opium. Burma's production accounts for 80 per cent of this amount, down from 95 per cent in 1998. Weather conditions were largely responsible for the decrease in the crop.

In contrast, the 1999 INCSR reported that opium poppy cultivation in south-west Asia increased by 19 per cent in 1999 as a result of greater cultivation in Afghanistan, which has displaced Burma as the world's leading producer of illicit opium gum. Total hectareage in the Golden Crescent rose from 44,750 hectares in 1998 to 53,070 hectares in 1999; total potential production rose from 1,415 tonnes to 1,707 tonnes. Afghanistan alone now potentially produces 34 per cent more opium than the Golden Triangle.<sup>4</sup>

The UNODCCP notes that many reports in recent years have suggested that Central Asia could become a major drug cultivation area, offering excellent climatic conditions for the cultivation of opium poppy. It notes, however, that a UNDCP survey, carried out in three Central Asian states, Kazakhstan, Kyrgyzstan and Tajikistan, and other latest available information indicate that illicit cultivation of opium poppy remains limited in the region.<sup>5</sup>

The 1999 AIDR estimates that 80 per cent of the heroin seized in Australia during 1998-99 came from south-east Asia and, in particular, the Golden Triangle. The report notes, however, that drought in the Golden Triangle, eradication measures and increased drug law enforcement by authorities in Thailand along the border have affected the heroin trade in Burma, which is traditionally Australia's principal supplier of heroin.<sup>6</sup> The outcome for Australia of the decrease in the production of opium in the Golden Triangle is difficult to predict. Much will depend on whether production recovers in future growing seasons. Whether any shortfall will be made up with increased supplies from the Golden Crescent is uncertain – new networks would have to be established and accommodation reached between syndicates from south-east and south-west Asia. However, as demand in Australia is still strong, there could be significant monetary incentives for syndicates to risk importing heroin from wherever they can.<sup>7</sup>

### *1.2.2 Cocaine*

The 1999 AIDR notes that although cocaine production in South America is declining, there appears to be no shortage of supply to meet world demand. Cocaine consumption in the United States, the world's largest market, is showing a marked decrease, and the cartels may be expected to try to expand into other markets, such as Australia.<sup>8</sup>

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<sup>4</sup> United States Bureau for International Narcotics and Law Enforcement Affairs (2000), *International Narcotics Strategy Report 1999*.

<sup>5</sup> United Nations Office for Drug Control and Crime Prevention (1999), *Global Illicit Drug Trends 1999*, New York, p. 22.

<sup>6</sup> ABCI (2000), loc. cit.

<sup>7</sup> *ibid.*, p. 45.

<sup>8</sup> *ibid.*, p. 69.

The 1999 INCSR reports that worldwide coca cultivation dropped 4 per cent from 190,800 hectares in 1998 to 183,000 hectares in 1999. Despite an active eradication program, Colombia experienced a 20 per cent increase in coca cultivation, to 122,500 hectares at the end of 1999. In Bolivia, eradication programs reduced cultivation by 43 per cent between 1998 and 1999. Peru's coca crop also dropped, by 24 per cent, between 1998 and 1999.<sup>9</sup>

The 1999 AIDR notes that if current trends persist, it is unlikely that cocaine usage will increase. However, it is difficult to predict any significant changes in the extent of use among the Australian population.<sup>10</sup>

### 1.2.3 Synthetic Drugs

The UNDCP reports that although earlier studies have shown the overwhelming majority of illicit drugs consumed to be plant products, synthetic drug markets are developing rapidly. So far, the abundant global supply of natural, plant-based illicit drugs is likely to have acted as a deterrent on what could otherwise have been an accelerated shift towards synthetic drugs. It suggests that with retail prices of synthetic drugs in developed countries rather low compared to the unit price of illicit plant-based drugs, the significance of synthetic drugs is increasing. As a further indicator, the share of synthetic drugs in global drug seizures, as reported to the UNDCP, rose from 6.6 per cent in 1988-89 to 16.3 per cent in 1994-95. The share of amphetamine-type stimulants rose from 4.4 per cent to 12.4 per cent over the same period, suggesting that such stimulants are one of the most dynamic groups of illicit drugs in terms of growth.<sup>11</sup>

The *World Drug Report* highlights growing concerns about synthetic drug production. It notes that while the global threat posed by heroin and cocaine can be grasped by production statistics, concern about the particular challenge of synthetic drugs is also warranted. The report goes on:

Since the mid-1980s the world has faced a wave of synthetic stimulant abuse, with approximately nine times the quantity seized in 1993 than in 1978, equivalent to an average annual increase of 16 per cent. The principal synthetic drugs manufactured clandestinely are the amphetamine-type stimulants (ATS) which include the widely abused amphetamine and methamphetamine, as well as the more recently popularised methylenedioxymethamphetamine (MDMA), known as ecstasy, and methcathinone.<sup>12</sup>

The 1999 AIDR supports the contention that the synthetic drug market is rapidly increasing in significance. The report notes intelligence from south-

<sup>9</sup> BINLEA (2000), op. cit.

<sup>10</sup> ABCI (2000), loc. cit.

<sup>11</sup> UNDCP (1998), op. cit., p. 5.

<sup>12</sup> UNDCP (1997), op. cit., p. 19.

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east Asia that indicates that heroin manufacturers are diversifying into illicit methylenedioxyamphetamine (MDMA) and amphetamine production, using existing networks to obtain precursor chemicals and to distribute their product. It is noted that these drug organisations, with their established contacts and advanced methods of concealment, are capable of importing psycho-stimulants into Australia. The extent to which these manufacturers will target Australian markets remains unclear at present.

Most of the amphetamine and methamphetamine in Australia is domestically produced, while the 1999 AIDR reports that most of the MDMA available in Australia is imported from Europe. Local users of MDMA believe that overseas product is safer and purer than the local product. Domestic production of MDMA evidently remains low in comparison with amphetamine production.

The 1999 AIDR reports that efforts continue to be made in Australia to foster cooperation between the chemical industry, pharmaceutical suppliers and health and law enforcement authorities to improve controls over the supply of precursor chemicals for amphetamine-type stimulants and to prevent these chemicals reaching illicit drug manufacturers. For example, pseudoephedrine is a precursor chemical used in the production of amphetamine-type stimulants. Australia is in the process of implementing tighter controls on the availability of Sudafed, a cold and influenza medicine which contains pseudoephedrine. At the last meeting of the National Drugs and Poisons Scheduling Committee it was recommended that packets of 60 and 90 Sudafed tablets only be available by prescription. This recommendation is currently undergoing a formal process of consultation and review.

The 1999 AIDR notes that if law enforcement efforts were successful in limiting local production of amphetamines, the price per gram would probably increase. The Australian market may then become more attractive to overseas producers and the amount of amphetamine detected at the Customs barrier could increase.

The use of MDMA in Australia will probably continue to increase, mainly among the younger age groups. The rate of increase will be retarded only if demand reduction strategies take effect and use of the drug becomes marginalised. The number of domestic amphetamine laboratories may grow in an attempt to meet local demand, although it can be assumed that European manufacturers will continue to target the Australian market. There might also be potential for Asian manufacturers to enter the market on a much larger scale.<sup>13</sup>

#### *1.2.4 Cannabis*

The UNODCCP suggests that the extent of illicit cannabis cultivation, production and trafficking is more difficult to gauge than for other plant-

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<sup>13</sup> ABCI (2000), op. cit., p. 58.

based drugs because of the significant amounts of wild growth, more dispersed nature of cultivation and the sheer magnitude of trafficking.

In *Global Illicit Drug Trends 1999* it is noted that cannabis grows across the globe in a large number of countries and in almost all geographic environments. The largest areas of wild growth seem to be in the countries of the former Soviet Union, notably Russia, Kazakhstan and other Central Asian states. Large-scale illicit production of cannabis takes place in a number of Asian, African and Latin American countries. The primary source countries identified by INTERPOL include Afghanistan, Cambodia, Colombia, Jamaica, Morocco, Mexico, Nigeria, Pakistan, Thailand and South Africa. The main sources of cannabis resin continue to be Morocco and Golden Crescent countries. The total global areas where cannabis plant is cultivated and/or grows wild may range from 670,000 to 1,800,000 hectares and actual production is roughly estimated as between 20,000 and 30,000 tonnes a year.<sup>14</sup>

The 1999 AIDR suggests that outdoor cannabis production decreased in Australia during 1998-99, partly because of the increase in hydroponic cultivation and partly because of the perception that it is easier for law enforcement agencies to detect outdoor crops. Outdoor cannabis crops are smaller, but interspersed over wider areas: rather than one large crop, cultivators are spreading their risk and sowing a number of smaller crops over a larger area.<sup>15</sup>

### 1.2.5 Pharmaceuticals

The 1999 AIDR reports that pharmaceutical use for non-medical reasons is increasing and, after tobacco and alcohol, is Australia's most serious drug problem. Pharmaceuticals are defined as drugs available through a pharmacy, whether over the counter or by prescription. The report notes that it has been estimated that about 80,000 Australians are hospitalised every year as a result of problems related to the abuse of pharmaceutical drugs.

Morphine, codeine, pethidine and methadone belong to the group of drugs known as opioids, or narcotic analgesics. Each drug is either naturally occurring (opiates) or a synthetic derivative (opioid) of opium and all have strong pain-killing capabilities. Morphine, pethidine and codeine are widely used for medical purposes and methadone is used in Australia for treating heroin addiction. All four drugs are listed in Schedule 4 or Schedule 8 of the Commonwealth Standard for the Uniform Scheduling of Drugs and Poisons, which classifies all drugs and poisons in Australia. Schedule 4 is a prescription only medicine and as such is a substance, the use or supply of which should be by or on the order of persons permitted by State or Territory legislation to prescribe, and should only be available from a pharmacist on prescription. Schedule 8 refers to controlled drugs, which

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<sup>14</sup> UNODCCP (1999), op. cit., p. 53.

<sup>15</sup> ABCI (2000), op. cit., p. 31.



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should be available for use but require restriction of manufacture, supply, distribution, possession and use to reduce abuse, misuse and physical or psychological dependence.

Benzodiazepenes are classed as depressants; they affect the central nervous system by slowing the body down – physically, mentally and emotionally. The main difference between types of benzodiazepenes is in their length of action, which ranges from four to six hours to two to three days. With the exception of flunitrazepam (rohypnol), benzodiazepenes are listed as Schedule 4 drugs. In response to health and law enforcement concerns about widespread abuse, rohypnol was reclassified to Schedule 8 in June 1998.<sup>16</sup>

### *1.2.6 Performance and Image-Enhancing Drugs*

#### Anabolic and Androgenic Substances

Anabolic and androgenic substances are synthetic derivatives of the male hormone testosterone. All steroids have both anabolic (muscle-building) and androgenic ('masculinising') effects but variations produce different effects on the user.

Human steroids are considered the best quality because of their high standards of manufacture, but they are difficult to obtain legally: medical professionals are permitted to prescribe them for medical purposes only, not for performance enhancement. Veterinary steroids are developed for animal use and are of a lower quality; they are also more widespread than other steroids. Veterinary steroids contain the same chemicals as human steroids but are cheaper and easier to obtain.<sup>17</sup>

#### Other Substances

Human growth hormone is a synthetic substance that is used medically to promote growth in people suffering from unusually short stature or 'dwarfism'. Technically it is not a steroid, but its performance-enhancing effects and the fact that it cannot generally be detected by current drug testing methods have made it popular with some athletes.

Erythropoietin (EPO) is a naturally occurring substance commonly used to treat anaemia. EPO boosts endurance by increasing the concentration of red blood cells that transport oxygen to working muscles. A synthetic form of EPO is considered the 'drug of choice' in endurance sports, particularly cycling. EPO is difficult to detect as it lasts for only three to five days in the human body.

Other performance and image-enhancing drugs (PIEDs) are often taken to assist with training regimes or to counteract unwanted side-effects.

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<sup>16</sup> *ibid.*, p. 72.

<sup>17</sup> *ibid.*, p. 77.

Stimulants such as amphetamines, ephedrine, pseudoephedrine and caffeine act on the central nervous system. They are used as a stimulant during training sessions and are also considered popular with shift workers and other individuals who work long and late hours.

Insulin and insulin-like growth factor (IGF) are used for increasing weight loss, particularly among pre-competition body-builders. Human Chorionic Gonadotrophin (HCG) stimulates the body's production of its own testosterone and is used at the end of a 'cycle' of steroid use. Pain-killers and anti-inflammatory medications are also common.

Gammahydroxybutyrate, or GHB, is another drug popular with body-builders in the probably erroneous belief that it stimulates the production of growth hormones.<sup>18</sup>

### DHEA

DHEA (dehydroepiandrosterone) is an androgenic substance which is a prohibited import in Australia under Schedule 8 of the *Customs (Prohibited Imports) Regulations*, unless a Commonwealth Government permit is granted. Schedules 7A and 8 list prohibited PIEDs, including anabolic and androgenic substances. DHEA has fewer restrictions in other countries, such as the United States of America and New Zealand.

DHEA is marketed on the Internet as a dietary and vitamin supplement recommended for use by the elderly. Among the various unproven 'fountain of youth' benefits claimed for DHEA are its anti-ageing and anti-obesity effects and its ability to increase libido and reduce stress.<sup>19</sup>

## **1.3 Drug Seizures and Trafficking**

### *1.3.1 International Seizures*

Seizures of drugs by law enforcement agencies are one of the main indicators used to assess the level of illicit drug trafficking. The *World Drug Report* suggests that drug seizures information should be interpreted with caution, since the evidence they provide is only an indirect measure of drug trafficking. The report notes that once seizures data is corroborated by cultivation, price and demand estimates, it can provide important insights into the actual trends in illicit drug production and trafficking.<sup>20</sup>

The UNDCP notes that throughout the past decade, seizures of most major drugs have risen. Trafficking of cannabis exceeds that of all other drugs in terms of geographic spread and quantities smuggled. Almost all countries that provide data to the UNDCP refer to cannabis seizures and more than 50 per cent of all seizure cases reported worldwide relate to some type of cannabis. In 1997, nearly 3,000 tonnes of herbal cannabis was seized worldwide, along with 750 tonnes of cannabis resin. Worldwide cocaine

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<sup>18</sup> *ibid.*

<sup>19</sup> *ibid.*

<sup>20</sup> UNDCP (1997), *op. cit.*, p. 24.

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seizures amounted to 327.8 tonnes in the same year while seizures of heroin have stabilised at around 30 tonnes in recent years. In 1997, 28.5 tonnes of heroin was seized worldwide.<sup>21</sup>

### *1.3.2 International Trafficking*

The *World Drug Report* notes that worldwide trafficking patterns vary widely according to drug type. Some trafficking routes are complex, involving many different transit countries, forms of transport and concealment. The complexity of routes reflects both climatic constraints and criminal efforts to evade law enforcement authorities. Heroin is manufactured primarily in the opium-producing regions before export to other continents. This reduces the risks and costs of trafficking, since heroin is of higher value per unit weight than opium. Using various routes which traverse Europe and Asia and the Atlantic and Pacific Oceans, criminal groups operating in south-west Asia supply the bulk of the European heroin market, while those operating out of south-east Asia supply the market in North America and Australia. Global seizures of opium (186.4 tonnes in 1997) are believed to account for around 10 to 15 per cent of the total destined for heroin production.<sup>22</sup>

### *1.3.3 Precursors*

Precursors are essential chemicals used in the production of drugs. Mainly diverted from licit channels, precursors are trafficked as widely as illicit drugs themselves. Diversions from licit exports are often routed through third countries to disguise their final destinations. The use of specialised brokers and the exploitation of free trade zones are common. In general, diversion of precursors takes place in countries where licit production is high and/or control systems are deficient.

The bulk of chemical substances seized globally are intended for the clandestine manufacture of cocaine. During the 1990-94 period, 75 per cent of global precursor seizures took place in Colombia. The other significant trend in this period was the growth in pseudoephedrine seizures, which parallels the growth in demand for methamphetamine. In this period, seizures of pseudoephedrine grew from 13 per cent of global precursor seizures to 46 per cent.<sup>23</sup>

### *1.3.4 Australian Seizures*

There were record seizures of illicit drugs by Commonwealth law enforcement agencies during 1998-99. This trend has continued into the 1999-2000 financial year. The following table shows quantities of illicit drugs seized by the AFP (which includes those illicit drugs interdicted by the ACS) in recent years:

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<sup>21</sup> UNODCCP (2000), op. cit., pp. 39, 50, 55-6.

<sup>22</sup> UNDCP (1997), op. cit., p. 25.

<sup>23</sup> *ibid.*, p. 29.

### Illicit Drug Seizures by the Australian Federal Police, 1995-96 to 1999-00

Drug Group	1995-96	1996-97	1997-98	1998-99	1999-2000
Amphetamines	41,064	92,910	59,589	115,085	225,493
Cannabis	90,474	5,683,921	90,463	62,207	16,211
Cannabis Resin	21,673	18,784,447	7,616	19,307	12,333
Cocaine	60,110	79,626	93,894	301,191	773,427
Hallucinogens	170	745	101	6,223	2,760
Heroin	95,914	179,953	192,895	555,272	354,532
NPSD	39,753	75,110	7,567	8,419	56,748
Other	30,514	59,997	65,946	12,566	8,214

Note 1: All measurements are in grams.

Note 2: The figures include seizures awaiting analysis to confirm both weights and the presence of the illegal substance(s).

Note 3: 1999-2000 figures reflect seizure data as at 1 May 2000.

Note 4: NPSD refers to 'No Prohibited Substance Detected'.

Note 5: Excludes ACT region seizures.

Note 6: Includes illicit drugs interdicted by the ACS, but seized by the AFP.

Note 7: Excludes illicit drugs seized by the NCA. In 1995-96, the NCA seized 42,800 grams of heroin and 1,100 grams of cocaine; in 1996-97, 42,100 grams of heroin and 50 grams of cocaine; in 1997-98, 106,300 grams of heroin and 70 grams of cocaine were seized; in 1998-99, 56,742 grams of heroin and 8,887 grams of cocaine were seized; and in 1999-2000 (to 1 May 2000), the NCA seized 111,867 grams of heroin and 1,441 grams of cocaine.

#### 1.3.5 Australian Trafficking

The 1999 AIDR states that heroin is imported at a number of places around Australia but in recent years the majority has been brought into Sydney, and to a lesser extent, Melbourne, before being brokered and distributed. This distribution pattern continued during 1998-99 and is expected to persist because Sydney and Melbourne remain the primary international and domestic transportation hubs in Australia. The distribution of heroin over Australia is made possible by well-established networks that have been fine-tuned over the years to develop processes and routes that offer a relatively low risk of detection.<sup>24</sup>

<sup>24</sup> ABCI (2000), op. cit., p. 39.

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Sydney acts as the main distribution point for cocaine going to other parts of Australia. Most States and Territories report that cocaine is transported from Sydney – by vehicle and commercial aircraft. A commonly used cocaine trafficking route appears to be north along the eastern seaboard to Cairns, via Byron Bay, the Gold Coast and Brisbane, with cocaine being sold at each of these locations.<sup>25</sup>

For amphetamine-type stimulants, the 1999 AIDR reports that the most common way of distributing the drug is through the drug user network. Nightclubs, hotels and other licensed premises are also often used. Intelligence continues to link amphetamine distribution with a variety of known outlaw motorcycle gangs in Australia and New Zealand. Law enforcement agencies report that these gangs have varying degrees of control over distribution networks.<sup>26</sup>

Pharmaceuticals are obtained illegally in Australia in a number of ways, by stealing and forging prescriptions; committing robberies, burglaries or thefts from doctors' surgeries or pharmacies; purchasing on the black market; inappropriate prescription by health care professionals; or 'doctor shopping'. In Australia, the most common method is doctor shopping – multiple doctors are visited with the aim of obtaining as many prescriptions as possible.<sup>27</sup>

There has been a notable increase in the detection of PIEDs by the ACS in recent times. ACS seizure statistics in relation to these drugs show a 35-fold increase over the past five years: from 27 in 1994/95 to 968 in 1998/99. This data also suggests that importations of PIEDs are increasing. Police intelligence and anecdotal reports suggest that trafficking in PIEDs occurs across all jurisdictions and is likely to continue, particularly given the large profits available to dealers.

The 1999 AIDR notes that police intelligence and the media have pointed to a flourishing illicit national and international trade in veterinary steroids, which are re-packaged and sold for human consumption, despite the uncertainty of dosage and the potential health risks for users. Police report that PIEDs are more often available at gymnasias. PIEDs are also available overseas or through the Internet.

There are also reports that Australian-made counterfeit human and veterinary steroids are available through the black market. Black market products are obtained through forged medical prescriptions, theft, product diversion, illegal imports and illicit manufacture. There is some domestic diversion of steroids, although it is difficult to quantify across jurisdictions. The illicit supply of performance enhancing substances is also contributed to by unethical veterinary surgeons and horse breeders and trainers who have access to supplies of veterinary steroids and pharmacists who have

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<sup>25</sup> *ibid.*, p. 64.

<sup>26</sup> *ibid.*, p. 54.

<sup>27</sup> *ibid.*, p. 75.

access to human steroids. Additionally, some users obtain their steroids legally with a prescription from a particular medical practitioner; others go doctor shopping, a process that has been described as a safer and sometimes more reliable method of obtaining human quality steroids than dealing with the black market.<sup>28</sup>

#### **1.4 Australia's International Drug Strategy**

Australia's approach to drug control recognises the increasing globalisation of networks involved in the production and supply of illicit drugs. For this reason, Australia has adopted a collaborative approach in the fight against drugs at the international level, particularly in the Asia/Pacific region. Australia is committed to supporting and encouraging bilateral and regional cooperation efforts to reduce the production of, trafficking in, and profit from trafficking in, illicit drugs and their precursors.

The following multilateral, regional and bilateral strategies recognise the importance of improving and increasing Australian involvement in combating international illicit drug activities. Australia assists in reducing illicit supply by:

- maintaining membership of the CND, the UN Major Donor Group, the Dublin Group, the FATF, the APG and the Egmont Group (of financial intelligence units);
- continuing its commitment to the UNDCP, particularly the Bangkok Regional Centre, the Foreign Anti-Narcotics Community and the drug enforcement areas of INTERPOL and the WCO;
- ongoing participation in HONLEA in the Asia/Pacific region and meetings of the Mini-Dublin Groups;
- promoting implementation of all aspects of the UN General Assembly Special Session Action Plans on amphetamine-type stimulants and their precursors, precursor control, judicial cooperation, money laundering, eradication of illicit crops and alternative development; and
- participating in international fora supporting efforts to reduce the supply of illicit drugs.

Australia contributes more than \$US500,000 annually to the UNDCP, making it a 'major donor' to that organisation. Through its major donor status, Australia is a member of the 'Dublin Group', which was developed to enable interaction and information sharing between the UNDCP and member states, and to avoid duplication. The Dublin Group comprises a group of countries with relatively sophisticated domestic drug control

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<sup>28</sup> *ibid.*, p. 81.

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policies and practices. As such, the Dublin Group is able to provide expertise and assistance to recipient countries by way of technical advice and development assistance. While the Dublin Group is not a formal subsidiary of the UNDCP and has no executive powers, it can exercise considerable influence over UNDCP decision making, including the allocation of funding to UNDCP projects.

Membership of the Dublin Group is generally limited to major donor countries, excluding recipient countries, but including where appropriate and by invitation relevant local agencies in 'Mini-Dublin Groups'. Mini-Dublin Groups are basically local 'chapters' of the Dublin Group based in recipient countries with particular narcotics problems or issues, such as Thailand and Burma. Australia and Japan co-chair (on a rotational basis) the South-East Asia Mini-Dublin Group, based in Bangkok, which focuses on issues of importance to the region.

In supporting the efforts of the UN to eradicate illicit crops and replace them with alternative sustainable development, the Commonwealth Government has also extended international aid activities to tackle drug production and supply, particularly in Burma.

### **1.5 Initiatives under the *Tough on Drugs* Strategy**

Due to the international nature of the problem of illicit drug abuse, Australia shares a responsibility with other countries to address both its causes and its impact. Bilateral and multilateral international cooperation in addressing the drug problem is central to enhancing the well-being of the international community, to advancing international development and ultimately to bolstering regional and global stability. International cooperation is also essential for the effectiveness of the *Tough on Drugs* strategy in protecting the Australian community from the harms caused by illicit drug abuse.

The Commonwealth Government seeks to target cultivation, production, transit, and distribution and supply networks as part of its *Tough on Drugs* strategy. Australia recognises the significant role of law enforcement in stemming the supply of illicit drugs in this context. Under *Tough on Drugs*, the Commonwealth Government has, among other things:

- developed a Law Enforcement Cooperation Program (LECP) in the Asia/Pacific region and in other parts of the world. The LECP is designed to assist overseas law enforcement agencies improve their capacity to investigate drug trafficking and contribute to the collection of law enforcement intelligence;
- created new AFP liaison posts in key transit countries to assist in closing gaps in Australia's capacity to combat international drug trafficking and transnational crime directed at Australia. The network facilitates the

exchange of drug and other crime related intelligence between the AFP and other Australian and international law enforcement agencies; and

- enhanced the NCA's capacity to intensify targeting of south-east Asian organised crime, in particular heroin importation and distribution, through the 'Blade' National Task Force (comprising all Federal and State law enforcement agencies).

Australia's law enforcement agencies have increased their presence in the Torres Strait, with the establishment of a permanent AFP post on Thursday Island and several new ACS initiatives, including:

- the establishment of a secure radio communication network in the Torres Strait;
- the stationing of four ready-response vessels in the Torres Strait;
- increased helicopter flying hours and the provision of a night response capability; and
- establishment of a Torres Strait Local Customs Aide program.

Also under the *Tough on Drugs* strategy, a Heroin Signature Program has been established, through collaboration between the AFP and the Australian Government Analytical Laboratory. The aim of this program is to determine the unique signature of any heroin samples seized and so determine the source country. It will also help establish common features between seizures from the same production batch and so help trace distribution networks in Australia.

Australia has extended its international aid activities to tackle drug production and supply, particularly in Golden Triangle countries such as Burma. In June 1999, following the signing of a funding agreement between the UNDCP and AUSAID, a technical assistance fund of \$1 million was transferred to the UNDCP. These Australian funds are to be used to support drug control initiatives of the UNDCP in the Mekong subregion of south-east Asia. Priority sectors are drug demand and supply reduction through alternative, sustainable development, with special emphasis on projects in Burma and subregional projects that include Burma as one of the participating countries. The Australian Government must approve each project proposed for funding. AUSAID has approved two projects under this initiative. Both projects are in the very early stages of implementation:

- The Alternative Development Co-operation in East Asia Project was approved in February 2000. The immediate objectives of the project are to:
  - improve the skills and capabilities of policy makers and practitioners in national agencies relevant to the alternative development effort,



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through training for key persons who are involved in the planning and implementation of alternative development programs in the sub-region;

- share lessons learned about alternative, sustainable development; and
- provide joint socio-economic studies.

The government counterpart agencies are the Narcotics Drug Control Commissions from China, Laos, Burma, Thailand and Vietnam.

- The Community-based Demand Reduction Project in Northern Shan State, Burma was approved in March 2000. This project aims to reduce the incidence of drug abuse in north-east Burma by extending an existing community-based demand reduction program, which includes the provision and monitoring of revolving loans for community-based demand reduction and social development activities to villages within local townships.

These projects have the general aim of reducing the supply of heroin that is available to the Australian market. The clandestine nature of the illicit drug market, however, means that it is not possible to precisely determine the effect of decreases in heroin production in Burma on availability of the drug in Australia.

## 2 THE CHANGING NATURE OF DRUG CRIME

### 2.1 The Changing Nature of Crime

On the changing nature of crime, Mark Findlay has noted that:

Crime has been a silent partner in modernisation. Within our contracting world, crime and its traditional boundaries are transforming...globalisation creates new and favourable contexts for crime.<sup>29</sup>

As has been the case for legitimate business, crime syndicates are 'cashing in' on the opportunities presented by the globalisation of communication and transport and the removal of trade barriers and border restrictions. In the same way that these factors have enhanced the operations of corporations and multinationals, they have facilitated drug trafficking and other serious crimes in a manner difficult for law enforcement to have predicted.

The key economic factors that render our environment susceptible to increased levels of transnational crime are globalisation and structural change. These factors have fostered the formation of trade blocs and the deregulation of economic activity. Free trade agreements in different parts of the world, designed to reduce border regulation, may inadvertently provide opportunities for criminal activities such as illicit drug trafficking. It will become increasingly important to increase efforts to reconcile two seemingly contradictory aims, namely trade liberalisation and the effective control of illicit drug traffic.<sup>30</sup>

Increasingly law enforcement is required to investigate criminal activities where the main players are overseas, or where the direct and indirect effects of these activities involve more than one country. Australian law enforcement is not alone in this respect – all law enforcement agencies are now confronting highly sophisticated crime networks with a range of tools, for example encryption capabilities, mobile telephones and electronic mail.

To effectively detect and deter transnational crime, Commonwealth law enforcement agencies need to develop their investigative techniques and focus their powers. A number of measures have already been implemented in response to the global features of crime. For example, the enactment of legislation improving:

- extradition and mutual assistance;
- proceeds of crime;

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<sup>29</sup> Findlay, Mark (1999), *The Globalisation of Crime – Understanding Transitional Relationships on Context*, Cambridge University Press, p. 1.

<sup>30</sup> UNDCP (1997), loc. cit.

- reporting of suspect financial transactions; and
- telecommunications interceptions.

Australia needs to continue to ensure that law enforcement agencies are empowered to counter the threat that transnational organised crime poses to Australian society, the economy and revenue systems.

## **2.2 The Emerging Criminal Environment**

### *2.2.1 Globalisation*

The globalisation of the world's economy has been accompanied by the globalisation of large-scale crime. Modern criminal groups imitate legitimate businesses. They adapt criminal activities in response to demand, risk and threat – from heroin trafficking to people smuggling, from stolen goods trafficking to counterfeiting – with unprecedented ease. This is compounded by the integration of criminal enterprises; for example the South American cocaine cartels working with east European and south-east Asian organised crime counterparts.

The globalisation of capital from money to the electronic transfer of credit, of transactions of wealth from the exchange of property to information technology, and the sheer size of global markets, has enabled the transformation of crime beyond people, places and identifiable victims.<sup>31</sup> The benefits of globalisation will need to be balanced by policies and laws that recognise and respond to their abuse by criminals.

This need was recognised at the UNODCCP Crime Congress in April 2000, which provided an opportunity for nations to recognise and respond to the challenges posed by transnational crime. Under the proposed UN Convention Against Transnational Organised Crime, nations would, *inter alia*:

- criminalise certain conduct, including participation in an organised criminal group and corruption involving public officials;
- crack down on money laundering by criminalising the laundering of the proceeds of crime and enhancing international cooperation and assistance in relation to it; and
- increase international cooperation in fighting transnational organised crime by facilitating and enhancing extradition, mutual assistance in criminal matters, and other forms of international cooperation.

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<sup>31</sup> Findlay (1999), op. cit., p. 3.

### 2.2.2 Trafficking

Rising volumes of less regulated world trade, greater ease of international travel and transport and the spread of technological infrastructure (for example, digital mobile networks and the Internet) increase opportunities for illicit trafficking in general. This is likely to lead to a further proliferation and diversification of illicit trafficking routes, including in the Asia/Pacific Region. Growing economic prosperity in developing countries may also fuel demand for illicit goods, creating additional markets for traffickers.<sup>32</sup>

Drug trafficking in particular will be characterised by increasing diversity in sources of supply, trafficking routes and changes in the level of supply as producers and traffickers respond to law enforcement action, demand and changing climatic conditions. Competition between south-west Asia, south-east Asia and South American heroin traffickers in Europe and North America may lead to increased heroin availability in Australia.<sup>33</sup> It is likely that amphetamine-type stimulants produced in the Golden Triangle could supplement domestically produced drugs of this kind. Although ecstasy production might remain limited in Australia, the European supply might be supplemented by increased south-east Asian production.<sup>34</sup>

### 2.2.3 Implications for Australia

These international trends need to be considered in the context of Australian market conditions, community perceptions and our cultural base. In a global context Australia is a relatively small market compared to the mass markets in the Asian region and in Europe and the United States of America. However, these factors do not isolate us from international crime trends. Recent law enforcement investigations indicate organised crime is increasingly reflecting global trends and linking to transnational crime networks. For example, in relation to Australian organised drug importation and trafficking:

- although only a few domestic crime syndicates appear to be controlled by offshore interests, transnational crime may become an increasing threat as criminal syndicates take advantage of economic deregulation, such as free trade agreements and reduced border controls<sup>35</sup>;
- amphetamine-type stimulants may increasingly be imported and south-east Asian nations could become a key source of these substances, using

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<sup>32</sup> Morrison, Shona (1997), *The Dynamics of Illicit Drug Transshipment and Potential Transit Points for Australia*, in *Transnational Organised Crime* 3(1), pp. 1-22. See also Wardlaw, Grant (1999), *Integrating Intelligence into Operations: the Role of Strategic Assessments*, Address to Management of Serious Crime Course 18, Canberra, 22 February and UNDCP (1997), loc. cit.

<sup>33</sup> ABCI (2000), op. cit., pp. 32-45.

<sup>34</sup> *ibid.*, p. 58.

<sup>35</sup> UNDCP (1997), loc. cit.

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- existing networks to obtain precursor chemicals and to distribute their product<sup>36</sup>; and
- offshore money laundering will expand rapidly, taking advantage of opportunities outside the scope of the current regulatory framework<sup>37</sup>.

Organised crime within Australia will continue to be characterised by criminal groups that are loosely affiliated and operate as flexible networks organised into task-focussed syndicates. The Blade Task Force, which targets south-east Asian heroin importation and trafficking, has noted a number of strategic findings:

- south-east Asian organised criminal activities reflect global trends (networked, diversification, adaptive, responsive);
- structural and organisational shifts in organised crime networks are towards a more fluid structure where entities come together for a particular venture and then separate, rather than working purely in the bounds of 'an organisation'; and
- involvement in syndicates increasingly appears to be based on the competitive edge of individuals. Although trust is integral to syndicate membership, participation is also dependent on an individual's contribution to the syndicate.

The findings support a broader trend that domestic organised crime will remain entrepreneurial and will diversify into new activities rather than segment operations along ethnic lines.

In relation to illicit goods trafficking, Australia's exposure is likely to increase for a number of reasons. Trade and commercial links with both source and transit countries for drugs, particularly in the Asia/Pacific region, are increasing. Large volumes of trade facilitate drug trafficking by providing more opportunities for concealment. Finally, the presence of immigrant populations from source and transit countries will continue to facilitate trafficking to Australia. These factors are mitigated by the fact that Australia is still a relatively small market in a region of potentially large ones.<sup>38</sup>

## **2.3 Money Laundering<sup>39</sup>**

### *2.3.1 Background*

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<sup>36</sup> ABCI (2000), loc. cit.

<sup>37</sup> *ibid.*, p. 121.

<sup>38</sup> Wardlaw (1999), *op. cit.* See also Morrison (1997), *op. cit.*

<sup>39</sup> For a more comprehensive description of Australia's anti-money laundering policy framework, see *An Overview of Australia's Anti-Money Laundering Strategy*, Commonwealth of Australia, May 2000.

The UNDCP notes that money laundering is a vital component of all financially motivated crime. The need to launder proceeds of crime stems from the desire of criminals both to conceal the crime that generated those proceeds, and be able to enjoy them. The strategy of criminal organisations is to manipulate their illicit proceeds, mostly, but not always, through the legitimate financial sector, in such a manner as to make those proceeds appear to have come from a legitimate source.<sup>40</sup>

The Commonwealth Government recognises that profit is the driving motivation behind the trafficking of illicit drugs and other illicit commodities, and that money laundering is integral to the realisation of that profit by criminals. Domestically, Australia was one of the first countries in the world to develop and enact legislation which: (i) made money laundering a criminal offence; (ii) established a system to trace cash and, later, other forms of transfer of value; (iii) provided a means to deal with the seizure and confiscation of proceeds of crime; and (iv) allowed for mutual legal assistance with other countries. These measures were adopted through the *Proceeds of Crime Act 1987* (POC Act), the *Financial Transaction Reports Act 1988* (FTR Act) and the *Mutual Assistance in Criminal Matters Act 1988*.

The FTR Act was enacted in 1988 as part of Australia's anti-money laundering program to discourage financially motivated criminals and tax evasion, and to provide financial intelligence to specified law enforcement and revenue agencies in matters involving money laundering, major crime and tax evasion. It provides AUSTRAC with a regulatory role in respect of organisations and persons who are included as cash dealers for the purposes of the Act. The FTR Act requires cash dealers, solicitors and members of the public to report certain financial transactions to AUSTRAC. The FTR Act includes a comprehensive range of transaction reporting and customer identification requirements. These requirements create a barrier which criminals seek to avoid, which heightens the risk of discovery.

Australia is a world leader due to its legislative framework, its analytical and law enforcement techniques and its strategy of inter-agency cooperation. Australia's performance as an anti-money laundering nation has received recognition from FATF, the leading international body against money laundering.<sup>41</sup>

FATF was established in 1989 by the G7 Group of Countries to formulate and encourage the adoption of international standards and measures to fight money laundering and related activities. Australia was a founding member of FATF, and played a major role in the drafting of the FATF '40 Recommendations' which have been widely accepted internationally as world's 'best practice' policy guidelines on money laundering.<sup>42</sup>

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<sup>40</sup> UNDCP (1997), op. cit., p. 136.

<sup>41</sup> See *An Overview of Australia's Anti-Money Laundering Strategy*, Commonwealth of Australia, May 2000.

<sup>42</sup> For example, they have been accepted by: (i) The United Nations in its Political Declaration and Action Plan against Money Laundering adopted in June 1998; (ii) the Commonwealth through Heads of Government Meetings; (iii) the European Union; and (iv) the APEC Finance Ministers.

Australia recognised that in addition to promoting strong anti-money laundering systems in FATF member countries<sup>43</sup> it was also necessary to encourage and promote anti-money laundering initiatives in the Asia/Pacific region. As a consequence a FATF Asia Secretariat was set up in 1995. Whilst this was a FATF initiative, it was driven and funded by Australia in recognition of the clear links between Australia's domestic law enforcement and anti-money laundering interests and the international scene. This initiative was, and continues to be, recognised as an essential step in Australia's domestic response to money laundering because it gives due recognition to the inter-relationship of financial sectors and the cross-border activities of major criminals and money launderers. It was also recognised that this strategy contributes to international efforts against money laundering. The genesis of this approach lay in the law enforcement environment. However, it quickly became apparent through the close ties developed with the financial sector following the establishment of AUSTRAC and the FTR Act that there were clear issues for the financial sector itself and the economy.

Money laundering is one of the major issues being considered in negotiations on the development of the draft UN Convention Against Transnational Organised Crime. The present draft includes two proposed articles on money laundering, which will require parties to establish comprehensive money laundering offences under their domestic laws and to adopt detailed measures to combat money laundering.

Against this background of growing international awareness, Australia's pursuit of a specific Asia/Pacific initiative has borne fruit. In February 1997 the APG was formed to promote, foster and implement anti-money laundering systems and initiatives in the region.

Australia has been crucial in the formation of the APG and has provided funding for the secretariat of the organisation. The membership of the APG now comprises Australia, Bangladesh, Chinese Taipei, Fiji, Hong Kong (China), New Zealand, Japan, the Republic of the Philippines, the United States of America, the Republic of Korea, Singapore, the Republic of Indonesia, Sri Lanka, Thailand, Vanuatu, India, Malaysia, Samoa and Pakistan.

The APG provides a forum for anti-money laundering efforts in the Asia/Pacific region, facilitates exchange of information on the issue, and encourages the adoption of international initiatives on money laundering, particularly the adoption and implementation of the FATF 40 Recommendations. It assists in the provision of technical assistance and training and supports the enactment by member jurisdictions of anti-money

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<sup>43</sup> Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, the Kingdom of the Netherlands, New Zealand, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, United Kingdom and the United States.

laundering legislation, including legislation relating to proceeds of crime, forfeiture of assets and mutual legal assistance and extradition with regard to money laundering.

### *2.3.2 Australia's Approach to International Cooperation*

As discussed in part one of this document, there can be no doubt that it is in Australia's interest to participate actively in a strong network of international cooperation. Necessarily, such cooperation must extend to practical exchanges of information and assistance between Australia and countries with a wide variety of legal systems, enforcement regimes, cultures and philosophies.

Australia contributes to international cooperation on this issue through AUSTRAC's membership of the Egmont Group, which is an international body that comprises countries with financial intelligence units (FIUs), and countries who are working towards the establishment of FIUs. Within the Egmont Group there are four working groups which focus on legal work, training, information technology issues and assistance to jurisdictions with emerging FIUs.

Additionally, AUSTRAC has cooperative arrangements between itself and other FIUs to combat drug trafficking organisations. Under the FTR Act and the Mutual Assistance in Criminal Matters Act, the Attorney-General is able to disclose financial intelligence information to other countries.<sup>44</sup> Financial intelligence is exchanged between AUSTRAC and its counterpart agencies overseas under Memoranda of Understanding (MOUs) between the relevant FIUs in other countries and the Attorney-General (through the Minister for Justice and Customs). Australia's approach to this issue has been to enter into MOUs to exchange such information only with those countries whose anti-money laundering systems are regarded as sound and who are strategically significant.<sup>45</sup> Effectively, this has meant that, to date, it has only made agreements with FATF members.

### *2.3.3 Australian Domestic Strategy*

Australia also has a well-developed domestic strategy in relation to anti-money laundering initiatives. When Australia's anti-money laundering program was established it focused upon cash transactions and those techniques that were then known by which value was transferred from jurisdiction to jurisdiction to avoid law enforcement and revenue collection actions.

Australian experience since the inception of our anti-money laundering systems has led to the development of very sophisticated techniques for the

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<sup>44</sup> See section 37A of the *Mutual Assistance in Criminal Matters Act 1987* and section 27(3A) of the *Financial Transaction Reports Act 1988*.

<sup>45</sup> Australia has agreements with France (1991), United States of America (1996), Belgium (1997), Great Britain (1998), New Zealand (1998) and Denmark (1999). More agreements are under negotiation.



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detection of this kind of activity. It has also highlighted the need to widen the focus, in order to detect and take action in respect of other financial activity by which value is transferred from jurisdiction to jurisdiction. An example of the way in which our system has already been successfully broadened is the reporting of international funds transfer instructions by those bodies required to report under the FTR Act.

Electronic commerce and new payment systems pose challenges for Australia's anti-money laundering systems. Australia needs to ensure that its current effective strategies are reviewed as these developments occur. Our approaches to domestic issues have included, and ought to continue to include, the adoption of further realistic responses to identified money laundering methods. Whilst this approach requires a strategy of regular examinations of our system to ensure its effectiveness and relevance, it does not require extensive resources. A watching brief coupled with a preparedness to take necessary action quickly is appropriate.

The NCA devotes considerable resources to the investigation of money laundering. In October 1994 the 'Agio' Task Force was formed. This task force is still operational and includes representatives from the NCA, AUSTRAC, AFP, ACS, ATO and the ABCI. Its role is to develop the product of AUSTRAC's analytical programs for dissemination to Commonwealth and State law enforcement and revenue bodies. In July 1997 the NCA began investigations under the Commonwealth 'Swordfish' reference. The objectives of Operation Swordfish, using AUSTRAC and other intelligence sources, are to identify and target the proceeds of crime, and to disrupt the underlying criminal activity such as drug dealing, fraud, customs and excise and financial reporting offences.

Investigations to date have been highly successful both in terms of identifying large amounts of undeclared tax revenue and proceeds of crime assets. The NCA together with the ATO and partner agencies are completing a national strategic intelligence assessment for Operation Swordfish. The Assessment's primary aims are to examine money laundering and tax evasion methodologies, and assist in sharpening the government's attack on these offences. Both the Agio and Swordfish task forces have involved exchange of personnel and intelligence, and enhanced cooperation between law enforcement bodies.

The Swordfish initiative was budgeted to recover additional proceeds of crime of \$10 million and taxation revenue of \$30 million by 30 June 1999 and the same amount again by 30 June 2000 (a total of \$80 million over a three year period). The NCA Annual Report 1998-99 notes that under Swordfish, as at 30 June 1999, assets with a total value of \$1,130,115 have been forfeited under State confiscation legislation; pecuniary penalty orders for \$531,000 have been obtained under State confiscation legislation; and additional assets valued at \$5,598,755 were restrained under international, Commonwealth and State proceeds of crime legislation. The Swordfish initiative has been particularly effective in tax-related criminal investigations. During its first two years tax assessments totalling more

than \$90 million have been issued against more than 1,000 individuals and companies.

In terms of the criminal asset results of the other task forces, during the reporting period approximately \$6 million was seized across Blade Task Force agencies, with a further \$923,000 in tax assessments being issued. Total assets and proceeds of crime seized by all 'Freshnet' Task Force agencies in the reporting period were approximately \$2 million.<sup>46</sup>

At the Commonwealth level, proceeds of crime mechanisms are articulated within the POC Act. State and Territory jurisdictions have also adopted legislation dealing with confiscation of proceeds of crime. At the Commonwealth level, a report by the Australian Law Reform Commission on the POC Act has recommended a major overhaul of the Act, including the introduction of a civil forfeiture scheme, like that in New South Wales (that is one that enables the forfeiture of the proceeds of crime by civil proceedings without a requirement for a criminal conviction).<sup>47</sup>

#### 2.3.4 Future Challenges

Australia's efforts in the fight against crime in the future will involve not only the seizure of drugs but also the capacity to disrupt criminal networks and confiscate proceeds of crime. The combination of global financial markets, networks for the electronic transfer of money, easy access to financial havens and banking secrecy laws in some countries has greatly increased the threat of money laundering in the world financial system. The lure of wealth to be gained from exploiting the drug culture in Australia has led to the infiltration of internationally based organised crime groups. These groups bring with them methodologies, practices and codes that are challenging for financial and law enforcement agencies to understand and deal with.<sup>48</sup>

Changes in technology over the next five years may alter the nature and increase the number of opportunities for money laundering, particularly when applied to alternative or private banking. The ubiquity of electronic commerce systems may eventually enable criminal groups or individuals to bypass the domestic banking industry, and therefore the FTR Act. As financial institutions introduce new electronic payment systems and become more electronically accessible to the public, their vulnerability to external exploitation could increase.

Technological innovation and globalisation are increasingly allowing parties to operate in financial markets without physically entering a country and are diminishing the role of financial intermediaries. The growth of electronic

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<sup>46</sup> Commonwealth of Australia (1999), *National Crime Authority 1998-1999 Annual Report*, Ausinfo, Canberra, pp. 39-41.

<sup>47</sup> See Australian Law Reform Commission (1999), *Confiscation that Counts: A Review of the Proceeds of Crime Act 1987*, Report No. 87, Australian Government Publishing Service, Canberra.

<sup>48</sup> ABCI (2000), op. cit., p. 113.

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commerce creates the possibility of financial crime committed in 'cyberspace', where there is little or no jurisdictional basis for prosecution.

Current anti-money laundering measures focus on currency and international funds transfers. New financial instruments, intermediaries and settlement systems will create laundering opportunities completely outside the scope of the current regulatory and enforcement framework. An illustrative example is stored value cards, or electronic cash. These payments systems have the anonymity of cash while exceeding its functionality by enabling very large transfers to be made securely by remote parties, eliminating transfer costs and minimising risks.

It is essential that the emerging criminal environment and crime trends be closely monitored to ensure that any reforms adopted equip law enforcement agencies with the necessary powers to effectively prevent and disrupt new crime threats as they arise. Technology can enable law enforcement to work smarter and more cost-effectively. Improved intelligence systems can underpin innovative strategies that lead to greater impact on criminal activity. The challenge is to engender an organisational paradigm that stimulates the search for these opportunities and does not only see the threats.<sup>49</sup>

## **2.4 A Cooperative Approach to Drug Law Enforcement**

Cooperation between law enforcement agencies, both internationally and domestically, is vital – it is one of our strongest weapons against organised crime.

Cooperation between all jurisdictions within Australia is being strengthened with sharing of intelligence holdings on the ABCI's Australian Law Enforcement Intelligence Net (ALEIN) and the Australian Criminal Intelligence Database (ACID). For example, operational information and intelligence for the NCA coordinated national task forces is stored on ALEIN and ACID.

The NCA coordinates a series of five national task forces against the priority threats from organised crime, determined by the Senior Officers' Group (heads of Australian law enforcement agencies) and IGC-NCA (which consists of Justice and Police Ministers from the Commonwealth, State and Territory governments).

As an example, 18 Australian law enforcement agencies continue to participate in the NCA's Blade National Task Force. This is a national coordinated effort to disrupt and deter south-east Asian organised crime (primarily heroin trafficking) in Australia. In its most recent review of the performance of the task force, the Assistant Commissioners of all

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<sup>49</sup> Wardlaw (1999), op. cit.

participating agencies noted that significant progress had been made by the task force and resolved to continue their commitment to this effort.<sup>50</sup>

The Commonwealth Government recognises that effective bilateral and multilateral relationships are the building blocks of sustainable regional law enforcement cooperation. For example, the AFP is committed to achieving effective working relationships in the region. As noted at the end of the first part of this document, the AFP operates an extensive network of overseas liaison posts, including in the Asia/Pacific region; has a South Pacific Liaison Officer based in Canberra; manages the Australian National Central Bureau for INTERPOL and acts as a relay point for the Pacific Island countries. The AFP currently has a training adviser and a police adviser in Vanuatu and two police advisers in the Solomon Islands. The presence of these liaison officers facilitates cooperation in investigations characterised as transnational, particularly drug trafficking.

Under the auspices of various aid programs, the AFP is also involved in the provision of training assistance to a number of countries in the region (for example the police training project in Vanuatu, the Regional Crime Intelligence Course, and representation on the Management of Serious Crime Course).

The AFP and the ACS have carried out a number of significant drug operations with the assistance of regional agencies. ACS officers are regularly placed on joint task forces or assigned to AFP or NCA operations. ACS technology, including drug detector dogs, ion-scan machines (particle trace detectors) and x-ray equipment, is made available to the AFP, the NCA and State and Territory police for use during investigations. As noted earlier, the LECP in south-east Asia and the south Pacific is expected to enhance both the level of law enforcement cooperation and the capacity of overseas law enforcement agencies within Australia's region. The LECP will also assist in providing the AFP with the law enforcement intelligence necessary for the interdiction of illicit drugs before they reach Australia.

The ACS has an active program of international cooperation, including the sharing of intelligence and investigative techniques. The primary multilateral vehicles for this are the WCO and associated regional forums. The ACS also has a range of effective bilateral arrangements, including various joint projects. These arrangements are frequently reviewed, with the aim of improving their effectiveness and enhancing the range of information that can be shared. For example, the ACS regularly undertakes cross border patrols with Papua New Guinea and participates in cross-border law enforcement meetings (with AFP and Queensland law enforcement representatives). Officers from Japan and Pacific Island nations have taken part in the ACS Drug Detector Dog training course and there have been further requests for places on the course from other countries.

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<sup>50</sup> ABCI (2000), op. cit., p. 39.

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The NCA is specifically required to work in cooperation with other law enforcement agencies so far as is practicable. It is also required to cooperate and consult with the ABCI. This is further emphasised by its functions that include:

- collecting and analysing criminal information and intelligence relating to relevant criminal activity and disseminating it to law enforcement agencies; and
- establishing and coordinating task forces including Commonwealth, State and Territory representatives for the purpose of investigating relevant criminal activity.

The NCA's mission is to counteract organised criminal activity and to reduce its impact on the Australian community. The NCA is a national, trans-jurisdictional law enforcement agency, created under Commonwealth legislation and underpinned by complementary State and Territory legislation. The NCA is committed to enhancing co-operation between law enforcement agencies. The National Strategic Intelligence Team (NSIT) produces strategic intelligence products (assessments and shorter reports) which are widely disseminated to Australian and overseas law enforcement agencies. NSIT products are all completed in partnership and/or consultation with relevant state agencies.

## **2.5 Mutual Assistance and International Cooperation**

### *2.5.1 Introduction*

Australia recognises that individual countries cannot deal alone with the threat of organised transnational crime. Investigations and prosecutions relating to the activities of international organised criminal groups need to be undertaken with the assistance of other countries. Australia has enacted legislation which enables it to seek and grant such cooperation, in the form of extradition and mutual assistance in criminal matters.

### *2.5.2 Extradition*

The *Extradition Act 1988* provides the legislative foundation for Australia's extradition relationships with other countries. These relationships may either be treaty-based or of less than treaty status, such as our extradition relations with other Commonwealth countries under the so-called 'London Scheme'.

Australia has an extensive network of bilateral extradition treaties and arrangements, covering well over 100 countries and dependent territories, and is continuing to expand this network. In the Asia/Pacific region, Australia has extradition treaties with Hong Kong, Indonesia, the Philippines, South Korea, Thailand (an inherited UK treaty) and the United

States. In addition Australia has non-treaty extradition arrangements with Japan, the Marshall Islands and all Commonwealth countries in the region.

Australia's modern extradition treaties are based on a model which was drawn on extensively in developing the UN Model Extradition Treaty. They are in general operating effectively. Under our modern treaties and the London Scheme drug trafficking and related money laundering activity would generally constitute extraditable offences, although money laundering would not be extraditable where the other country has yet to make it an offence.

The Extradition Act also provides the basis for Australia to carry out its extradition obligations under international conventions which criminalise particular conduct, including the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, which has 155 parties.

All of these conventions, treaties and arrangements are subject to the human rights safeguards set out in the Extradition Act. This necessarily limits Australia's capacity to extradite to or from some countries.

### *2.5.3 Mutual Assistance in Criminal Matters*

Australia has a network of about twenty bilateral treaties with our principal mutual assistance partners and also considers requests from other countries. In the Asia/Pacific region, Australia has mutual assistance in criminal matters treaties with Canada, Hong Kong, Indonesia, South Korea, the Philippines and the United States.

Assistance can be provided to any requesting country, even where there is no formal agreement in place, subject to the other requirements of Australian law. Accordingly, Australia is already in a position to provide much of the assistance which we expect will become an obligation of parties under the draft UN Convention Against Transnational Organised Crime and its Protocols.

The Mutual Assistance in Criminal Matters Act allows Australia to seek from, and provide to, other countries a wide range of assistance in criminal investigations and prosecutions, and in proceedings in respect of proceeds of crime.

Assistance available under the Mutual Assistance in Criminal Matters Act includes taking evidence, compulsorily obtaining documents and other physical evidence, making prisoners available to assist in foreign investigations or prosecutions, and tracing, freezing and confiscating proceeds of crime.

The emerging challenge for mutual legal assistance is the impact of modern communications technology. Existing processes for mutual legal assistance require decisions to be made after due consideration by ministers, judges or senior officials. This provides an important protection against abuse but necessarily means that the provision of assistance is far from instantaneous.

Modern computer and communications technology has presented criminal investigators with a range of new problems, including in some cases the need for messages or transactions occurring outside the investigator's home jurisdiction to be traced and recorded, and possibly even suppressed, in real time or very quickly. These needs pose a challenge to the traditional paradigm of mutual legal assistance which will need to be addressed by the international community in the next few years, so that we can combine appropriate checks and balances with a system which provides assistance in a practical timeframe.

## **2.6 Initiatives under the *Tough on Drugs* Strategy**

The NCA received additional funding under *Tough on Drugs* to increase and intensify its investigation of south-east Asian organised crime, with a particular emphasis on heroin trafficking and importation. The NCA, using its multi-agency task force approach, has a ready-made framework for cooperation between Commonwealth, State and territory jurisdictions. It uses its cross-jurisdictional and coercive powers in a truly national effort to disrupt the heroin trade.

The secretariat to the APG was established to promote and improve measures for combating international money laundering. The initiative, which received funding through the *Tough on Drugs* strategy, is intended to assist in the further development of strategies and for training, technical assistance, legislative initiatives and collection and dissemination of information in respect of anti-money laundering policy in the Asia/Pacific region.

Funding under the *Tough on Drugs* strategy was also provided to upgrade information technology and secure communications networks for a more efficient exchange of intelligence and operational information between Commonwealth law enforcement agencies. The additional resources assist the agencies to make better use of information technology for information collection, analysis and distribution whilst providing a common information platform on which they can draw for information and investigative purposes.

Through its additional funding under the *Tough on Drugs* strategy, AUSTRAC has been able to enhance its capabilities and improve the financial intelligence it provides to law enforcement agencies. Under the high risk cash dealer strategy, announced as part of the COAG package of initiatives in 1999, AUSTRAC has improved its ability to both capture and analyse financial intelligence. This measure improves channels for the dissemination of financial intelligence about high risk groups through an Intensive Partner Agency Support and Liaison Program (on-site AUSTRAC officers).

Similarly, AUSTRAC has been able to achieve greater regulatory capability and enhance its analysis of financial intelligence, while providing better

channels for dissemination of that intelligence through the law enforcement community, as a result of greater resources under the *Tough on Drugs* strategy. AUSTRAC has also established a Law Enforcement Agency Support Team, which is able to provide intensive training and support for drug units in other law enforcement agencies on the use of AUSTRAC financial intelligence.

Also as a result of *Tough on Drugs* funding, AUSTRAC has developed the drug-specific analytical tool known as TargIT, which provides significant financial intelligence to Commonwealth law enforcement agencies to assist in and initiate drug investigations.



### **3 COSTS OF DRUG ABUSE AND THE DOMESTIC PARTNERSHIP**

#### **3.1 Illicit Drug Use in Australia**

The 1999 Illicit Drug Reporting System (1999 IDRS) identified four major trends in respect of illicit drug use in Australia. Firstly, there was a continuing increase in heroin use in most Australian States and Territories, accompanied by cheaper, readily available, high purity heroin. The number of deaths from opioid-related overdose in 1998 was 737: this figure has tripled since 1991, when 243 people died from opioid-related overdose.

The second major trend identified by the 1999 IDRS was that cocaine use was uncommon in all jurisdictions except New South Wales, where use increased between 1997 to 1998, peaked in late 1998 and has since become integrated into the pattern of poly-drug use among heroin users.

The third significant trend was an increase in amphetamine use in several jurisdictions, and there were more pure forms of amphetamine becoming available. These trends were most notable in Queensland. Average purity of amphetamine remained very low, at 16 per cent.

The fourth trend was that cannabis remained the most commonly used illicit substance in Australia. It was easy to obtain in all jurisdictions and the potency was rated as high.<sup>51</sup>

The trends identified in the 1999 IDRS are broadly consistent with the findings of the *1998 National Drug Strategy Household Survey*. The household survey found that use of all illicit drug groups had increased since 1995, both in terms of lifetime use (use at any one time in a person's life) and recent use (use during the past twelve months).

In respect of lifetime use, the 1998 household survey found that cannabis had been tried by nearly 40 per cent of all Australians over the age of 14 in 1998, an increase of over 8 percentage points on the 1995 survey results. The results were particularly high for people surveyed between the ages of 20 and 29, of whom 63.6 per cent reported that they had tried cannabis in their lifetime (compared to 59.8 per cent in 1995) and those aged between 30 and 39, of whom 56.8 per cent had tried cannabis in their lifetime (up from 50.7 per cent in 1995). The mean age of initiation for cannabis declined from 19.1 years to 18.7 years among people surveyed in 1995 and 1998.

Lifetime use of amphetamines increased from slightly less than 6 per cent of Australians aged 14 or over in 1995 to 8.7 per cent in 1998. This was

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<sup>51</sup> National Drug and Alcohol Research Centre (2000), *Australian Drug Trends 1999: Findings from the Illicit Drug Reporting System*, National Drug and Alcohol Research Centre Monograph No. 43, National Drug and Alcohol Research Centre, Sydney.

largely attributable to an increase in lifetime ecstasy (and 'designer drug') usage, which nearly doubled, from 2.4 per cent in 1995 to 4.7 per cent in the 1998 survey. The mean age of initiation for amphetamines generally was 19.9 years in 1998 (down from 20.2 years in 1995).

Lifetime use of heroin and cocaine also increased sharply between 1995 and 1998, albeit from a lower base. According to the 1998 survey, 2.2 per cent of all Australians aged over 14 have tried heroin in their lifetime, compared to 1.4 per cent in the 1995 survey. Of concern, however, is that of the survey respondents aged between 20 and 29 years, the proportion that had tried heroin at some point in their lives increased from 2.8 per cent to 4.7 per cent between 1995 and 1998. Lifetime use of cocaine rose from 3.4 per cent to 4.3 per cent between the 1995 and 1998 surveys.

Recent use of illicit drugs also increased between the 1995 and 1998 household surveys. According to the 1998 survey:

- 17.9 per cent of Australians aged over 14 had used cannabis in the last 12 months (up from 13.2 per cent in 1995), including 34.6 per cent of people who were aged between 14 and 19 years when surveyed and 36.5 per cent of people aged between 20 and 29 years;
- 3.6 per cent had used amphetamines (up from 2.1 per cent in 1995);
- 2.4 per cent had used ecstasy and other 'designer drugs' (up from 0.9 per cent in 1995);
- 0.7 per cent had used heroin (up from 0.4 per cent in 1995), including 2.1 per cent (up from 1.4 per cent) of all people surveyed who were aged between 20 and 29 years; and
- 1.4 per cent had used cocaine (up from 1 per cent in 1995).

The proportion of people surveyed who reported injecting drugs at some time in their life had increased from 1.3 per cent in 1995 to 2.1 per cent in 1998. This increase was particularly significant amongst people in age groups 20 to 29 and 30 to 39. The proportion of persons in these age groups who had injected at some time in their life increased from 3.6 per cent to 4.7 per cent and 1.9 per cent to 3.0 per cent, respectively.<sup>52</sup>

The 1998 household survey found that analgesics are the fourth most frequently tried and abused drug – after tobacco, alcohol and cannabis – 11.4 per cent of those surveyed had used them and 5.2 per cent had tried them recently for non-medical reasons. The proportion of respondents having ever used tranquillisers or sleeping pills for non-medical purposes

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<sup>52</sup> Australian Institute of Health and Welfare (1999), *1998 National Drug Strategy Household Survey*, Australian Institute of Health and Welfare, Canberra.

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almost doubled, from 3.2 per cent in 1995 to 6.2 per cent in 1998, while the proportion using in the preceding 12 months for non-medical purposes increased five-fold, from 0.6 per cent to 3.0 per cent, over the same period.<sup>53</sup> Findings from the 1999 IDRS demonstrate that pharmaceutical drug use among injecting drug users is high. Nearly two-thirds (63 per cent) of injecting drug users reported having used benzodiazepenes in the last six months. Recent anti-depressant use was not as common, with 19 per cent of injecting users reporting use in the last six months, although levels of use are still of concern given the increased risk of opioid overdose with tricyclic anti-depressant use.<sup>54</sup>

The 1999 AIDR notes that it is difficult to accurately gauge the number of Australians using anabolic steroids for non-medical reasons. The 1995 and 1998 household survey results for the categories of 'have ever used' and 'used in the past 12 months' for steroids are below 1 per cent and considered statistically unreliable. However, the proportion of survey respondents who have ever used steroids for non-medical purposes rose from 0.6 per cent in 1995 to 0.8 per cent in 1998.<sup>55</sup>

In general terms, these trends appear to indicate that the illicit drug problem is becoming more widespread and affecting more Australians. There is a need to maintain the momentum in the fight against illicit drugs and continue to develop innovative and effective ways of tackling the drug problem.

## **3.2 Costs of Drug Abuse**

### *3.2.1 Introduction*

The UNDCP notes that 'few comprehensive and internationally comparative studies have been undertaken to measure the costs of drug abuse to society'.<sup>56</sup> The *World Drug Report* continues:

The concept of cost is a vital yet elusive component of any discussion of the impact of illicit drug use. The economic costs of drug abuse are widely quoted but rarely defined, partly because of the interdisciplinary approach necessary for costs to be assigned and partly because of the lack of empirical data by which to measure them.<sup>57</sup>

The report goes on to suggest that the costs associated with drug use lie in the consequences of the use/abuse rather than in the use itself:

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<sup>53</sup> ABCI (2000), op. cit., p. 73.

<sup>54</sup> NDARC (2000), op. cit., p. 38.

<sup>55</sup> ABCI (2000), op. cit., p. 78.

<sup>56</sup> UNDCP (1998), op. cit., p. 15.

<sup>57</sup> UNDCP (1997), op. cit., p. 103.

If the costs of drug abuse are limited to the private costs of a single individual, the economic impact on the rest of society is assumed to be negligible. However, when the costs are incurred not only by the consumer but by the community, they become social costs. The key distinction is between the private costs the consumer incurs and the social costs imposed by the behaviour or expected behaviour of others.<sup>58</sup>

Clearly policy makers need to use measurements of the costs of drug abuse in order to target public spending on anti-drug initiatives in key areas. However, as the UNDCP has noted, 'measuring the costs of illicit drug use is complicated by the illicitness, and therefore the hidden nature, of the activity'.<sup>59</sup> While some costs are relatively simple to quantify, for example the costs of specific drug treatment programs, the cost of law enforcement activity on drugs matters and even the loss of productivity due to impaired performance or loss of employment, most are not. As the UNDCP suggests, 'a high proportion of the costs to society occur outside the market economy'.<sup>60</sup> For example, it is extremely difficult to quantify the quality of family life lost due to drug abuse and the costs of this dysfunction in the future.

### 3.2.2 Previous Research

In 1996, David Collins and Helen Lapsley published the most definitive study of the social and economic costs of drug abuse in Australia for the financial years 1987-88 and 1991-92.<sup>61</sup>

Collins and Lapsley estimated the total costs of drug abuse (including both licit and illicit substances) to be at least \$18,845 million, at 1992 prices<sup>62</sup>, or equivalent to 4.8 per cent of Australian Gross Domestic Product (GDP). The tangible economic costs that related to illicit drug abuse amounted to \$1,248.2 million; that is 0.4 per cent of GDP, or about \$70 per capita, at 1992 prices. The total economic costs of substance abuse (licit and illicit) rose by 13.5 per cent between 1988 and 1992 (in real terms); the real increase in costs related to illicit drug consumption was almost twice as large, amounting to 25.2 per cent.<sup>63</sup>

The Collins and Lapsley study also included estimates of the intangible economic costs of illicit drug abuse, amounting to \$435.4 million, at 1992 prices. Thus the total economic costs (at current prices) of illicit drug abuse in 1992 were \$1,683.6 million. Of these total costs:

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<sup>58</sup> *ibid.*

<sup>59</sup> *ibid.*

<sup>60</sup> *ibid.*

<sup>61</sup> Collins, David J. and Lapsley, Helen M. (1996), *The Social Costs of Drug Abuse in Australia in 1988 and 1992*, National Drug Strategy Monograph No. 30, Australian Government Publishing Service, Canberra, p. 21.

<sup>62</sup> *ibid.*, p. vii-viii.

<sup>63</sup> *ibid.*, pp. 37-44.

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- 32.0 per cent (\$538.5 million) were estimated to be due to reduced productivity;
- 25.9 per cent (\$435.4 million) due to substance-related mortality (this estimate was based on a demographic approach, that is the 'value' of a person's loss of life to society in terms of their income)<sup>64</sup>;
- 17.5 per cent (\$294.6 million) to the costs of the criminal justice system (courts and prisons);
- 12.9 per cent (\$216.4 million) to resources used in addictive consumption<sup>65</sup>;
- 9.3 per cent (\$156.0 million) were due to additional costs for police and customs; and
- 2.5 per cent (\$42.7 million) were due to additional health costs.<sup>66</sup>

In determining the costs of drug abuse, Collins and Lapsley noted that their analysis relies on estimates of illicit drug law enforcement expenditure for the 1987-88 and 1991-92 financial years that was produced by Robert Marks in a paper written in 1994.<sup>67</sup>

Clearly, a limitation of Australian research on costs of illicit drug abuse is that the relevant studies were conducted using data from the late 1980s and early 1990s. Such studies are indicative of the situation that existed at that time – Australia's anti-drug policies have developed significantly over more recent years. It should not be assumed that the results from this earlier analysis remain relevant today; those findings cannot be extrapolated in order to achieve an indication of present day costs.

### 3.2.3 Social Costs of Drug Abuse

Drug problems do not occur in isolation. They are often tied in with other social problems. Research in the United Kingdom shows that there are many reasons for drug abuse; key factors include unemployment, low self esteem, educational 'failure', poor housing, income inequities, boredom and physical, psychological or family problems.

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<sup>64</sup> It was estimated by Single and Rohl in their evaluation of the National Drug Strategy that in 1998 approximately 22,500 Australians would die either directly or indirectly as a result of harmful drug use. A further 175,000 Australians would be hospitalised for conditions that are the result of harmful drug use.

<sup>65</sup> Given the definition of tangible benefits used by Collins and Lapsley, the resources used in the *production* of the abused drugs constitute one of the costs of drug abuse. They refer, broadly, to the production costs of alcohol and tobacco products (that is, illicit drugs are excluded). In Collins and Lapsley's report, these costs are termed 'costs of addictive consumption'.

<sup>66</sup> Collins and Lapsley (1996), *op. cit.*, p. 39.

<sup>67</sup> Marks, Robert E. (1994), 'Cannabis Laws: An Analysis of Costs', in *Drug and Alcohol Review* 13.

The UNDCP cites international survey evidence that supports the existence of a strong correlation between unemployment and drug-taking habits:

The 1992 British Crime Survey, for instance, revealed that life-time prevalence of drug abuse among the unemployed was 60 per cent higher than among the employed. The 1993 national household survey carried out in Colombia showed that the annual prevalence of drug abuse among the unemployed (4.1 per cent) was almost four times higher than among the employed (1.1 per cent). Similarly the 1994 United States national household survey showed that the number of current abusers among the unemployed was almost twice as high (13.9 per cent) as among people with jobs (6.7 per cent). A more recent study, carried out by the International Labour Organisation and the European Community, which examined the effects of drug and alcohol abuse in the workplace in European countries, found that more than half of the interviewed employers' associations, enterprises and workers' organisations reported specific performance impairments and absences from work as a result of drug- and alcohol-related problems.<sup>68</sup>

Drug Use Monitoring in Australia (DUMA) is a research pilot project that seeks to measure drug use among those people who have been detained at a police station, regardless of the offence. As well as giving an indication of the extent of drug use amongst the adult detainee population, the DUMA results also provide demographic information on that population, in respect of the four sites across Australia at which the project operated during 1999. Although the drug use results are discussed in detail later in this document, it is useful to consider some of the demographic results when considering the social costs of illicit drug use.

The first results from the DUMA project reflect a link between drug use and income insecurity and/or unemployment. The table below demonstrates that the majority of adult detainees who participated in the DUMA pilot were in receipt of welfare payments and government benefits, and were not in full-time employment at the time of their detention:

**DUMA Findings: Sources of Income in the Past 30 Days (Per Cent)<sup>69</sup>**

<b>Receiving Government Benefits</b>		<b>Full-Time Employment</b>		<b>Part-Time Employment</b>	
<b>Males</b>	<b>Females</b>	<b>Males</b>	<b>Females</b>	<b>Males</b>	<b>Females</b>

<sup>68</sup> UNDCP (1998), op. cit., pp. 16-7

<sup>69</sup> Makkai, Toni (2000), 'Drug Use Monitoring in Australia 1999 Annual Report on Drug Use Among Adult Detainees', *Research and Public Policy Series*, No. 26, Australian Institute of Criminology, Canberra, pp. 6, 12, 18 and 24.

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Bankstown	50.4	75.0	35.4	17.9	18.1	7.1
East Perth	64.5	83.9	27.1	10.7	22.1	12.5
Parramatta	65.6	68.0	23.7	16.7	23.2	12.5
Southport	62.9	89.9	29.1	5.0	20.3	13.9

The cost of unemployment to society is great, and is manifested in terms of possible lost production, future income generation and therefore possible lost economic growth and job opportunities for the unemployed population. The potential exists for individuals to become trapped in a cycle of unemployment and drug use.

The UNDCP also notes that the links between low productivity, accidents and drug-taking behaviour are well established. Drug abusers in the workforce impose significant extra costs on the business sector, thus reducing its competitiveness. Irrespective of current level of development, societies will find it difficult to advance if they have to rely on a workforce that is impaired by large-scale drug abuse. The effect of drugs on productivity is a function of the type and quantities of drugs consumed, as well as of the performance requirements of the job. Tasks that require higher level judgement, constant attention, immediate memory and fine motor skills are obviously more easily disrupted by drugs than physical labour. The more developed a society, and the more skilled jobs it has, the more vulnerable it becomes to drug abuse and the higher the costs to society.<sup>70</sup>

The initial DUMA findings indicate that there may be a link between lack of adequate housing and illicit drug use. In general, a minority of adult detainees surveyed had their own accommodation; the majority was either living at someone else's place or had other arrangements. The table below illustrates these results:

#### **DUMA Findings: Current Housing Arrangements of Detainees (Per Cent)<sup>71</sup>**

<b>Private House/Apartment</b>		<b>Someone Else's Place</b>		<b>Other Arrangements</b>	
<b>Males</b>	<b>Females</b>	<b>Males</b>	<b>Females</b>	<b>Males</b>	<b>Females</b>

<sup>70</sup> UNDCP (1998), op. cit., p. 17.

<sup>71</sup> Makkai (2000), op. cit., pp. 5, 11, 17 and 23.

Bankstown	41.1	57.1	50.4	32.1	8.5	10.8
East Perth	44.3	42.9	42.2	44.6	13.5	12.5
Parramatta	43.0	48.0	36.7	44.0	20.3	8.0
Southport	61.4	56.3	27.8	25.0	10.8	18.7

Family and community factors are also important. The UNDCP reports that family factors thought to lead to, or intensify, drug abuse include prolonged or traumatic parental absence, harsh discipline, failure to communicate on an emotional level and parental use of drugs. Lack of household stability triggered by low and irregular income and unemployment may increase the stress on the family and its vulnerability to drug abuse. While the family can itself be the source of drug problems, it can also be a potent force for prevention and treatment. The family unit as a whole has a clear interest in preventing individual family members from falling prey to drug abuse, and thus is potentially a powerful ally of government and the community in the development of prevention programs.<sup>72</sup>

A key Commonwealth Government initiative which recognises the importance of building a 'social coalition' of families, community and voluntary organisations, law enforcement officers, health professionals, governments and the wider community to address drug problems is the *Tough on Drugs* diversion program.

Diversion provides a new option for coping with minor drug offenders. It enables police to divert those found using or in possession of illicit drugs away from the criminal justice system and into compulsory assessment for treatment and/or education. Ongoing assistance will be made available to help individuals overcome their drug problems. The long-term aim of the diversion initiative is to prevent people from entering into long-term drug abuse, where the consequences may include serious health problems, financial destitution, social dysfunction, a criminal record and, in some cases, acts of violence and property crime.

### *3.2.4 Economic Costs of Drug Abuse*

#### Overview of Previous Research

Much of the previous work on the economic costs of illicit drug abuse to government is rather dated. However, it is instructive to consider the findings of that research, while recognising that the results cannot be extrapolated to the current context.

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<sup>72</sup> UNDCP (1998), op. cit., p. 30.



Although the earlier studies indicate that illicit drug law enforcement generally attracts more expenditure than illicit drug health programs, relative expenditure by governments on health and law enforcement is not the central issue: what is important is that health and law enforcement agencies work in partnership, striving to achieve reductions in the demand for, supply of, and the harms caused by illicit drugs. This does not necessarily equate to an equal distribution of the available budget.

In respect of the costs of illicit drug abuse to governments, a PJC-NCA report in 1989 noted that:

The most obvious costs imposed by the present policy of prohibition [with respect to illicit drugs] are of course the direct costs of law enforcement, which include not only the operational costs of the law enforcement agencies but also the costs of the prosecution and defence lawyers, the costs of court time and staff involved in the hearing of cases relating to drug offences, and in the more serious cases the costs of imprisonment.<sup>73</sup>

That report goes on to note that it is 'difficult to put a figure on these items'.<sup>74</sup> Law enforcement agencies do not break down their budgets in a manner that indicates how much they spend specifically on drug law enforcement.<sup>75</sup> While it is relatively simple to identify specific programs (such as those under the *Tough on Drugs* strategy), attempting to ascertain what proportion of law enforcement agency budgets are attributable to drug law enforcement is problematic. Additionally, much of what would appear to be drug law enforcement costs would still occur even if all drugs were legalised: the PJC-NCA report uses the example of ACS border operations to make this point.<sup>76</sup>

Notwithstanding these difficulties, the PJC-NCA calculated that drug law enforcement costs amounted to \$123.2 million in 1987-88. The report notes that the figures for the AFP, State and Territory police services and the ACS were based on information about the numbers of staff engaged exclusively on drug law enforcement work that was provided to the Committee. The figures used for the NCA simply represent 60 per cent of the total budget for that agency.<sup>77</sup>

The PJC-NCA report included a prisons component of drug law enforcement costs. The report notes that 'the figure for prisons is based on an average

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<sup>73</sup> Parliament of the Commonwealth of Australia (1989), *Drugs, Crime and Society*, Report by the Parliamentary Joint Committee on the National Crime Authority, Australian Government Publishing Service, Canberra, p. 76.

<sup>74</sup> *ibid.*, p. 75.

<sup>75</sup> Given the changing nature of crime, it may no longer be appropriate to isolate a component of the budget of law enforcement authorities as being for 'drug law enforcement'. As has been discussed elsewhere in this document, illicit drug crime is increasingly interrelated with other criminal acts, such as money laundering and other transnational crime.

<sup>76</sup> Parliament of the Commonwealth of Australia (1989), *loc. cit.*

<sup>77</sup> *ibid.*, p. 76.

costing in respect of the 1,380 prisoners who were in gaol for drug offences in 1986 (the latest figures available)'. Perhaps in recognition of the uncertainty that surrounds the nature of the link between drugs and crime, the report states that 'No attempt has been made to include the law enforcement costs in relation to offences [that may have been] committed by persons in order to finance their drug habits.'<sup>78</sup>

Interestingly, the PJC-NCA report goes on to note that:

The relationship of drug use and crime has been the subject of much study. At first glance it seems self-evident that users, unable to pay for the drug which they feel they desperately need, will turn to crime. However the picture is not so simple. Dobinson and Ward found that 78.1 per cent of the heroin users in their sample of New South Wales property offenders had committed property crimes before their first use of heroin...Regular crime tended to be committed after, or simultaneously with, the onset of regular heroin use...By the same token, during periods of abstinence users tended to decrease or stop their criminal activities.<sup>79</sup>

The PJC-NCA report cites previous work by Dobinson and Ward in 1985 to highlight that while there may be a relationship between drug use and criminal behaviour, the nature of that relationship is not straightforward. Dobinson and Ward note that two explanations are consistent with their findings:

Heroin users who are property offenders may consume more heroin and therefore 'need' to generate more income and commit more crime. Alternatively, heroin users who are property offenders may commit more crimes and generate more income, thus enabling them to afford more heroin.<sup>80</sup>

Dobinson and Ward conclude that although the nature of the link between heroin use and property crime is uncertain, there is no doubt that a link exists:

...it is clear that whether or not heroin-using property offenders already formed part of a delinquent subculture prior to their first use of heroin, their regular use of the drug coincided with periods during which they committed larger numbers of offences, and generated greater income, than non-using property offenders. What is not so clear is whether such heroin users would abandon crime altogether if they ceased to use the drug or were able to obtain it at vastly reduced cost.<sup>81</sup>

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<sup>78</sup> *ibid.*

<sup>79</sup> *ibid.*, p. 78.

<sup>80</sup> Dobinson, I. and Ward, P. (1985), *Drugs and Crime*, New South Wales Bureau of Crime Statistics and Research, Sydney.

<sup>81</sup> *ibid.*

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It is suggested by Marks (1994) that the approach in the PJC-NCA report was 'very conservative, since it ignored the proportion of officers engaged in coping with drug-related crimes, such as property crimes committed by drug users'. He goes on to suggest that the estimate:

...ignored capital expenditure on prisons, expenditure on legal aid, expenditure on private legal representation and the costs of time and delays for non-forensic participants in the courts.<sup>82</sup>

Marks attempts to adjust the estimates used in the PJC-NCA report for the AFP and State and Territory police services and add estimates for capital expenditure on prisons and expenditure on legal aid. His revised estimate for drug law enforcement expenditure was \$320 million for 1987-88. The paper states:

The main adjustment was multiplying the earlier estimates [of \$123.2 million] by a factor of 2.5, which was obtained by imputing a proportion of 40 per cent of the Australian prisoners on 30 June 1988 who had been convicted for various kinds of theft (robbery, extortion, break and enter, fraud, misappropriation, receiving and other theft), as having committed the thefts to support purchases of illicit drugs at the high, black-market prices.<sup>83</sup>

Marks' 1987-88 results are further adjusted to establish estimates of drug law enforcement expenditure in 1991-92. Expenditure by the AFP, ACS, State and Territory police services and recurrent and legal aid costs associated with the courts are adjusted upwards by 30 per cent to 'reflect population growth and inflation'. The prisons information is adjusted upwards by 48 per cent 'to reflect inflation and the 20 per cent increase in drug-related theft and incarceration'. NCA drug-related costs were again estimated to be 60 per cent of the total running costs for that agency. After these adjustments, a total of \$450.4 million for illicit drug law enforcement is achieved, representing an increase of 40 per cent over the 1987-88 estimates, or an increase of 16.3 per cent in real terms.<sup>84</sup>

It is unclear how the estimate of the proportion of prisoners who have committed theft offences to support drug habits is derived in the analysis by Marks. It is also uncertain whether this should be included as a 'drug law enforcement cost': as already noted, research by Dobinson and Ward implies that the nature of the link between drugs and crime is not as clear cut as Marks' analysis appears to assume. While there is clearly a connection between drugs and crime, it remains a matter of debate as to whether drug use leads to criminal behaviour, or if criminals simply tend to use drugs.

Similarly, the contention by Marks that the PJC-NCA estimates of drug law enforcement expenditure were conservative because they 'ignored the

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<sup>82</sup> Marks (1994), op. cit.

<sup>83</sup> *ibid.*

<sup>84</sup> *ibid.*

proportion of officers engaged in coping with drug-related crimes, such as property crimes committed by drug users<sup>85</sup> is not straightforward. It is uncertain how the proportion of criminal behaviour that is attributable to drug use and the proportion of law enforcement officers engaged in coping with this crime has been derived in the analysis by Marks. As noted in the previous paragraph, Marks could be seen to be implying that the drug use by property offenders leads to their commission of crimes.

Using Marks' estimate of law enforcement expenditure on illicit drugs, Collins and Lapsley (1996) establish the budgetary implications of drug abuse (including both licit and illicit drugs), both at Commonwealth and State and Territory government levels. They note that the estimation of budgetary impact of drug abuse is an exercise subsidiary to that of estimating the tangible and intangible costs of abuse. The latter (outlined above) represent the impact of abuse on the community as a whole. The budgetary impact is largely an indication of the funding impact of drug abuse on government.<sup>86</sup>

From a total (Commonwealth and State) licit and illicit drug budget of \$1,359.4 million in 1991-92, \$450.6 million (Marks' estimate) was spent on drug law enforcement, \$793.9 million on health, \$64.0 million on road accidents, \$50.8 million on drug campaigns and research and \$2.5 million on assistance to tobacco growers.<sup>87</sup> In percentage terms, 33.1 per cent of the total budget was spent on law enforcement, 58.4 per cent on health, 4.7 per cent on road accidents, 3.7 per cent on drug campaigns and research and 0.2 per cent on assistance to tobacco growers.

Collins and Lapsley further break down the budgetary figures into Commonwealth and State budgets. These findings suggest that the Commonwealth Government spent less on drug law enforcement relative to health than State governments. At the Federal level, out of a total licit and illicit drugs budget of \$681.7 million in 1991-92, \$577.6 million (or 84.7 per cent) was spent on health, \$72.5 million (10.6 per cent) on law enforcement and \$31.6 million (4.6 per cent) on drug campaigns and research.<sup>88</sup>

At the State and Territory government level, from a total budget of \$680.2 million for illicit and licit drugs in 1991-92, \$378.2 million (or 55.6 per cent was spent on law enforcement), \$216.3 million (31.8 per cent) on health, \$64.0 million on road accidents (9.4 per cent), \$19.2 million on drug campaigns and research (2.8 per cent) and \$2.5 million (0.4 per cent) on tobacco grower assistance.<sup>89</sup>

When budgetary expenditure on licit drugs is removed from the above figures, the balance changes. At the Commonwealth level, out of a total budget of \$95.0 million for illicit drugs in 1991-92, \$72.5 million (or 76.3

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<sup>85</sup> *ibid.*

<sup>86</sup> Collins and Lapsley (1996), *op. cit.*, p. 13.

<sup>87</sup> *ibid.*, p. 55.

<sup>88</sup> *ibid.*, p. 56.

<sup>89</sup> *ibid.*, p. 57.

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per cent) went to law enforcement measures and \$22.5 million (23.7 per cent) to health. At the State level, from a total budget of \$388.6 million for illicit drugs in 1991-92, \$378.1 million (97.3 per cent) was spent on law enforcement and \$10.5 million (2.7 per cent) on health measures.<sup>90</sup>

### Where to From Here on Costs?

Although the analysis by Collins and Lapsley (1996) of the economic and social costs of drug abuse was considered ground-breaking at the time it was conducted, it is potentially misleading and open to misinterpretation on the question of the resources that Australian governments allocate to health, law enforcement and education initiatives against illicit drugs. It is important to remember that the research by Collins and Lapsley (and others) was conducted some time ago, and the pattern of government spending on illicit drugs has altered significantly over the last decade.

DHAC has advised that it is currently negotiating a possible update of the Collins and Lapsley analysis. The proposed update would occur in the second half of 2000 and aim to reflect the social costs of drug abuse in Australia up to 1998, where data for that year is available. It is proposed that the project involve consultations and a review of the methodology used in the previous work. AGD looks forward to participating in this project.

### *3.2.5 Health and Law Enforcement Expenditure: it is not a matter of either/or*

When considering health and law enforcement expenditure on illicit drugs, differences in the nature of and problems associated with accurate measurement of those costs should be taken into account. It may be that it is not possible to accurately quantify health and law enforcement costs of illicit drugs; if this is the case, it should be identified at the outset, as there is obvious potential for findings to be misleading and misinterpreted as a result.

This section attempts to examine the potential pitfalls of analysing the costs to government of illicit drugs, and to outline some of the differences that exist between the nature of health and the nature of law enforcement costs.

### Nature of Law Enforcement Activities

The role of Commonwealth law enforcement agencies is, obviously, to enforce Commonwealth laws. In this regard, the discretion that may be exercised by law enforcement agencies in respect of illicit drug expenditure could be more limited than the discretion that is involved for health expenditure on illicit drugs. It could be said that health expenditure on illicit drugs relies on illicit drug users seeking health advice, whereas discretion is more limited for law enforcement in enforcing Commonwealth laws on illicit drugs.

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<sup>90</sup> *ibid.*, p. 60.

A large proportion of Commonwealth law enforcement resources are directed at protecting Australia's borders, as well as international actions against illicit drugs, such as the posting of officers overseas and the initiation of cooperation programs with overseas law enforcement agencies. The overall aim of these strategies is to reduce the supply of illicit drugs to the Australian community. Comparatively little law enforcement funding goes towards targeting drug users – obviously a proportion of State/Territory level police funding is used for this purpose – but at the Commonwealth level these costs are over-shadowed by higher level supply reduction strategies, which aim to stem, suppress and disrupt the flow and trafficking of illicit drugs and to send a deterrent message to other traffickers of these drugs.

### Greater 'Acceptability' of Licit Drugs

People with health problems directly caused by alcohol and tobacco are more likely, generally speaking, to seek health advice than people with health problems related to their illicit drug use. Individuals with health problems caused by illicit drugs are less likely to have contact with health agencies, unless they are involved in a treatment, rehabilitation or maintenance program. Conversely, people who smoke tobacco may have continued contact with health agencies.

As the PJC-NCA report, *Drugs, Crime and Society* notes:

The illegality of drug use means that users may be reluctant to call medical assistance when one of their friends suffers an overdose and the inability to continue their drug use means that regular users are unwilling to be hospitalised, even if this is necessary for the their health.<sup>91</sup>

The report also makes the point that illicit drug use can lead to more general health problems, such as malnutrition:

The high cost of heroin is also responsible to some degree for the general ill-health of regular heroin users. Their preoccupation with getting the resources needed to obtain the drug leads them to suffer from malnutrition and general self-neglect.<sup>92</sup>

It is unlikely that users of licit drugs, such as tobacco or alcohol, would be reluctant to seek health advice if health problems arose. This could mean that the analysis of the health costs of drug use is distorted through the under-representation of the costs associated with the use of illicit drugs.

### Difficulties in Determining Health and Law Enforcement Costs

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<sup>91</sup> Parliament of the Commonwealth of Australia (1989), op. cit., p. 84.

<sup>92</sup> *ibid.*

Law Enforcement Costs

In some previous work, a proportion of the running costs of law enforcement agencies is attributed as 'illicit drug law enforcement costs'. Law enforcement agencies are, of course, involved in a large variety of other matters in addition to targeting illicit drugs. Therefore it may not be legitimate to use law enforcement budgets in this way. The PJC-NCA report from 1989 cites the example of border operations, in that the ACS would still need to maintain barrier control and coastal surveillance for other reasons even if all drugs were legalised.<sup>93</sup>

The component of the running costs of law enforcement agencies devoted to illicit drugs needs to be clearly identified (and defined) before it can be included in an analysis of illicit drug law enforcement costs. The 1989 PJC-NCA report attempted to break down running costs of law enforcement agencies in this way.<sup>94</sup>

Given the changing nature of crime, however, it may no longer be appropriate to identify a specific component of the budget of law enforcement authorities as being for drug law enforcement. As has been discussed throughout this document, drug crime is increasingly intertwined with broader criminal activities, such as money laundering, electronic crime and acts of transnational crime. If, as seems likely, these trends persist, analysts will be increasingly less able to attribute components of law enforcement agency budgets exclusively to illicit drugs; that is, it will become more difficult to ascertain an exclusive budget for illicit drug law enforcement. As this occurs, and it becomes less possible to accurately gauge the law enforcement costs of illicit drugs, the potential for findings to be distorted will increase.

There is also a positive side to illicit drug law enforcement expenditure. As noted in part 2 of this submission, law enforcement efforts against organised crime, such as illicit drug-related crime, increasingly involve the seizure of proceeds of crime. Additionally, recent NCA task forces have been particularly effective in tax-related criminal investigations. The recovery of proceeds of crime and taxation by governments represents a benefit of law enforcement expenditure on illicit drugs.

Health Costs

Without further investigation, it is unclear from the previous analyses of costs if a proportion of health agency running costs is included among health costs of illicit drugs. While it is relatively simple to ascertain the costs of illicit drug-specific health programs, and include them in the analysis, it is also important that health agency running costs are incorporated; that is, there is a need to use the same methodology as used to determine law enforcement costs, such as by pro-rating the budgets of

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<sup>93</sup> *ibid.*, p. 75.

<sup>94</sup> *ibid.*, p. 76.

health agencies, according to the proportion of officers directly involved in illicit drug-related work, if one is to accurately estimate and compare health and law enforcement expenditure on illicit drugs.

Just as it is increasingly difficult to accurately apportion the extent of law enforcement agency running costs that are directly related to illicit drugs (largely due to the changing nature of crime), it may be similarly difficult to accurately quantify all health costs in respect of illicit drugs. There is clear potential for findings to be distorted if it is not possible to establish an accurate representation of the health and law enforcement costs of illicit drugs.

### Concluding Remarks

Citing the previous work of Collins and Lapsley, the UNDCP notes in its *World Drug Report* that in Australia:

...federal and state government expenditure due to illicit drug abuse amounted to US\$393 million, of which 84 per cent was allocated to law enforcement, 6 per cent to health care and 10 per cent to public awareness campaigns and research.<sup>95</sup>

The apparent imbalance of these figures has led to claims that law enforcement funding should be diverted to health funding because the proportion of illicit drug expenditure on health funding is too low, and the proportion of expenditure on illicit drug law enforcement too high. Such an approach is fundamentally flawed. Quite apart from the issue of limited discretion in respect of some illicit drug law enforcement expenditure, commentators who make this claim are impliedly assuming that law enforcement agencies devote their resources to targeting illicit drug users. It is contended, therefore, that if we switch some law enforcement expenditure to health spending, we can redress the perceived imbalance and treat more illicit drug users.

The nature of law enforcement expenditure, however, is quite different from this implied approach. As noted above, a large proportion of law enforcement resourcing at the Commonwealth level is directed at protecting Australia's border, as well as other international actions against illicit drugs. The aim of these supply reduction strategies is to reduce the supply of illicit drugs to the Australian community, through stemming, suppressing and disrupting the importation of illicit drugs and their precursors and sending a deterrent message to traffickers.

The relative expenditure by governments on health and law enforcement measures should not be the central issue: what is important is that health and law enforcement agencies work in partnership to combat illicit drugs. Law enforcement initiatives have an impact on the success of public health

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<sup>95</sup> UNDCP (1997), op. cit., p. 256.



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initiatives and the health of individuals, just as public health initiatives have an impact on criminal activity.<sup>96</sup>

The 'community protection' focus of law enforcement authorities underpins their active partnership with health agencies. Through the broad goal of supply reduction, law enforcement agencies work in partnership with health agencies, demonstrating a commitment to reduce the harms caused by illicit drugs through a cooperative approach.

In tackling the illicit drug problem in Australia, governments and the community are seeking an effective and integrated policy outcome that balances the impact of health, education and law enforcement initiatives in striving to achieve reductions in the demand for, supply of and the harms caused by, illicit drugs. Such a policy approach may not necessitate an equal distribution of the available budget for illicit drugs.

### **3.3 Public Attitudes to Anti-Drug Policy**

In the context of illicit drugs, respondents to the 1998 household survey were asked about their attitudes to the *Tough on Drugs* strategy. Of those surveyed, a 'tough on drugs' policy (not otherwise explained) was supported by 44 per cent of persons. A further 46 per cent responded that they did not know enough about the policy to indicate support or otherwise.<sup>97</sup>

The 1998 household survey findings reveal strong community sentiment that illicit drugs are a 'problem'. 37.4 per cent of all respondents primarily associated heroin with a drug problem. This represents an increase of 9.2 percentage points on the 1995 results, and reflects strong concern about 'hard' illicit drugs in the community.<sup>98</sup>

Public support for increased penalties for the sale or supply of illicit drugs remains high in the 1998 survey. In 1995, 87.0 per cent of persons surveyed supported increased penalties for the sale or supply of heroin; this fell only slightly to 85.1 per cent in 1998. In 1998, 82.7 per cent of persons supported increased penalties for the sale and supply of amphetamines; for cocaine, the support for higher penalties was 83.8 per cent. For cannabis, traditionally the most 'acceptable' illicit drug, support for increased penalties for sale and supply was 59.1 per cent in the 1998 survey.<sup>99</sup>

The 1993 survey report was consistent with these findings, with 87.0 per cent supporting increased penalties for the sale and supply of heroin and

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<sup>96</sup> Ministerial Council on Drug Strategy (1998), *National Drug Strategic Framework 1998-99 to 2002-03: Building Partnerships (A Strategy to Reduce the Harm Caused by Drugs in Our Community)*, Ministerial Council on Drugs, Canberra, p. 17.

<sup>97</sup> AIHW (1999), op. cit., p. 33.

<sup>98</sup> *ibid.*, p. 7.

<sup>99</sup> *ibid.*, pp. 10-11.

cocaine, 85.0 per cent supporting higher penalties for amphetamines and 64 per cent in favour of greater penalties for the sale and supply of cannabis.<sup>100</sup>

The 1998 household survey report also describes how those surveyed would distribute a nominal budget of \$100 on education, treatment and law enforcement in respect of licit drugs, such as alcohol and tobacco, and illicit drugs, such as heroin, cocaine and cannabis. The report found that for heroin and cocaine, law enforcement would attract the largest expenditure (\$39.60) compared with education (\$35.50) and treatment (\$24.90). These figures had changed marginally from the 1995 survey results, in that the proportion to be spent on law enforcement had fallen from \$40.30 in that year and the treatment component had risen from \$23.80. For cannabis, people surveyed in 1998 would spend \$29.30 on law enforcement, compared with \$45.50 on education and \$25.10 on treatment.<sup>101</sup>

These results reflect increased support for law enforcement expenditure, against education and treatment, when compared to the findings from the 1993 survey. That report found that for heroin and cocaine, people surveyed would spend an average of \$27.90 on law enforcement, \$45.70 on education and \$26.40 on treatment. For cannabis, those surveyed in 1993 would spend \$27.60 on law enforcement, \$21.50 on treatment and \$50.80 on education.<sup>102</sup>

### **3.4 Australia's Anti-Drug Strategy**

#### *3.4.1 Origins of Policy*

A Senate Committee Report in 1977 suggested that the drug debate had brought forth many views:

Arguments are often biased, many cannot be justified, nearly all are emotional. In supporting calls for particular actions, some contributors to the debate have been quite ready to distort or misrepresent facts. Even research has not displayed desirable objectivity or aimed at an impartial search for knowledge.

The extreme options being presented are heavy legal sanctions for breaking a strict prohibition on one hand, and total permission on the other. While we may reject these views, they have been taken into consideration when examining the evidence. A multiplicity of options can be found between these extremes. A re-orientation is needed, away from the protection of entrenched moral positions towards a constructive debate which has as its aim the diminution of the problems drugs present to our society. Attachment to this goal rather

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<sup>100</sup> Ministerial Council on Drug Strategy (1993), *1993 National Drug Household Survey*, conducted on behalf of the National Drug Strategy, Australian Government Publishing Service, Canberra, p. 58.

<sup>101</sup> AIHW (1999), *op. cit.*, pp. 9-10.

<sup>102</sup> MCDS (1993), *op. cit.*, p. 66.

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than emotional attachment to favoured solutions will aid the search for more reasonable and more efficacious strategies.<sup>103</sup>

The Senate Committee recommended that Australian governments adopt a seven-point strategy to combat drug use in Australia. Several elements of the proposed strategy remain particularly relevant, when it is considered how the multi-faceted nature of Australia's anti-drug policies has developed over time. Among the proposed plan were the following strategies:

Efforts to reduce the supply of and demand for drugs are complementary and interdependent, and Commonwealth programs should be based on a balance between them.

Existing programs aimed at reduction of supply and demand must be broadened. In the reduction of supply, a higher priority should be given to increasing international cooperation in preventing the illicit production of drugs. In the reduction of demand, increased attention should be given to prevention, constructive early intervention and better access to rehabilitation services.<sup>104</sup>

It is interesting to consider that Australia's current anti-drug policies still have regard for these issues, 23 years after that report was tabled in the Senate. Since 1985, when Australia's first formal anti-drug policy framework, the National Campaign Against Drug Abuse (NCADA), was introduced, Australia has pursued an approach that aims to manage the diverse health, social and economic consequences of drug use through comprehensive and consistent policies of demand, supply and harm reduction.

### 3.4.2 National Drug Strategy

In 1993, the National Drug Strategy (NDS) replaced the NCADA. Although the NCADA had been hailed as a major achievement in drug policy, evaluations suggested that there was a need for improved strategic direction and closer cooperation between the agencies responsible for law enforcement and health. The NDS was introduced to redress this and build on the strengths of the NCADA. The basis of the NDS is a partnership between the Commonwealth, State and Territory governments, working together to minimise the harmful effects of drugs and drug use on Australian society.

The two key features of the NDS are that it is a cooperative approach which promotes participation and collaboration across Federal and State jurisdictions and it is also a multi-dimensional approach, which demands increased cooperation among the agencies responsible for drug policy. This

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<sup>103</sup> Parliament of the Commonwealth of Australia (1977), *Drug Problems in Australia – An Intoxicated Society?*, Report by the Senate Standing Committee on Social Welfare, Commonwealth Government Printer, Canberra, p. 13.

<sup>104</sup> *ibid.*, p. 1.

ensures that policies and programs across agencies responsible for health, law enforcement and education, among others, are consistent and complementary.

Underpinning these cooperative efforts is the principle of reducing harm, which encompasses and seeks to balance supply and demand reduction measures. Demand reduction measures are designed to discourage or prevent the uptake of drug use and include information and education campaigns; research into prevention and treatment of illicit drug use; and evaluations of trials of alternative treatment options. Supply reduction initiatives disrupt the production and supply of illicit drugs, while harm reduction programs aim to reduce the impact of drug-related harm on both individuals and communities and include initiatives such as needle exchange programs. Each of these measures makes an important contribution to the fight against illicit drugs.

An evaluation of the NDS was conducted in 1997 with a view to informing the development of future national approaches to drugs in Australia.<sup>105</sup> The evaluation concluded that the NDS is widely recognised as one of the most progressive and respected drug strategies in the world.

The *National Drug Strategic Framework 1998-99 to 2002-03* (NDSF) presents a shared vision and a framework for cooperation and coordinated action to reduce the harm caused by drugs in Australia.<sup>106</sup> The NDSF maintains the policy principles of the previous phases of the NDS and adopts the major recommendations of the evaluation of the NDS.

The national approach is intended to achieve two main objectives. It is designed to promote participation between the Commonwealth, State and Territory governments. It is also intended to increase partnerships between the agencies responsible for anti-drug initiatives; this involves collaboration between health, law enforcement and education agencies.

A number of consultative and advisory structures exist under the NDSF. The MCDS is the principal policy and decision making body in relation to both licit and illicit drugs. It consists of Commonwealth, State and Territory Ministers responsible for health and law enforcement. The ANCD has broad representation and is designed to facilitate partnership between government, non-government organisations and the broader community. The IGCD consists of senior government officials from both health and law enforcement agencies and provides policy advice to the MCDS on drug-related issues.

The NDSF reflects the decision of the MCDS that a nationally coordinated and integrated approach to reducing the harm arising from the use of licit and illicit drugs, including alcohol, tobacco and pharmaceutical drugs

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<sup>105</sup> Single, Eric and Rohl, Timothy (1997), *Mapping the Future: Evaluation of the National Drug Strategy 1993-1997*, Commissioned by the Ministerial Council on Drug Strategy, Australian Government Publishing Service, Canberra.

<sup>106</sup> MCDS (1998), op. cit.

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should continue for another five years. This includes a commitment to reduce both supply of and demand for illicit drugs.

As has been discussed previously, the 'community protection' focus of law enforcement underpins its active partnership with health agencies in combating illicit drugs. Through the broad goal of supply reduction, law enforcement agencies work in partnership with health agencies under the NDSF, demonstrating a commitment to reducing the harms caused by illicit drugs through a cooperative approach.

Work by the New South Wales Bureau of Crime Statistics and Research (BCSR) emphasises the partnership that exists between health and law enforcement to combat the problem of illicit drugs. It suggests that although drug law enforcement and treatment are often considered to be alternative approaches to dealing with the problem of illicit drugs, both approaches have a role to play in minimising the harm associated with illicit drug use. The BCSR suggests that drug law enforcement has an important influence on the monetary and non-monetary costs of illicit drugs, and thus has a role in deterring use of that drug. Evidence suggests that drug law enforcement can encourage users of illicit drugs into treatment, thereby reducing some of the harm associated with the use of heroin.<sup>107</sup>

### 3.4.3 National Illicit Drugs Strategy

The National Illicit Drugs Strategy (NIDS), also known as the *Tough on Drugs* strategy, is a relatively recent addition to Australia's anti-drugs policy framework. NIDS was launched in three instalments, in November 1997, March 1998 and September 1998, and provides a balanced and integrated approach to reducing the supply of and demand for illicit drugs and minimising the harm they cause. The Commonwealth Government has announced the commitment of over \$295 million (to 2003) to the three instalments of NIDS initiatives. This has represented additional funding for law enforcement, education and health budgets.

The *Tough on Drugs* strategy provides a clear message that the Commonwealth Government is serious about tackling the drug problem in Australia. *Tough on Drugs* is a multi-faceted approach that recognises the importance of involving parents, family members, the education system and the community. *Tough on Drugs* attacks the illegal drug problem by:

- reducing supply through providing Australia's law enforcement agencies with extra resources to protect our borders as well as our streets from illicit drugs;

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<sup>107</sup> Weatherburn, Don and Lind, Bronwyn (1999), 'Heroin Harm Minimisation: Do we really have to choose between Law Enforcement and Treatment', *Crime and Justice Bulletin: Contemporary Issues in Crime and Justice*, No. 46, New South Wales Bureau of Crime Statistics and Research, Sydney, p. 1.

- reducing demand by educating young Australians and the wider community about the extreme dangers of drugs; and
- establishing a national drug treatment network across Australia's cities and rural centres to bring treatment and support within the reach of those who need it.

A meeting of COAG in April 1999 agreed on the continued need for a national approach to address the problems of illicit drug use in Australia. COAG agreed to expand NIDS to enhance prevention, early intervention and education initiatives. The Commonwealth Government committed an additional \$220 million over four years to fund the new initiatives.

### **3.5 Initiatives under the *Tough on Drugs* Strategy**

In addition to those supply reduction initiatives which have already been identified at the end of the first two parts of this document, a number of other measures, which operate primarily at the domestic level, have been implemented under the *Tough on Drugs* strategy.

Ten AFP mobile strike teams have been established. The mobile strike teams, which are driven by intelligence, are being deployed to target and pro-actively investigate major drug syndicates operating in Australia. Four teams are based in Sydney, with two each in Perth, Melbourne and Brisbane. The aim of the strike teams is to have dedicated resources to investigate and respond to all aspects of drug operations: transport, distribution and money laundering networks. As part of this initiative, the AFP has also acquired additional analytical capacity. The strike teams have contributed to increased seizures and arrests of those involved in drug manufacture and distribution rings.

Under *Tough on Drugs* there has also been increased funding for informant handling and witness protection by the AFP, which will improve the process of drug investigation. Successful informant handling is vital to the pursuit of drug trafficking in Australia. The witness protection program is equally important.

The COAG package provided for enhanced technical capacity for the AFP and the NCA, enabling additional evidence collection via telephone interception. The initiative provided for a 50 per cent increase in technical capacity for both agencies in this regard.

The NCA has been allocated additional funding to expand its Blade Task Force multi-disciplinary investigations into south-east Asian organised crime. The NCA uses its cross-jurisdictional mandate and coercive powers to pro-actively target the trafficking of heroin in Australia. In future the NCA will concentrate principally on the investigation of interstate heroin trafficking.

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Among the domestically-oriented ACS initiatives flowing from funding under the *Tough on Drugs* strategy are recruitment of additional intelligence analysts and enhancement of the cargo profiling system and examination capacity.

The success of initiatives under *Tough on Drugs*, in terms of apprehending suspects on drug importation, supply, manufacture and trafficking charges, has increased the number of offenders being prosecuted by the CDPP.

As noted earlier, a key initiative which emphasises how the Commonwealth Government is seeking to build a 'social coalition' of families, community and voluntary organisations, law enforcement officers, health professionals, governments and the wider community to address drug problems is the *Tough on Drugs* diversion program. States and Territory governments worked together with the Commonwealth to produce a national framework document for diversion, which was launched on 18 November 1999. The introduction of the diversion strategy is an example of what can be achieved when the Commonwealth, States and Territories work cooperatively together in the fight against drugs.

Under the *Tough on Drugs* strategy, the Commonwealth Government is also developing a number of legislative reforms. In the COAG package, it was agreed to further strengthen the attack on the supply of drugs, including through amendments to the POC Act. The Commonwealth is actively pursuing this matter.

In addition to the iterative process of ongoing monitoring, performance measurement and reorientation of the way law enforcement 'does its business', the Commonwealth is committed to the broader monitoring and evaluation of anti-drug initiatives, recognising that such activity is central to informing future policy development and the continued implementation of targeted and appropriate responses to the drug problem in the future. Work is well advanced on the development of a monitoring and evaluation strategy by which a measurement framework for the NDSF can be implemented. A private sector consulting firm (KPMG) has been engaged by the DHAC to develop this framework. For the COAG package DOFA is coordinating the design of a monitoring and evaluation framework.

The AGD, and agencies within the portfolio, have provided input to the NDSF monitoring and evaluation project, and are represented on the Steering Committee, operating under the auspices of DOFA, which is to coordinate the independent evaluation of the COAG measures.

## **4 DRUGS AND CRIME**

### **4.1 Introduction**

The UNDCP makes the following observations in respect of the relationship between drugs and crime:

Drugs and crime are related in several ways. Illicit production, manufacture, distribution, possession and consumption (with some exceptions) of illicit drugs constitute criminal offences in most countries, particularly those countries which are signatories to the 1961, 1971 and 1988 UN drug control conventions.

Drugs increase the likelihood of many forms of criminal activity. Drug-related crime occurs primarily in the form of trafficking-related activity, including violent conflicts among trafficking groups competing for increased market share. It also results from the need of drug consumers to finance their addiction through theft and prostitution. Long-term trends, based on data collected between 1975 and 1989...show that drug-related crime and robbery were the fastest growing component in crime as a whole, after kidnapping.<sup>108</sup>

According to another report by the UNDCP, 'one of the most important social and economic consequences of drug abuse is crime'. The report goes on to note that:

Criminality can be termed a market characteristic of drug abuse because it is present in all market transactions and is directly linked both to the illegality of the drugs and their addictive potential, the same elements which determine illicit profits.<sup>109</sup>

The report also makes the point that the parts of the criminal justice system which protect society by enforcing restrictions on illicit drugs 'fall into the category of social costs'. However, aspects of the criminal justice system are among the few elements of the relationship between drugs and crime that can be relatively easily quantified. In respect of other costs, the report notes that:

Costs which are less easily quantified include, for example, the replacement cost of stolen property, high house insurance policies [premiums] and the cost of changing mode or route of transport to avoid crime-infested areas. To quantify these costs as costs of drug abuse they must be (a) directly or indirectly attributable to drug abuse, and (b) capable of measurement. Attribution and causality are problems which confront all cost studies. In the case of criminality, costs are usually attributed to illegal drug use when crimes were

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<sup>108</sup> UNDCP (1998), op. cit., p. 37.

<sup>109</sup> UNDCP (1997), op. cit., p. 103.



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committed under the influence of an illicit drug, were committed to finance the use of an illicit drug, or criminal justice and law enforcement resources were used to prevent or prosecute drug-related crimes.<sup>110</sup>

In relation to drugs and crime, Collins and Lapsley (1996) suggest that estimating the costs of crime and drug use can be divided into two main categories – drug offences and the costs of drug-related crime, including violence and anti-social behaviour. The authors note that:

Statistics on drug offences, which include, possession, use, manufacture and trafficking, are all collated, while the numbers of drug offences and prisoners categorised by most serious offences are documented for every State. Drug offences recorded in this way are, of course, an under-estimate, as they record only those which are confirmed through law enforcement agencies.

The second category, drug-related crime, refers to burglaries and armed robberies [that might have been] committed by people to support their drug habits, and to the association between the use of drugs and the commission of crime of violence, including domestic violence. The association between drugs and crimes of violence includes the abuse of both alcohol and illicit drugs.<sup>111</sup>

Collins and Lapsley take the view that it is not possible to quantify the latter category, drug-related crime, stating that 'available data do not permit quantitative estimation of these costs'<sup>112</sup>.

The AIC, in two papers in its *Trends and Issues* series<sup>113</sup>, makes an attempt to estimate the annual costs of crime in Australia. Although this research has considered the costs of crime broadly, it makes the following observations about the cost of drug offences to the Australian community:

Like alcohol, the costs associated with drug offences lie in the consequences of the abuse rather than in the commission of the crime itself. These are principally in the health, law enforcement and tax evasion areas. The National Campaign Against Drug Abuse gives a figure of just over \$1,200 million for total costs of the abuse of illicit drugs in Australia in 1988, including treatment of drug related illness, accidents resulting from drug use/abuse, loss of productivity due to absenteeism, premature death, property crime and damage, and excluding criminal justice system costs.<sup>114</sup>

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<sup>110</sup> *ibid.*, pp. 103-4.

<sup>111</sup> Collins and Lapsley (1996), *op. cit.*, p. 24.

<sup>112</sup> *ibid.*

<sup>113</sup> Walker, John (1992), 'Estimates of the Cost of Crime in Australia', *Trends and Issues in Crime and Criminal Justice*, No. 39, Australian Institute of Criminology, Canberra and Walker, John (1997), 'Estimates of the Cost of Crime in Australia in 1996', *Trends and Issues in Crime and Criminal Justice*, No. 72, Australian Institute of Criminology, Canberra.

<sup>114</sup> Walker (1992), *op. cit.*, p. 7.

## **4.2 Initiatives under the *Tough on Drugs* Strategy**

The Commonwealth Government has responded to uncertainty about the nature of the relationship between drugs and crime with a commitment to research initiatives under the *Tough on Drugs* strategy.

Under the first instalment of NIDS, funding was provided for the AIC to investigate the links between drugs and crime. Funding under the second instalment of the *Tough on Drugs* strategy enabled the AIC to establish the DUMA pilot project. Australia will benefit from DUMA through better knowledge of the connection between drugs and crime and a link with comparative international data, through the International Drug Abuse Monitoring Program.

COAG agreed in April 1999 to provide further funding to the AGD to conduct research on drugs and crime to provide a more accurate and targeted picture of the relationship between drugs and crime in Australia. The AGD has allocated some of this funding to the AIC for that agency to establish the National Property and Violent Offender Database, which has the general aim of providing policy-makers with a more detailed understanding of the functioning of illicit drug markets.

The Commonwealth's ongoing commitment to research projects on illicit drugs reflects the continuing need for governments and the community to be vigilant and to continue searching for innovative solutions to the drug problem. A commitment to further research, and monitoring and evaluation of current initiatives, is central to informing future policy development and developing targeted and appropriate responses to the illicit drug problem in the future.

## **4.3 Drug Use Monitoring in Australia Project**

### *4.3.1 Background*

Research has shown that the frequency of criminal behaviour increases when illegal drugs are involved. Criminals who are drug dependent commit proportionately more crime. Moreover, the population engaged in both criminal activity and illegal drug use has a greater impact on the quality of life of more people than other groups of drug users: hence, this is a group who are a key focus of drug law enforcement activity.

The expectation is that reducing levels of drug dependency amongst the criminally active population will have significant benefits for society. We have had no real idea, however, of the extent and use of illicit drugs among

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arrestees, the nature of the illicit drug market in which they buy and sell drugs, or their access to treatment.<sup>115</sup>

Throughout the 1990s, crime rates have risen, along with a number of drug indicators such as opioid overdoses. Analysts cannot satisfactorily explain the high levels of crime, particularly property crime, and cite drugs, specifically heroin, as the cause of the problem. There is little empirical evidence in Australia in support of this claim. Within the law enforcement sector, there has not been a systematic monitoring system that tracks drug use amongst people who come into contact with criminal justice agencies. Much of the discussion on the link between drugs and crime is based on anecdotal evidence, or localised studies, and more rigorous national collections are required for evidence-based policy making purposes.<sup>116</sup>

In order to determine the severity of the drug problem amongst the criminally active population, it is essential to measure the prevalence of illicit drug use among this group. This involves gaining an understanding of issues related to both the extent and nature of illicit drug use. The indicators used to measure prevalence of drug use must provide information on issues such as the type and amounts of drugs used, geographic variations in drug use, when drug use changes, and changes in, or combinations of, drugs being consumed.

DUMA overcomes a significant limitation in Australia's national surveillance of illicit drug use by including adult detainees as a key group requiring ongoing monitoring of their involvement in drugs and crime markets.<sup>117</sup> The DUMA pilot study has a number of policy aims, which include to:

- collect data on the prevalence of drug use from arrestees, both drug-related and other offenders, at selected sites in Australia;
- improve the quality of data available on illicit drug use in the arrestee population to assist local treatment agencies;
- provide data in a timely fashion to local law enforcement agencies for risk assessment and evaluation of local policy initiatives; and
- determine the feasibility of establishing a reliable database on drug use among the arrestee population against which national policy initiatives can be evaluated.<sup>118</sup>

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<sup>115</sup> Makkai, Toni (1999), 'Drug Use Monitoring in Australia (DUMA): A Brief Description', *Research and Public Policy Series*, No. 21, Australian Institute of Criminology, Canberra, p. 23.

<sup>116</sup> Makkai (2000), *op. cit.*, p. vii.

<sup>117</sup> *ibid.*

<sup>118</sup> Makkai (1999), *op. cit.*, p. 2.

#### *4.3.2 Illicit Drug Use and Criminal Activity – Some Results from the DUMA Project*

The DUMA results to date show illicit drug use to be widespread among adult detainees. Averaged across the four pilot sites:

- 13 per cent of females and 12 per cent of males tested positive for amphetamines;
- 18 per cent of males and 32 per cent of females tested positive for benzodiazepenes;
- 62 per cent of males and 56 per cent of females tested positive to cannabis; and
- 22 per cent of males and 39 per cent of females tested positive to opiates, such as heroin.

Virtually no cocaine was detected among the sample.<sup>119</sup>

Averaging across the four sites, half of all adult detainees reported that they had been arrested at some stage in the previous 12 months and 17 per cent of adult detainees report that they have served time in prison: in most cases, those who have a prior arrest or served time in prison were more likely to test positive to drug use.

Detainees were asked whether they had used any drugs, including medications, prior to their arrest by police. 41 per cent said that this was the case. 35 per cent said that they had sold illegal drugs for money at some point in their lives. However, only 8 per cent said that they were looking for illegal drugs at the time of their arrest. Generally, those who said that they used illegal drugs, had sold illegal drugs or were looking for illegal drugs were more likely to test positive.<sup>120</sup>

Consistently across all sites adult male detainees tested positive to a range of drugs regardless of the charge. The rates testing positive to cannabis are higher than for other drugs, as the test can detect use up to 30 days, whereas it can only detect use of benzodiazepenes up to 14 days and for the remainder, within the last 2 to 3/4 days. Males detained for a violent offence tested positive to a range of drugs: 12 per cent to amphetamines; 15 per cent to benzodiazepenes; 58 per cent to cannabis; and 18 per cent for opiates. 70 per cent tested positive to any drug, 34 per cent to a drug other than cannabis.

The DUMA data suggests a strong link between opiate use and property offending. Of those adult detainees whose most serious charge is property offending: 43 per cent tested positive to opiates; 13 per cent to

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<sup>119</sup> Makkai (2000), op. cit., pp. xi-xii.

<sup>120</sup> *ibid.*, p. xiii.

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amphetamines; 29 per cent to benzodiazepenes; and 66 per cent to cannabis. 86 per cent of property offenders tested positive to any drugs, including 62 per cent to drugs other than cannabis.

For those who were detained on a drug offence as their most serious charge: 17 per cent returned a positive test result for amphetamines; 18 per cent to benzodiazepenes; 78 per cent to cannabis; and 18 per cent to opiates. 89 per cent of offenders in this category returned a positive drug test, 42 per cent testing positive to drugs other than cannabis.<sup>121</sup>

#### 4.3.3 *Some Possible Implications*

The early DUMA results illustrate that there is a relationship between drug use and criminal behaviour. The limitation of the DUMA data, however, is that it does not allow researchers to extrapolate that illicit drug use causes criminal behaviour, or that crime leads to illicit drug use. As discussed above, however, this may not be the most critical point from a law enforcement perspective. The DUMA findings suggest that by reducing levels of drug dependency amongst the criminally active population, there could be significant benefits for society.

The DUMA data also indicates that illicit drug markets vary according to site and drug. Future work, by the AIC and at the sites, will improve our knowledge about the way local illicit drug markets function. The strength of DUMA lies in its continuing consistent methodology and questions; in this way it provides and can be an effective monitoring and evaluation tool.

The 1999 AIDR notes that there is a range of harms associated with local illicit drug markets. These include the problems associated with drug abuse, the associated crime to support consumption and the decline of local communities who have open drug markets. The policy question is once the characteristics of the market have been determined, what approach should be taken? Markets are where supply and demand converge, so an effective intervention strategy will affect both. Research has shown that the perceived risk of arrest by police is a major factor affecting which markets users go to, how they use drugs and the likelihood of their entry into treatment. The use of illicit drugs by individuals who have been detained by police complicates law enforcement's approach to drug-related crime; it is dealing with both a 'crime' and a 'health' problem and the challenge is to get the balance right between protecting the community and protecting individuals who are illicit drug users.<sup>122</sup>

## 4.4 **Proposed National Property and Violent Offender Database**

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<sup>121</sup> *ibid.*, p. xiv.

<sup>122</sup> ABCI (2000), *op. cit.*, p. 99.

There have been very few studies conducted specifically into property and violent offenders and illicit drug use in Australia. Where studies have been undertaken they have had relatively small sample sizes and have usually focused on a single jurisdiction. This has affected:

- the provision of basic epidemiological data on the illicit drugs and criminal activity in the prisoner population;
- the capacity of researchers to undertake detailed analyses of the complex relationship between illicit drugs and crime amongst a high risk group; and
- the provision of reliable data at a national level for policy purposes.

Australia has developed a series of monitoring systems that provide relatively good epidemiological information about the household population (the household survey), injecting drug users (for example the 1999 IDRS), and adult detainees (DUMA). However, there is no systematic monitoring program of drug use rates amongst prisoners. Although there is some overlap between the groups being monitored the overlap is minor. For example, only one in 20 persons arrested is sentenced to a prison term, thus DUMA, which monitors arrestees, provides limited information on this hard-core group of offenders. Yet, it is this group that is likely to be:

- comprised of persistent repeat offenders who account for most of the crime;
- expensive in terms of policing, court and prison costs; and
- characterised by high rates of injecting drug use and are more susceptible to AIDS and Hepatitis C.

A detailed national study of the incarcerated population has been identified as a priority. It is anticipated that the National Property and Violent Offender Database will:

- provide comparable national data across jurisdictions;
- provide sufficient sample sizes to enable detailed analysis;
- allow researchers to have access to unit record data and ensure that common core questions will cross-reference with other monitoring systems, particularly DUMA and the household survey;
- provide a sound basis to examine the links between illicit drug use and property and violent crimes;
- provide more detailed information on the functioning of illicit drug markets; and

- assess the role of treatment.

The methodology for the collection of data will be face to face voluntary interviews with property and violent offenders in correctional facilities, based on core and (if relevant) supplementary questionnaires.





## **APPENDIX COMMONWEALTH LAW ENFORCEMENT AGENCY FUNCTIONS**

The Appendix contains information that was compiled by the relevant Commonwealth law enforcement agencies: namely the Australian Customs Service, the Australian Federal Police, the Australian Transaction Reports and Analysis Centre and the National Crime Authority.

### **Australian Customs Service**

The Australian Customs Service (Customs) has three principal roles:

- to facilitate trade and the movement of people across the Australian border while protecting the community and complying with Australian law;
- to collect Government revenue efficiently; and
- to administer specific industry schemes and trade measures.

All of the areas impact on Customs' responsibilities in relation to licit and illicit substances. It has a role in collecting revenue and detecting fraud for tobacco and alcohol products and performs community protection functions in relation to illicit drugs.

Customs' priority, through analysis of the environment in which it functions, is to provide the necessary strategic direction to ensure that our business activities, human resource policies and resource allocations achieve those goals.

Customs detects and takes appropriate action to prevent, or control, the entry into Australia of people or goods that have the potential to affect detrimentally the quality of life or safety of the Australian community.

The methods Customs uses to reach this goal are:

- mapping the strategic environment using risk assessment techniques;
- collaborating with national and international partners;
- using expert advice in acquiring and deploying interception technology;
- promoting a skilled workforce with a high level of integrity and professionalism; and
- critically examining outcomes and their impact of future business.

Customs has publicly identified its community protection priority as the interception of commercial quantities of illicit drugs.

In terms of revenue protection, Customs' focus is on compliance with legislative requirements – including continuous improvement in the level of voluntary compliance and addressing issues of non-compliance. Customs' priority in the area of revenue related investigation activity is cases of serious crime.

Risk assessment is a fundamental part of Customs' business. Intelligence is gathered at a strategic, operational and tactical level, and careful analysis of the risks results in changes in Customs' activities and resource deployment. These judgements have led to an increase in intelligence analysts and interception technology over a number of years. Continuing improvement in Customs' relationships with its strategic partners have also contributed to more successful outcomes in illicit drug interception, and in detection of alcohol and tobacco fraud.

As an active member of the World Customs Organisation (WCO), and in particular as WCO Regional Vice Chair (Far East, South and South-East Asia), Customs has promoted a strategic approach to the border and revenue protection role. It has also emphasised the importance of well-targeted technical assistance and integrity programs.

International collaboration plays a significant part in successful interception of illicit drugs controlled by syndicates, and in building intelligence for future operations. Customs is a leader in promoting improved intelligence information systems at an international level based on risk assessment methodology.

At the national level, Customs' border control and revenue protection partners include the Australian Federal Police, National Crime Authority, Australian Transaction Reports and Analysis Centre, Commonwealth Director of Public Prosecutions, Commonwealth Attorney-General's Department, Australian Government Solicitor, Australian Taxation Office and the portfolios of: Agriculture, Fisheries and Forestry; Defence; Health and Aged Care; Immigration and Multicultural Affairs; and Industry, Science and Resources.

Customs is an active partner under the National Drug Strategic Framework, in consultation with State and Territory health and law enforcement agencies. It also effectively implements Commonwealth Government drug policies such as *Tough on Drugs* and *Tough on Drugs in Sport*.

An important element of Customs' business is its partnerships with industry and the general community. *Frontline* is a cooperative program between Customs and industry groups involved in international trade and transport, which draws on their knowledge and expertise to help identify illegal activities. The program has an average success rate of one detection from every five referrals.

A similar program, *Customs Watch*, encourages people in the community to report unusual or suspicious activities to a 24-hour Customs phone line, and its results are improving each year.

The key measures Customs uses to determine its success in border and revenue protection activities include:

- number, weight and mode of importation of seizures of illicit drugs within each major drug type;
- net Customs duty indirect tax and revenue collected;
- total revenue subjected to compliance audit activity as a proportion of total revenue responsibility and revenue adjustments resulting from compliance activity;
- number of interceptions on behalf of, and referrals to, other agencies;
- number of fraud/evasion/interruption cases adopted for prosecution.

Performance information is reported in Customs' Annual Report and Portfolio Budget Statements. As evidence of Customs' increasing improvement in border control and revenue protection, Customs has:

- reported increases in the quantities of illicit drugs intercepted; and
- met and in some cases exceeded its revenue targets.

In an attempt to map its responsiveness to changing environmental factors, Customs undertakes trend analyses, regularly attempts to benchmark its performance and updates commitments under its service charters. In recent years, successful outcomes have been achieved through a 1998 Australian Quality Council Award for Progress towards Business Excellence, and in June 2000 the WCO's recognition of increased interception rates and detection of new methods of concealment.

A recent Output Pricing Review by the Department of Finance and Administration concluded that risk management and technology-based strategies are in place to manage Customs' costs and effectiveness into the future and that services are typically of very high quality but are increasingly stretched by workload growth. The review found that Customs provides good value for money and delivers wide-ranging and effective border control.

## **Australian Federal Police**

### *Background*

A key component of Australian Federal Police (AFP) national law enforcement efforts is to prevent, detect and disrupt the movement and trafficking of illicit drugs from overseas to Australia. The major focus of these activities is currently directed towards heroin, cocaine, amphetamine-type stimulants and cannabis.

In its community policing role performed in the Australian Capital Territory (ACT), the ACT Region of the AFP carries out the full range of policing services (including in relation to drugs) in a similar manner to that performed by the State and Territory police services in other jurisdictions. In terms of this Inquiry, AFP activity in the Territory is expected to be reflected in submissions made by or on behalf of the ACT Government.

### *Role and Function*

The AFP in its national role is the principal law enforcement agency through which the Commonwealth pursues its law enforcement interests. Its role is to enforce Commonwealth criminal law and protect Commonwealth and national interests from crime in Australia and overseas.

The AFP is Australia's international law enforcement and policing representative and source of advice to the Commonwealth Government on policing issues. The functions of the AFP are set out in section 8 of the *Australian Federal Police Act 1979* (AFP Act). These include the provision of police services in relation to:

- laws of the Commonwealth;
- property of the Commonwealth (including Commonwealth places) and property of authorities of the Commonwealth;
- the safeguarding of Commonwealth interests; and
- anything incidental or conducive to the performance of the foregoing functions.

Within this framework the AFP is expected to pursue clearly defined outcomes agreed by the Commonwealth Government. The outcomes currently being pursued by the AFP nationally include:

- that criminal activity is deterred in areas impacting on the Commonwealth Government's interests;

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- that those individuals and interests identified by the Commonwealth Government or the AFP as being at risk are kept safe and secure as a result of AFP protective services;
- that the Commonwealth Government contributes effectively to international law enforcement interests; and
- that community confidence in the honesty, effectiveness and accountability of the AFP is high.

### *Drug Investigations*

Under a Ministerial Agreement concerning the relationship between the AFP, the Australian Customs Service (ACS) and the National Crime Authority (NCA), the AFP has primary responsibility for illicit drug law enforcement in respect of federal offences within Australia. This includes decisions in respect to drug seizures and arrests effected at the Customs border and assumption of responsibility for the conduct of resulting investigations.

The principal legislative base for these activities is the offence provisions in the *Customs Act 1901* which relate to possession, use and importation of prohibited drugs. These provisions are supplemented by those such as Part 1AB of the *Crimes Act 1914* which allows for the conduct of controlled operations for obtaining evidence about certain offences relating to narcotic goods.

Other contributory legislation used in the overall illicit drug effort include those relating to asset recovery and money laundering (*Proceeds of Crime Act 1987*), financial recording/tracing through the services of the Australian Transaction Reports and Analysis Centre (AUSTRAC) (*Financial Transaction Reports Act 1988*), mutual assistance with overseas countries (*Mutual Assistance in Criminal Matters Act 1988*) and extradition (*Extradition Act 1988*).

Under the AFP Act, the Minister for Justice and Customs may issue written directions on the general policy to be pursued in relation to the performance of the functions of the AFP. The most recent Ministerial direction under the Act, issued in February 1999, requires the AFP to give special emphasis to a number of matters.

These include 'countering and otherwise investigating illicit drug trafficking, organised crime and serious fraud against the Commonwealth, money laundering and the interception of assets involved in or derived from these activities'. The Ministerial direction also requires that the AFP 'ensure that it provides an effective contribution to the implementation of the *Tough on Drugs* strategy'.

In its counter-drug and crime activities, the AFP works with the police services of the States, the Northern Territory, other government agencies and with international law enforcement organisations. In particular the AFP

has a strategic alliance with the NCA, close links with AUSTRAC and a strong partnership with the ACS.

### *Drug Priorities*

The primary target of the AFP anti-drug effort is upper echelon organisers, traffickers and suppliers of illicit drugs. The focus is on detecting syndicates, groups or individuals involved in bringing illicit drugs into Australia, apprehending those responsible and disrupting or dismantling the underlying network.

A parallel emphasis is directed towards action to identify and restrain the assets derived from the activity, to both deny offenders the opportunity to benefit from their criminal acts and inhibit their ability to re-commence their illegal pursuits.

The AFP has established a system to determine intelligence collection priorities. The system provides AFP management with a dynamic means of assessing the dimension and associated harms of specific crime types, including individual drug types, as well as a means of analysing the effectiveness of the AFP operations and other activities designed to counter particular threats.

In relation to the mobile strike team initiative funded under the *Tough on Drugs* strategy, the AFP has established a management and operating framework (Operation Avian) to assess and coordinate the targeting of the mobile teams. A Board of Management oversees and ensures that the mobile strike teams meet their objectives. Targets are selected on the basis of a considered assessment of the significance of the target group, the value of it being dismantled or disrupted, and the likelihood of a successful operational outcome being achieved.

Routine matters which are referred to the AFP or which otherwise come to AFP notice concerning illicit drugs are considered and assessed for investigation in a similar manner to other alleged criminal activity. They are examined by national and regional Operations Monitoring Centres to assess whether the AFP will accept or reject the referral. These judgements are made by assessing and weighing the referral against specified evaluation and prioritisation criteria.

A Case Categorisation and Prioritisation Model is applied to aid decision-makers with an objective basis for evaluation and comparison of AFP operational activities. Considerations include incident type, impact, priority, resources, duration and the value. Underlying this evaluation and prioritisation process is the need to ensure that available resources are applied to those tasks which return maximum value to the Commonwealth Government and people of Australia.

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Matters which are accepted for investigation have resources allocated to them and the inquiry commences. The fundamental aim of the AFP operational effort is to ensure that its resources are directed to the most important investigations. It is critical that investigative resources are deployed to best effect.

### *Policy*

The AFP contributes to the policy and decision-making processes within Australia's National Drug Strategy through its role in the National Drug Strategic Framework (NDSF) and participation in various bodies. These include the Inter-Governmental Committee on Drugs, the National Expert Advisory Committee on Illicit Drugs, the National Drug Law Enforcement Research Fund and the Standing Inter-Departmental Committee on International Narcotics Issues.

The AFP Commissioner is Deputy Chairman of the Australian National Council on Drugs and a member of the Drug Policy Subcommittee of the Police Commissioners' Conference. Illicit drug law enforcement also forms a significant part of the deliberations of the Australasian Crime Commissioners' Forum in which the AFP participates.

Other strategies which impact on the approach adopted to combating illicit drugs are the National Supply Reduction Strategy for Heroin and Other Illicit Drugs, adopted by State, Territory and Commonwealth law enforcement agencies, and the strategies adopted by the Australasian Police Ministers' Council in *Directions in Australasian Policing*.

The AFP views illicit drug control not as a singular law enforcement function but as part of an overall collective effort involving government and non-government agencies and the community. It is essential that a balanced, integrated approach be adopted in the spheres of education, prevention, deterrence and demand, harm and supply reduction.

It is well recognised and accepted that a single strategy approach is futile and unlikely to succeed in isolation. While the primary AFP effort is directed towards reducing the international supply of illicit drugs to Australia and deterring and disrupting those engaged in trafficking, it recognises and acknowledges that these activities form but one part of the complex matrix of efforts applied and required to combat illicit drugs.

### *International*

As a central element of its international law enforcement activities, the AFP operates an extensive overseas liaison officer network. The network involves some 30 liaison officers in 19 overseas posts. A major role of the liaison network is to facilitate and promote the exchange and flow of information

between overseas law enforcement agencies and those in Australia to counter drug trafficking.

Enhancement of international liaison and cooperative arrangements has been further boosted by implementation of the Law Enforcement Cooperation Program (LECP) under *Tough on Drugs*. The LECP is aimed at improving the capacity of overseas countries to investigate drug trafficking and contribute to the law enforcement intelligence network.

Internationally, the AFP participates in a range of drug policy and strategy forums including the Heads of National Drug Law Enforcement Agencies in the Asia/Pacific region and the United Nations Commission on Narcotic Drugs. Officers from overseas countries also attend training courses such as Management of Serious Crime Course conducted by the AFP and the National Strategic Intelligence Course.

The AFP provides the Australian National Central Bureau for the International Criminal Police Organisation (INTERPOL) and a regional communication facility for INTERPOL member countries in the South Pacific. The AFP Commissioner represents Asia on INTERPOL's Executive Committee.

### *Trends*

Of particular concern to the AFP and its partner agencies is the resilience and mobility of illicit drug production and trafficking. Continuing improvements in communications, transport technology and infrastructure, combined with the globalisation of trade and investment, facilitates international illicit drug trafficking.

Significant manifestations of this include:

- increased difficulty of detection of individual illicit drug shipments;
- increasing sources and routes for illicit drug production and trafficking; and
- the increased likelihood of unfamiliar drugs becoming readily available in Australia's illicit drug markets (such as 'ice').

### *Impact and Effectiveness*

Performance evaluation in the area of illicit drug supply reduction is hampered by a lack of reliable base line data because of the covert nature of the activities involved. Reliable information is not readily available on the magnitude of illicit drug production, both overseas and in Australia; the amount of illicit drugs trafficked to Australia; and the definition and size of user populations. Where such information is available it is normally heavily



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qualified in terms of the assumptions made and data collection techniques used.

The activities of major drug syndicates frequently generate substantial profits and have a range of consequential effects. Law enforcement action is designed and intended to disrupt and reduce both illicit drug trafficking and the flow-on effects. Profits from drug trafficking generally necessitate money laundering and are often available for, and used to, fund other activities including corruption.

AFP objectives are aimed at disrupting, dismantling and deterring criminal groups and their activities in Australia. As a developed country geographically close to illicit drug production centres (notably the Golden Triangle), Australia is inevitably an attractive market. Successful law enforcement activity can have a target hardening effect which makes it more difficult and more costly to enter the Australian market and increases the deterrent effect.

The AFP needs to maintain a capacity to address a range of Commonwealth interests, in view of the nature of, and difficulty in quantifying, the criminal environment. The multiple and varied factors which shape the criminal environment and the difficulty in ascribing 'cause and effect' relationships to variances in reported and unreported crime make measuring effectiveness complicated.

Effectiveness in contributing to the investigation and prevention of crime against the Commonwealth and protection of Commonwealth interests in Australia and overseas, is measured through:

- the disruptive effects of AFP operations on the criminal environment nationally and internationally;
- the level of client satisfaction with the services the AFP provides; and
- the level of financial performance of the AFP in delivering cost-effective results.

In assessing the disruptive effects of AFP operations on the criminal environment, consideration is given to the impact of cases investigated on Australian society, the seizure of illicit drugs, the disruption to criminal syndicates and feedback on international activities.

The level of client satisfaction with services provided by the AFP is assessed through client satisfaction surveys. The financial performance of the AFP in delivering cost-effective outputs is measured through analysis of cost for delivering services.

The AFP generally describes offences involving syndicates or crime groups as offences which involve two or more offenders using substantial planning and

organisation, sophisticated methods and techniques, and which are committed in conjunction with other similar offences.

The AFP seeks to measure effectiveness in the illicit drugs area directly and indirectly. Direct measurement endeavours to quantify the number of syndicates which are disrupted or dismantled. Indirect measurement attempts to combine performance indicators and assess overall performance through the number of syndicates specifically disrupted and by considerations such as:

- the quantity of drugs seized;
- the value of criminal assets identified, restrained and recovered;
- feedback as to the AFP's disruptive effect from our clients and partners;
- the number of alleged offenders apprehended; and
- the number of offences cleared.

The nature of organised crime groups and drug trafficking syndicates means that the development of cost effectiveness measures is extremely difficult.

Despite these difficulties, the AFP continues to work towards the development of meaningful performance measures to determine the overall impact of resource allocations in these areas.

Precise details on the quantities of illicit drugs coming into Australia from overseas are not available. For example, a study undertaken by the AFP in 1997 estimated the Australian heroin market in terms of consumption was likely to have been in the range of 4.3 and 6.8 tonnes per annum. This was based on data collected during the years 1990-95.

### *Other Impacts*

Illicit drug use and abuse of some licit drugs (for example, alcohol) permeates a wide range of crime and violence in the community generally. These include crimes against the person, robberies, assaults, property crime and fraud.

The activities occur both as a direct consequence of the influence or effects of the drugs concerned and in the context of efforts by offenders to fund their ongoing addictions, lifestyles or criminal activities generally.

These linkages and their impacts are probably best gauged by analysis and research of the type conducted by, or under the auspices of, such bodies as the Australian Institute of Criminology and the New South Wales Bureau of Crime Statistics and Research.

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

The *Financial Transaction Reports Act 1988* (FTR Act) was enacted as part of Australia's anti-money laundering program. Its purpose is to discourage financially motivated criminals and to provide financial intelligence to law enforcement and revenue agencies. Under the FTR Act, the Australian Transaction Reports and Analysis Centre (AUSTRAC) follows the money trail through detection of significant financial transactions leading to the prosecution of major criminals. AUSTRAC also keeps watch over industries which are vulnerable to being used in the money laundering process. AUSTRAC's mission is to make a valued contribution towards a financial environment hostile to money laundering, major crime and tax evasion.

AUSTRAC's role is twofold – anti-money laundering regulator and financial intelligence unit. As a regulator AUSTRAC collects information and deals with all the processes and issues which arise when regulating a very significant sector of the Australian economy – the financial services sector. AUSTRAC's regulatory role is designed to deter money laundering, serious crime and tax evasion through compliance with the reporting and account signatory identification provisions of the FTR Act. AUSTRAC also monitors the movement of currency into and out of Australia.

The FTR Act requires organisations and individuals referred to as 'cash dealers' to report the following occurrences to the Director of AUSTRAC:

- suspicious transactions (as defined in the FTR Act);
- significant cash transactions of \$10,000 or more (or foreign currency equivalent); and
- all international funds transfer instructions.

Section 3 of the FTR Act lists organisations and individuals which are cash dealers:

- financial institutions, including authorised deposit-taking institutions (such as banks, building societies and credit unions);
- financial corporations;
- insurance companies and insurance intermediaries;
- securities dealers and futures brokers;
- cash carriers;
- managers and trustees of unit trusts;

- firms that deal in travellers' cheques, money orders and similar instruments;
- bullion sellers;
- money transmitters (including remittance dealers);
- casinos and gambling houses; and
- bookmakers and totalisator agency boards.

The FTR Act requires cash dealers to verify the identity of persons who open accounts or become signatories to accounts. The Act prohibits accounts being opened or operated in false names.

Solicitors are required to report significant cash transactions of \$10,000 or more (or foreign currency equivalent) to the Director of AUSTRAC.

Members of the public must report details of currency of \$10,000 or more (or foreign currency equivalent) being brought into or taken out of Australia (international currency transfer reports), including by means of mailing or shipping, to a Customs officer or the Director of AUSTRAC.

Suspicious transaction reporting commenced in January 1990. Significant cash transaction reporting and international currency transfer reporting commenced in July 1990. Reporting of international funds transfer instructions commenced in December 1992. Account signatory identification requirements were introduced in February 1991. Reporting by solicitors of significant cash transactions commenced in May 1997. AUSTRAC currently holds over 50 million financial transaction reports. It collects over 5 million annually.

AUSTRAC has continued to work with the wider financial services industry to ensure its programs mesh well with the way business is carried out. Supporting this approach, AUSTRAC continues to encourage a high level of reporting by electronic means (99 per cent of information is now reported electronically to AUSTRAC). This enables financial transaction reports (FTR) to be made directly from the cash dealers' business systems, limiting the need to use higher cost human intervention to make reports.

The second function of AUSTRAC is to provide financial intelligence to its partner agencies and international counterparts. The aim of the FTR Act is to facilitate the administration and enforcement of the laws of the Commonwealth. Through complementary State and Territory legislation AUSTRAC is able to provide information to assist in the administration and enforcement of the laws of the States and Territories. To assist in achieving these objectives, AUSTRAC provides financial intelligence to specified law enforcement and revenue agencies.

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The aims of AUSTRAC's intelligence role is to disseminate FTR information and promote its effective use by law enforcement and revenue agencies, and to analyse financial transaction reports information to, efficiently and effectively, assist law enforcement and revenue agencies to achieve their goals.

The FTR Act provides the Australian Taxation Office with access to FTR information. It also allows, at the Director's discretion, for FTR information to be disseminated to other Australian law enforcement and revenue agencies:

- Australian Bureau of Criminal Intelligence;
- Australian Customs Service;
- Australian Federal Police;
- Australian Securities and Investments Commission;
- Australian Security Intelligence Organisation;
- Criminal Justice Commission (Queensland);
- Independent Commission Against Corruption (New South Wales);
- National Crime Authority;
- New South Wales Crime Commission;
- Police Integrity Commission (New South Wales);
- State and Territory Police Services; and
- State and Territory Revenue Authorities.

AUSTRAC plays an important role in Australia's law enforcement environment. It supports its partner agencies by monitoring, analysing and disseminating financial intelligence as appropriate. This intelligence may be used to initiate investigations or to complement operations and intelligence projects already underway.

The support AUSTRAC provides to law enforcement and revenue agencies includes:

- providing on-line access to the AUSTRAC database for nominated personnel within partner agencies, providing a capability for searching name, address and account number;

- using its Summary Management Reports and Datamart facilities for macro searches to extract information from AUSTRAC's database using various parameters such as: date range, report type, country and postcodes;
- providing an alerts system which notifies the relevant user when a report entering the database matches a specified name, address or account number;
- running automated monitoring so that AUSTRAC's database can identify patterns of financial activity which may be indicative of money laundering, other serious crime and tax evasion; and
- facilitating the exchange of financial information with certain overseas financial intelligence units.

AUSTRAC works closely with the Commonwealth Attorney-General's Department and law enforcement and revenue agencies to align its goals with theirs. AUSTRAC's relationship with domestic law enforcement and revenue agencies is strengthened through its participation in multi-agency task forces, delivery of training and education sessions to partner agency personnel and regular liaison meetings. Topics discussed at such meetings include use of FTR information, money laundering methods and trends, and the results being achieved with the help of the financial intelligence that AUSTRAC provides to its partners.

Australia has exchange agreements with six overseas financial intelligence units through Memoranda of Understanding (MOUs) with – France, the United States of America, Belgium, the United Kingdom, New Zealand and Denmark. A number are currently being negotiated. International connections through MOUs allow domestic law enforcement agencies to follow the money trail overseas. In doing so it allows the detection of major drug and money laundering operations to be followed through to the potential prosecution of those involved and the confiscation of the proceeds of crime.

The connection between our business and information technology is fundamental. By providing for the electronic capture of FTR information and on-line access to disseminated information by its partner agencies, AUSTRAC allows for the timely and efficient delivery of real-time financial intelligence. Through the development of sophisticated monitoring systems, AUSTRAC is able to utilise profiling tools to detect unusual activity which may indicate money laundering or tax evasion.

AUSTRAC's computer based 'targeting' system is designed to analyse financial transactions to identify drug trafficking syndicates. Through drill down techniques, using specific fields (such as name and address), these systems are able to provide information on activities which can be investigated by AUSTRAC's partner agencies. Other tools include more macro type searching which allows an 'alert' to be placed on a particular

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field for further searching and analysis. Through the analysis, monitoring and dissemination of FTR information, AUSTRAC has assisted in most major drug investigations in the last 5 years. In many instances, AUSTRAC's analysis identified suspicious trails before any criminal activity has been identified by investigating agencies - this allowing them to follow the money trail back to the criminal activity which generated it.

## **National Crime Authority**

### *Background*

Royal Commissions in the late 1970s and early 1980s identified sophisticated criminal networks spreading across State and Territory boundaries. They found that jurisdictional limits, the lack of coercive powers and poor cooperation were impeding law enforcement agencies in containing organised crime. After a lengthy consultation process Commonwealth, State and Territory Ministers agreed on a national body to counteract organised crime.

The National Crime Authority (NCA) was established by Commonwealth legislation, the *National Crime Authority Act 1984* (NCA Act). The NCA Act is underpinned by complementary legislation in each State and Territory (*National Crime Authority (State/Territory Provisions) Acts*). The NCA is an independent statutory authority with national functions – its obligations are to serve the national interest, both Commonwealth and State. It is the only law enforcement agency in Australia with a multi-jurisdictional investigative capacity.

### *Role and Functions*

Under the Acts that relate to it (both Commonwealth and State), the charter of the NCA is to investigate and combat serious organised crime on a national basis. More specifically, the functions of the NCA are defined in section 11 of the NCA Act as being:

- to collect and analyse criminal information and intelligence about relevant criminal activities and disseminate it to other law enforcement agencies;
- to investigate matters relating to relevant criminal activities, using general investigative powers or using special powers (that is, matters referred to it by the Commonwealth Minister under section 13 of the NCA Act or by a State or Territory Minister under section 5 of the relevant State or Territory legislation); and
- to establish and coordinate task forces with Commonwealth, State and Territory agencies to investigate criminal activities.

In the performance of these functions the NCA may make recommendations for the reform of the law relating to relevant offences and administrative practices.

As a national body, the NCA is accountable to Commonwealth, State and Territory Ministers responsible for administering the NCA's legislation in their jurisdictions through the Inter-Governmental Committee on the NCA



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(IGC-NCA), which is chaired by the Commonwealth Minister for Justice and Customs.

The IGC-NCA's functions are:

- to consult with the Commonwealth Minister where that Minister proposes to refer a matter to the NCA;
- to consider whether approval should be given for a matter to be referred to the NCA by State and Territory Ministers;
- to monitor the work of the NCA and to receive reports from it; and
- where the IGC-NCA believes that it is necessary for the NCA to perform its functions, to create an additional office of member under section 7(8AA) of the NCA Act.

To facilitate its task, where a reference to conduct a special investigation has been approved by the IGC-NCA and issued by a State or Territory, or issued by the Commonwealth after consultation with the IGC-NCA, members of the Authority have been entrusted with special or coercive powers, such as the power to summons persons to appear at hearings and require persons to produce documents. Agencies with similar coercive powers include the NSW Crime Commission and Independent Commission Against Corruption; the Queensland Criminal Justice Commission and Crime Commission; and Commonwealth bodies such as the Australian Securities and Investments Commission and the Australian Competition and Consumer Commission. These are power beyond those given to any police service.

The NCA's vision is 'an integrated and national response to organised crime'. Its mission is to 'counteract organised criminal activity and reduce its impact on the Australian community in partnership with other agencies'.

The NCA's Corporate Plan recognises the importance of partnerships in counteracting organised criminal activity. Consistently with this the NCA is a partner with all Australian law enforcement agencies and takes investigators on secondment from most Australian police services. In addition, officers from other Commonwealth agencies such as the Australian Customs Service and the Australian Taxation Office are seconded to the NCA. The NCA reimburses seconding agencies salary and on-costs for seconded officers. Therefore while the Authority is not a police force or service, and must not duplicate the role of any police service, it works closely with all law enforcement agencies.

The Senior Officers' Group, comprising the Commissioners of the Federal, State and Territory police services and chief executives of some State and Territory Justice Departments, supports both the Australasian Police Ministers' Council (APMC) and the IGC-NCA. It advises the APMC on general law enforcement matters and advises the IGC-NCA specifically on

matters related to the issuing of references. The Chairman of the NCA is a member for agenda items on references and other organised crime matters.

Consultation on the operation of joint task forces is carried out through the NCA Consultative Group. This group consists of Assistant Commissioners (Crime) and their equivalents from agencies who are members of task forces. The NCA's General Manager Operations chairs the group.

Current priorities for the NCA, as determined by the IGC-NCA, are the investigation of south-east Asian organised crime ('Blade'), the investigation of fraud against the Commonwealth and money laundering ('Swordfish') and the investigation of established criminal networks ('Freshnet').

#### *Future Directions for the NCA*

The NCA is currently focussing on a new directions strategy. Under this strategy the NCA will move over the next two years to a strategy which will:

- concentrate its resources upon the investigation of major serious and complex organised crime;
- embark upon investigations directed to pursuing those at the pinnacle of a criminal organisation;
- re-direct its resources to embark upon fewer investigations than at present but of a longer and more intricate nature;
- make strategic use of its special powers to advance investigations in areas where the extent of powers granted to police services would constitute a limitation;
- utilise multi-disciplinary teams with the most appropriate technology and training;
- call in aid any available legislation relating to civil-based recovery of proceeds of crime;
- make full use of available financial information as an investigative tool;
- work in partnership and cooperation with other law enforcement agencies, including its national co-ordination function; and
- seek to have its performance measured not by quick arrests or seizures but by the quality, sophistication, professionalism and ultimate effectiveness of its investigations, having regard to the difficulty and complexity of each matter.

In the area of intelligence and information the NCA will focus upon a strategic approach to improve its own planning. Importantly, as a new

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initiative, it will provide to law enforcement agencies and to government a regular commentary as to the current and anticipated position in relation to organised crime in Australia.

### *Drug Investigations and Priorities*

Organised drug-related crime is undoubtedly a major threat to society, one that is constantly expanding in its scope and advancing in its sophistication. Forthcoming global crop estimates for opium producing countries are expected to be significantly greater in 2000-01 than for previous years. Organised criminal groups will see Australia as a potential market for disposing of the product flowing from this increase.

Under the *Tough on Drugs* strategy the Commonwealth Government has enhanced the NCA's capacity to intensify targeting of south-east Asian organised crime, in particular heroin importation and distribution, through the Blade National Task Force (comprising Commonwealth and State law enforcement agencies).

However, like any other law enforcement agency, the NCA's resources are finite and it is essential for it to prioritise those resources towards complex national matters where real difficulties confront Australian police services. A concrete example of a field where the NCA's powers and jurisdiction can be put to best effect is that of interstate heroin trafficking, which will be investigated by the NCA in accordance with the new directions strategy outlined above.

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