

Chapter 6

Supply reduction: the adequacy of the response

Introduction

6.1 Chapter 5 outlined the national law enforcement environment and the agencies responsible for the Australian Government's approach to policing illicit drugs, as articulated in the National Drug Strategic Framework. Also discussed was the recent legislative arrangements for dealing with the importation, distribution and use of AOSD and their precursors in Australia.

6.2 This chapter will describe key Commonwealth strategies and programs that target the supply of AOSD. The chapter concludes with suggestions for enhancing the response of law enforcement agencies (LEAs) to the issue of AOSD.

Supply reduction

6.3 The effort to reduce the availability of AOSD depends upon law enforcement agencies effectively targeting the importers, manufacturers and distributors of AOSD and their precursors. International and domestic strategies to reduce the supply of precursors both complement and are a distinct element of the overall approach to reducing the production and thus supply of AOSD.

6.4 The West Australian Police submission highlighted the importance of supply-reduction strategies to an effective police response to the problem of AOSD:

With the significant user demand for AOSD, the most effective method of reducing the market is supply reduction. Ongoing national cooperation and targeting, including participation by law enforcement, Government and industry will generate the most effective mechanisms and strategies for reducing the supply of AOSD to end users.¹

6.5 In its submission, the Queensland Alcohol and Drug Research and Education Centre (QADREC) proposed an outline of the priorities in law enforcement regulation of illicit drug or AOSD markets. In QADREC's view, law enforcement agencies should seek to regulate supply of AOSD through:

- disruption of supply chains and removal of suppliers of volume, their financiers and infrastructure from the market through targeted policing operations;
- containing access to precursors and laboratory equipment;
- detection of clandestine laboratories; and

1 Western Australia Police, *Submission 1*, p. 1.

- rehabilitation of incarcerated suppliers and consumers.²

6.6 Putting aside the issue of the rehabilitation of incarcerated suppliers and consumers, the Committee observes that the law enforcement response to AOSD in Australia largely follows the approach set out above.

6.7 The disruption of supply of AOSD through importers and manufacturers has both international and domestic aspects. Trends in AOSD importation, production and use suggest that, whereas ice, MDMA and their precursors have in the past mainly been imported into Australia from overseas, domestic production in clandestine laboratories is on the rise. This trend will potentially see domestic supply strategies targeting precursors and clandestine laboratories becoming more important into the future.

Strategic aspects of supply reduction

6.8 The Committee notes that there are significant strategic aspects in pursuing supply reduction under the overarching goal of harm minimisation, which is established by the National Drug Strategy (NDS). Whilst interdiction and interruption of supply lead to direct and obvious benefits in reducing opportunities for harm and criminality arising from AOSD, LEAs must consider the broader consequences of supply-reduction activities.

6.9 The AOSD industry is, by virtue of the vast profits that can be made, dynamic in nature, and is capable of rapid and constant innovation in response to commercial imperatives, market realities and law enforcement strategies. Thus, successes in supply reduction, such as consistently large seizures and interruption of criminal activities, must be judged not only by the direct effect on supply but also by the perverse consequences that result from changes in the market.

6.10 For example, supply reduction arising from the successful targeting of backyard manufacturers can create an enforcement environment which favours larger, more organised and efficient criminal enterprises.³ Similarly, the effects of supply reduction can have a complex effect on usage trends. A recent position paper on methamphetamines, produced by the Australian National Council on Drugs (ANCD), explains:

Efforts to control the supply of methamphetamine need to consider their broader impact on patterns of drug use. Historically, there have been remarkable shifts in patterns of drug use among injecting drug users in Australia in the face of changing availability of drugs. For example, in the mid-1990s methamphetamine injectors shifted to injecting heroin when it became relatively cheap and available. Conversely, there was a strong up-

2 Queensland Alcohol and Drug Research and Education Centre, *Submission 12*, p. 5.

3 *Committee Hansard*, 15 May 2006, p. 75.

take of methamphetamine injection in the wake of the 2001 heroin shortage.⁴

6.11 The Committee therefore notes that the success or otherwise of supply reduction may only be sensibly judged in the broader context, and against the discrete aims, of the government's illicit drug policy.

Importation

6.12 Chapter 5 outlined the 2005 amendments to the *Criminal Code* introduced by the *Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005*, (the SDO Act). The new provisions were directed at broadening the range of AOSD-related offences and increasing and standardising related penalties. The discussion noted that these provisions have significantly improved the ability of LEAs to effectively charge offenders and prosecute offences at the border or international level.

6.13 As discussed in chapter 5, the AFP is currently working with a range of international partners to tackle international drug trafficking, particularly within our region. The AFP submitted:

The effects of globalisation have meant that criminal groups have greater access to markets for illicit drugs and increasingly drugs are being shipped from producer countries to markets in other parts of the world. This has enabled criminals to more extensively exploit commodity sources, transshipment routes and networks. There is evidence that drug trafficking syndicates have commenced using Pacific Islands for storage, production and transshipment locations.⁵

6.14 The submission continued:

The AFP believes that there is significant benefit in taking the fight against illicit drug and precursor trafficking offshore and will continue to combat the importation of illicit drugs and precursors at their source. Through effective collaboration with international partners, the APP disrupts transnational syndicates offshore to ensure illicit drugs are seized at the earliest opportunity and with the greatest law enforcement impact.⁶

6.15 The Australian Illicit Drug Intelligence Program (AIDIP) and the Law Enforcement Cooperation Program (LECP) are critical to efforts directed at international trafficking.

4 Australian National Council on Drugs, *Methamphetamines*, p. 7; also see: National Drug Law Enforcement Research Fund, *Developing and implementing a performance measurement framework for drug law enforcement in Australia*, Monograph Series No. 18, 2006.

5 Australian Federal Police, *Submission 6*, p. 4.

6 *Submission 6*, p. 5.

Domestic manufacture

6.16 One aspect of supply reduction in the domestic market targets reducing the supply and diversion of precursors that are used in the local production of AOSD. In recent years, a number of programs have been implemented that address this by disrupting precursor chemical supplies and the establishment of clandestine laboratories. The following strategies came to light during the course of the inquiry.

The National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture

6.17 Under the Tough on Drugs initiative, the Australian Government has allocated \$5.4 million over five years for the National Drug Strategy to prevent the diversion of precursor chemicals into illicit drug manufacture. This strategy provides national leadership and coordination to better inform and target efforts to prevent the diversion of precursor chemicals into illicit drug manufacture. The national precursor strategy pursues a partnership-based approach to policy development and implementation and engages all relevant stakeholders from across the community. It allows and encourages pharmacists, industry, the Australian Customs Service, police, intelligence officers and policy analysts to improve their capacity to share information and intelligence on the diversion of precursor chemicals.

6.18 The implementation of the national strategy is informed by the expertise made available through the National Working Group on the Prevention of the Diversion of Precursor Chemicals into Illicit Drug Manufacture, which was established as an initiative of the Minister for Justice and Customs in September 2002. The working group held its inaugural meeting on 4 December 2002, bringing together 44 members from relevant industry bodies and regulatory agencies; law enforcement and health agencies at Commonwealth, state and territory government level; and the Australian National Council on Drugs.⁷

6.19 The National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture is delivering a policy response to AOSD manufacture under four broad outcomes:

- enhanced intelligence and information-sharing capacity among law enforcement and regulatory agencies;
- enhanced law enforcement, forensic and judicial responses through training;
- national regulatory approaches to control access to chemicals and equipment while recognising the legitimate needs of business and the public; and

7 *Submission 6*, pp 3-4; Australian Customs Service, *Submission 5*, p. 7.

- key stakeholders being aware of the problem of precursor diversion.⁸

6.20 The national precursor strategy has resulted in a number of positive outcomes, including new regulatory restrictions on the sale of pseudoephedrine-based medications; the development and delivery of a number of precursor-related training initiatives to Customs officers and forensic chemists; awareness raising in the pharmaceutical and chemical industries, which has led to initiatives such as Project STOP, discussed below; the establishment of the annual National Chemical Diversion Congress; and the development of new projects such as the National Clandestine Laboratory Database, discussed below.⁹

Restricting the supply of pseudoephedrine

6.21 Pseudoephedrine is a key ingredient or precursor in the manufacture of methamphetamine. To date, the most common source of pseudoephedrine has been over-the-counter cold and flu preparations. As a result, pharmacies and pharmacy wholesalers have in some instances been the victims of ram raids or thefts targeting pseudoephedrine products. However, the most common method of obtaining pseudoephedrine has been through the use of 'pseudo-runners'—buyers who systematically attend pharmacies to effect purchases of pseudoephedrine products, which are then diverted to illicit methamphetamine production. The submission of the Pharmacy Guild of Australia (PGA) describes the practice in the following way:

“Pseudo-runners” are individuals or groups who travel from pharmacy to pharmacy sourcing a number of pseudoephedrine-containing products. They are known to operate along pre-planned routes, visiting each pharmacy with different buyers. This practice has become more refined with time and the 'runners' have become more astute in obtaining the supplies from the pharmacy without arousing suspicion. It has also been reported that organisers involved in PSE [pseudoephedrine] diversion approach people on the street and pay them a fee to purchase PSE products from pharmacies. As a result, the pharmacy customers for PSE for illicit diversion are diverse and not from any particular background, age, race or socio-economic group. As such, it is very difficult for pharmacy staff to distinguish illicit customers from legitimate customers. So-called 'pseudo-runners' would go from pharmacy to pharmacy purchasing quantities of these products which would then be used in the manufacturing process.¹⁰

6.22 The PGA informed the Committee that since the late 1990s pharmacists have been actively promoting a number of voluntary or industry approaches to prevent the practice of pseudo-running. These include:

8 Attorney-General's Department, *Submission 15*, p. 4.

9 *Submission 15*, p. 4.

10 Pharmacy Guild of Australia, *Submission 26*, p. 5.

- reminders to pharmacists from their respective state and territory pharmacy boards of their professional responsibilities in selling drugs such as pseudoephedrine;
- providing professional advice on storage and supply of pseudoephedrine products;
- monitoring of purchases of pseudoephedrine tablets, with consequential disciplinary action against pharmacists supplying multiple packs of pseudoephedrine tablets in excess of therapeutic standards;
- reformulation of pseudoephedrine to increase the difficulty of the process of extracting it;
- discontinuation of larger-sized packs of pseudoephedrine tablets; and
- creation of a pharmaceutical industry code of conduct to establish a common system of practice for marketing pseudoephedrine products.¹¹

6.23 The Committee received evidence that further encouraging steps have recently been taken to prevent pseudo-running. Following a series of meetings of the National Drugs and Poisons Schedule Committee in 2005, pseudoephedrine was rescheduled under the NSW *Poisons and Therapeutic Goods Act 1966* to become a schedule 3 substance.¹² The PGA submission states that this was to 'further reduce access of the criminal element to this class of drugs.'¹³ The effect of the rescheduling has been to ensure that every sale of a pseudoephedrine product is monitored by a pharmacist.¹⁴

Project STOP

6.24 The PGA's submission outlines a scheme to limit the diversion of supplies of pseudoephedrine through pseudo-running. The scheme, Project STOP, has recently been instituted and tested in Queensland, and was developed jointly by the Queensland branch of the PGA, the Queensland Police and Queensland Health.

6.25 The scheme involves recording pseudoephedrine purchaser information on a pharmacy database called Epothecary, which tracks purchases of pseudoephedrine products. The system allows pharmacists to identify persons who may be pseudo-

11 *Submission 26*, p. 6.

12 Substances are classified in a schedule to the Standard for the Uniform Scheduling of Drugs and Poisons, and its amendments contain the decisions of the National Drugs and Poisons Schedule Committee regarding the classification of drugs and poisons into schedules for inclusion in the relevant legislation of the states and territories. Schedule 3 drugs are preparations that require professional advice on use, which should be available to the public from a pharmacist without a prescription. National Poisons and Drugs Schedule Committee website, <http://www.tga.gov.au/ndpsc/gazette/g980800.htm>, viewed 30 November 2006.

13 Pharmacy Guild of Australia, *Submission 26*, p. 10.

14 *Submission 26*, p. 10.

running, using the products illegally or operating a clandestine laboratory, and to refuse sale where a transaction arouses suspicions. Mr Timothy Logan, President of the Queensland branch and National Vice-President of the PGA, told the Committee:

The Queensland legislation, in particular among the states, authorises and requires pharmacists not only to request, or even require, photographic identification for someone coming in and requesting a pseudoephedrine containing medication but also to record the nature of the identification if you do not know the person...[If they] ask for a medication containing pseudoephedrine, we request a driver's licence, typically; it can be an 18-plus card or it can be a passport. We enter the serial number of that particular identity document into the software; it is a web based tool and goes via the internet to a central database. If you have purchased that product in the last three days, it will show up on the computer.¹⁵

6.26 The submission from the PGA indicates that, since the pilot program for Project STOP commenced in November 2005, over 40,000 entries have been put through the system and there have been over 2,500 refusals of sale by pharmacists.¹⁶ Further, the submission states that, between January and March 2006, Project STOP resulted in:

- the generation of more than 100 police investigative files;
- 12 offenders being arrested on 114 drug related charges together with six counts of trafficking;
- three illicit laboratories being detected; and
- a number of suspected pseudo-runners being summonsed to attend Australian Crime Commission (ACC) coercive hearings.¹⁷

6.27 At the Anex 2006 Australasian Amphetamines Conference, held on 28 and 29 September 2006, Mr Shaun Singleton, from the PGA, updated the above figures, telling the conference that overall the project has resulted in the detection and closure of seven clandestine amphetamine laboratories and 195 charges being laid.¹⁸

6.28 The Committee heard that the scheme holds attraction as a model for a national scheme. Evidence was presented of support and enthusiasm from pharmacists in other states, notably NSW, for the adoption of Project STOP. Mr Peter McBeath, Vice-President of the New South Wales branch of the PGA, explained:

The Pharmacy Guild in New South Wales would be very keen to introduce Project STOP...one of our real concerns is that there is lack of consistency

15 *Committee Hansard*, 13 October 2006, p. 22.

16 Pharmacy Guild of Australia, *Submission 26*, p. 9.

17 *Submission 26*, p. 9.

18 'Law and Order', session 2, Australasian Amphetamines Conference, 28 September 2006.

of legislation across the states, which is causing us all concerns and always has been a concern.¹⁹

6.29 The Committee was informed that the major impediment to expanding Project STOP as a national scheme is the issue of maintenance of privacy. Mr McBeath explained:

In New South Wales currently we are having difficulty convincing the regulators that Project STOP is not in breach of privacy legislation.²⁰

6.30 The issue of maintenance of privacy was also referred to in the PGA submission, which says:

Current Queensland and NSW legislations require pharmacists to collect personal details prior to the sale of PSE [pseudoephedrine] products however, in other jurisdictions there is uncertainty. The Guild believes that each State or Territory jurisdiction should have nationally consistent provisions in their legislations to enable pharmacists to perform their duties without contravening any privacy guidelines with regard to the supply of pseudoephedrine containing products.²¹

6.31 The PGA submission notes that the issue of privacy was perhaps connected to, or complicated by, issues of consumer convenience and expectations:

Pharmacies have reported receiving some objections from consumers who have expressed frustration of being asked questions and are reluctant or are refusing to give their details/identification when buying common 'cold and flu' products. The Guild has received similar calls from consumers as well as pharmacist members advising of the consumer reaction regarding the new regulations surrounding pseudoephedrine. Reports within the media have also been critical about the red tape and additional personal information required of customers in order to purchase 'cold and flu' medication.²²

6.32 Beyond what might be matters of mere convenience, Mr Logan suggested that the privacy concerns raised are misplaced, and described the way in which the Queensland trial of Project STOP had recognised and sought to allay privacy concerns:

The Pharmacy Guild developed a software support tool that linked in to a database that was accessible by the health department and the police department, so all the requirements were being met in that they had quite stringent requirements with regard to access and security of the data.²³

19 *Committee Hansard*, 13 October 2006, p. 24.

20 *Committee Hansard*, 13 October 2006, p. 24.

21 Pharmacy Guild of Australia, *Submission 26*, p. 9.

22 *Submission 26*, p. 10.

23 *Committee Hansard*, 13 October 2006, p. 24.

6.33 As a further protection against unwanted intrusions into or breaches of privacy, Mr Logan pointed out that pharmacies using the database could view only information they had themselves put into the Project STOP database. The submission of the PGA indicated that approaches are under way to address this issue:

It is the understanding of the Guild that that the Attorney General's Department is approaching the National Privacy Commissioner with a view to being granted a public interest determination to allow pharmacists nationally to request relevant patient identification prior to the sale of pseudoephedrine products.²⁴

6.34 The Committee acknowledges the trial's success and commends the recent announcement by the Minister for Justice and Customs, the Hon. Chris Ellison, that the federal government, in collaboration with state and territory governments and pharmacists, will implement Project STOP at the beginning of 2007.²⁵

Recommendation 12

6.35 The Committee recommends that the Commonwealth government, in collaboration with state and territory governments and pharmacists, continue to implement Project STOP nationally.

The National Clandestine Laboratory Database

6.36 As discussed in chapter 2, trends in AOSD importation, production and use suggest that, whereas ice, MDMA and their precursors have in the past mainly been imported into Australia, domestic production in clandestine laboratories is on the rise. This trend will potentially see domestic supply strategies aimed at precursors and clandestine laboratories becoming more important into the future.

6.37 The Committee was informed that Australia presently does not have the capability to undertake national trend analysis of illicit drugs produced domestically, including issues relating to production methods, precursors, equipment, and persons of interest, as well as important information relating to clandestine laboratories.²⁶ The New South Wales Crime Commission highlighted the difficulties that this causes:

A key problem for law enforcement agencies lies in the adaptability of the manufactures—there are many ways to produce amphetamines, using many different chemicals and reactions. By controlling one chemical, as has been done with pseudo-ephedrine, we simply force the manufacturers to use a different methodology. For example, in NSW there have been recent laboratories found using methcathinone, which is not controlled and can

24 Pharmacy Guild of Australia, *Submission 26*, p. 9.

25 Attorney-General's Department website, http://www.ag.gov.au/agd/WWW/justiceministerHome.nsf/Page/Media_Releases_2006_4th_Quarter_16_November_2006_-_Progress_in_fight_against_amphetamine_drug_trafficking, viewed 20 November 2006.

26 ACC, *Submission 18*, p. 12.

easily be converted to ephedrine and then to amphetamine. This flexibility makes it very hard to prevent manufacture through stricter controls on chemicals, because most of the chemicals do have legitimate uses in industry. Generic offences may need to be created.²⁷

6.38 The ACC informed the Committee that it is currently involved in the development of a National Clandestine Laboratory Database (NCLD). This national database will track new trends in AOSD manufacture and related chemical use and provide detailed information assisting in the location of clandestine laboratories throughout Australia.²⁸

6.39 The New South Wales Crime Commission submission drew attention to the desirability and value of such a database. It said:

This will be an invaluable resource for law enforcement agencies. Enhanced communication between the various agencies involved in this area would allow a more efficient and effective law enforcement response.²⁹

6.40 As discussed in chapter 2, the fluidity of AOSD manufacture and use in Australia makes the establishment of the NCLD an important goal in tackling AOSD. The Committee commends the initiative of the ACC and other bodies in pursuing the NCLD, and recognises the great advantages that its establishment will bring to the efforts of law enforcement agencies in combating AOSD production and supply in Australia. The Committee acknowledges the need to establish the NCLD to capture and disseminate information on activities conducted in clandestine laboratories, and concurs with the assessment of the Minister for Justice and Customs, the Hon. Chris Ellison, as expressed in a recent media release:

...[the NCLD] will assist police to better target their drug investigations by storing and sharing national data on seized laboratories and precursor chemicals used in illicit drug production. It will help to identify trends in illicit drug manufacture and 'cooks' and persons of interest moving across state borders by signature chemicals, equipment, recipes and manufacturing methods.³⁰

Monitoring tablet presses

6.41 Although the Committee did not receive a great deal of evidence concerning equipment used in the manufacture of AOSD, a small number of submitters made

27 New South Wales Crime Commission, *Submission 9A*, p. 5.

28 ACC, *Submission 18*, p. 12.

29 New South Wales Crime Commission, *Submission 9A*, p. 5.

30 Attorney-General's Department website, http://www.ag.gov.au/agd/WWW/justiceministerHome.nsf/Page/Media_Releases_2006_4th_Quarter_16_November_2006_-_Progress_in_fight_against_amphetamine_drug_trafficking, viewed 20 November 2006.

reference to the lack of oversight and regulation of tablet presses in Australia. The Queensland Alcohol and Drug Research and Education Centre observed:

There may be a case for better regulation of tableting machines, or pill presses, used in the pharmaceutical and patent medicine industries. This may reduce the use of such equipment in the local manufacture of drugs sold as ecstasy.³¹

6.42 Similarly, the ACC argued:

...the Australasian Police Ministers Council (APMC) has recently agreed that diversion of tablet presses is a problem of national significance and that current domestic and border controls to prevent the diversion of tablet presses into illicit drug manufacture should be enhanced.³²

6.43 The Committee was informed that the Commonwealth will fund further research to determine the nature and scope of the legitimate tablet-press market, regulatory options to control tablet presses and the impact of controls on business and government under the auspices of the National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture. It is anticipated the National Precursor Working Group, chaired by Senator the Hon. Chris Ellison, will provide recommendations on a proposed course of action to the Australasian Police Ministers Council.³³

6.44 The Committee commends the range of national and international strategies to reduce the supply of AOSD within Australia.

The adequacy of the response

6.45 Since recognising the emerging AOSD problem, the law enforcement response to the importation, manufacture and use of AOSD in Australia by the ACC and LEAs may be described as a coordinated approach, involving legislative measures and cooperative administrative, investigative and enforcement arrangements.³⁴

6.46 A key aim of the ACC's approach has been to seek to establish collaborative arrangements with key stakeholders, and evidence was presented to the Committee to suggest that cooperative arrangements between LEAs, under the ACC Special Intelligence Operation determination on AOSD and through information-sharing and joint operations, are flexible and currently sufficient to allow the effective pursuit of supply-reduction activities and operations.³⁵

31 Queensland Alcohol and Drug Research and Education Centre, *Submission 12*, p. 7.

32 ACC, *Submission 18*, p. 13.

33 Department of Premier and Cabinet, Queensland Government, *Submission 20*, p. 4.

34 Legislative measures are discussed in chapter 5.

35 *Committee Hansard*, 5 June 2006, p. 85.

6.47 The West Australian Police gave an assessment of the ACC, and of current arrangements, that was typical of LEAs:

...WA Police have derived significant benefits from participation in National AOSD initiatives and cooperative law enforcement strategies. ACC coercive hearings and initiatives emanating from the National working group to prevent the diversion of precursor chemicals into illicit drug manufacture have been of particular benefit.³⁶

6.48 In discussing the suitability of the arrangements allowing cross-jurisdictional cooperation between LEAs, Federal Agent Michael Phelan, National Manager, Border Intelligence Network, Australian Federal Police, told the Committee:

...in my experience there is very little demarcation. There is a clear area of responsibility but, where those cross from one jurisdiction to another, it is very much seamless because of the joint task force and the arrangements that we all work on...Very much we work together.³⁷

6.49 Deputy Commissioner Simon Overland, of the Victoria Police, indicated that the Victoria Police had worked closely with the ACC.

...we have worked very closely with the Australian Crime Commission, particularly around Purana [the task force investigating organised crime in Victoria]. They have provided an invaluable tool to assist us in that investigation and in fact there is a significant number of people now facing charges out of appearances in front of the Crime Commission around the giving of false evidence.³⁸

6.50 Deputy Commissioner Overland drew particular attention to the value of the ACC's information and information-sharing practices:

They are also very good at sharing intelligence with us and we think the quality of the intelligence coming out of that body has improved quite significantly and that is obviously very useful to us. We continue to work quite closely with them as opportunities present themselves.³⁹

6.51 Federal Agent Phelan observed that the development of the intelligence networks had been and would continue to be important to maintaining the success of the information and intelligence-gathering processes of the ACC and LEAs. He said:

The job of intelligence networks is to try to keep ahead of the game in...developing our intelligence networks, working with our partners to try to stem the flow [of criminal enterprise]...I think we have been relatively successful at that over recent years.⁴⁰

36 West Australian Police, *Submission 1*, p. 2.

37 *Committee Hansard*, 5 June 2006, p. 83.

38 *Committee Hansard*, 13 October 2006, p. 5.

39 *Committee Hansard*, 13 October 2006, p. 5.

40 *Committee Hansard*, 5 June 2006, p. 73.

6.52 However, outside of collaboration arrangements for the ACC and LEAs, some concern was expressed by submitters and witnesses about the divisions between the Commonwealth and state agencies around drugs policy generally.

6.53 Pointing to the ability of drug markets to change rapidly and thereby challenge the appropriate targeting and delivery of the enforcement response, Deputy Commissioner Overland suggested that the relationship between LEAs and health, research and community support organisations is complex, unclear and likely to be generating inefficient and confusing drug policies:

It is the arrangements that are in place between the Commonwealth-state around drugs policy generally. There are key players: there are health players, there are law enforcement players, there is a range of committees...If you actually map it out, you get to understand that it is very, very complex and confused and it suggests that it is probably not the most efficient or most effective way to go about dealing with it.⁴¹

Enhancing the response to AOSD

6.54 In recognition of the importance of the underlying policy settings, the Committee sees the following issues as having a bearing on the formulation of considered and effective AOSD policy in Australia.

Measuring success

6.55 In the area of drug law enforcement, the measure of success is usually interdiction, which is measured by the amounts and types of drugs seized; the number of arrests and charges; the number of successful prosecutions; and, possibly, the amount of property and assets confiscated. However, it has long been acknowledged that such measures of performance are simplistic and of limited value as they are unable to provide a wider picture of the value of current supply-reduction efforts:

In keeping with their overseas counterparts, Australian drug law enforcement agencies have used seizure and arrest data to measure the effectiveness of their work performance for many years. While such measures are simple, visible and well-understood measures of law enforcement effort, they are in many cases ambiguous measures of law enforcement performance. These measures essentially demonstrate the extent to which law enforcement agencies 'engage' in certain types of activities rather than demonstrating the broader 'impacts' of law enforcement work.⁴²

6.56 The Committee notes that the ACC is not a law enforcement organisation but an information-gathering and intelligence-gathering one in which the information and

41 *Committee Hansard*, 13 October 2006, p. 4.

42 National Drug Law Enforcement Research Fund, *Developing and implementing a performance measurement framework for drug law enforcement in Australia*, Monograph Series No. 18, 2006, p. vii.

intelligence gathered may or may not lead to convictions or to a reduction in the availability of certain drugs. The Committee is aware of the difficulties of measuring outcomes in the light of these circumstances.

6.57 The AFP indicated in its submission that in recent years it has 'further developed existing and identified new methods of measuring law enforcement outcomes in relation to illicit drug investigations'.⁴³ The AFP submission notes:

The AFP undertakes benchmarking of its drug law enforcement activities both nationally and internally. In general, this analysis is completed every second year. The most recently available international data was used (2003) for international comparisons and the most comparable national data (2003/04) for national comparisons.⁴⁴

6.58 Concerns were raised over using quantity-of-seizure figures as a measure of efficiency. The Committee was informed that the AFP assesses the benefits of seizures through the Drug Harm Index (DHI):

The Drug Harm Index, which measures the economic benefit to the Australian community of AFP drug seizures, increased from \$427m in 2003-04 to \$680m 2004-05. It represents the dollar value of harm if the drugs had reached the community. It does not estimate the deterrent effect of AFP investigations.⁴⁵

6.59 The AFP submission reports that 'the AFP returns over \$5 for every one dollar invested in economic and illicit drug investigations'.⁴⁶ In evidence, Federal Agent Phelan explained that the DHI measures only the potential harm or cost to the community, had the seized drugs become available on the street. Federal Agent Phelan expanded on the limitations of the index:

One of the weaknesses of the Drug Harm Index is that it does not pick up the deterrent effect of the AFP on operations. That is a theoretical figure that would be difficult for us to do in any sort of quantitative analysis...[for example] we might be able to say that if we closed down a syndicate that had been producing 100 kilos per month of a particular drug or importation, we could say that we reduced the potential for 100 kilos a month right into the future. We do not do that because that is something that is theoretical and we are unable to quantify. What we do work on is the actual amount of seizure and the ability to stop that hitting the streets of Australia.⁴⁷

43 Australian Federal Police, *Submission 6*, p. 7.

44 *Submission 6*, p. 7.

45 *Submission 6*, p. 7.

46 *Submission 6*, p. 7; *Committee Hansard*, 5 June 2006, p.75.

47 *Committee Hansard*, 5 June 2006, p. 75.

6.60 The Committee notes that the AFP acknowledges the limits of the analyses based upon the DHI for predicting the deterrent effect of seizures.⁴⁸ In light of the rising trends in the importation, manufacture and use of AOSD, particularly the more potent forms of base and ice, the Committee is concerned that there is an apparent inability to assess seizures against supply-reduction and public health outcomes and to provide an understanding of the true effect of what are in many cases successful policing efforts.

6.61 The National Drug Law Enforcement Research Fund (NDLERF), articulated this concern in *Developing and implementing a performance measurement framework for drug law enforcement in Australia*:

...there is now general agreement in Australia and elsewhere that the traditional supply-side indicators of DLE [drug law enforcement] activity should at the very least be complemented by demand-side indicators (public health and amenity indicators).⁴⁹

6.62 The Committee acknowledges that it is not an easy task to measure the wider community value of interdiction. Evidence of submitters highlighted a difference of emphasis as to the measure of success for interdiction. Families and Friends for Drug Law Reform and the Australia Institute strongly questioned the worth or meaning of seizures as an indication of policing effectiveness.⁵⁰ Mr Andrew Macintosh, Deputy Director of the Australia Institute, argued there is a need for a better measure of effectiveness than interdiction of supply:

But the problem is that if you catch more drugs they just supply more. By taking drugs out of the market we lose, say, three per cent of the drug market for the year. They increase supply. That three per cent does not have a notable impact on the market...the only time in history that anyone has ever found a statistically significant effect or relationship between the seizure of drugs and actual ground level supply and prices was the heroin drought in 2001.⁵¹

6.63 The Committee notes the NDLERF research in the area of performance measurement for drug law enforcement and suggests that law enforcement agencies should consider developing better methods of measuring effectiveness to ensure that

48 See also: National Drug Law Enforcement Research Fund, *Developing and implementing a performance measurement framework for drug law enforcement in Australia, Monograph Series No. 18*, 2006.

49 National Drug Law Enforcement Research Fund, *Developing and implementing a performance measurement framework for drug law enforcement in Australia, Monograph Series No. 18*, 2006, p. 16.

50 Families and Friends for Drug Law Reform, *Submission 19*, p. 39ff.

51 *Committee Hansard*, 5 June 2006, p. 20.

they are meaningfully related to the three NDS policy aims of supply reduction, demand reduction and harm reduction.⁵²

Recommendation 13

6.64 The Committee recommends that the Australian Crime Commission collaborate with the Australian Federal Police, the Australian Customs Service and the relevant state and territory law enforcement agencies to improve performance measurements for drug law enforcement under the National Drug Strategy.

6.65 The Committee acknowledges that prosecutions are also used as an indicator of success. On this issue, the Committee was concerned at statistics showing some 80 per cent of those charged with drug related offences by the AFP are charged with user-related crimes, despite claims that most of the AFP's work has been targeted at the high end of the supply chain.⁵³ In response, Federal Agent Phelan said:

If we were to excise the ACT policing component from the AFP stats, and you were talking about AFP national/international operations, then the arrests and charging of users is extremely limited. The vast majority, certainly in my time doing this job in the last 2½ years—well over 95 per cent, if not even more—would be those that were involved in either the importation or the direct manufacture and not the users...I can categorically say that our resources are being pitched at the higher end, and I would be extremely surprised if we were putting any resources at all towards low-level trafficking.⁵⁴

6.66 The Committee believes that the reporting of AFP statistics should show separately the AFP's ACT and federal policing outcomes in order to give clear and separate pictures of illicit drug supply-reduction outcomes for each jurisdiction.

Recommendation 14

6.67 The Committee recommends that the reporting of Australian Federal Police statistics show separately the drug law enforcement policing outcomes for the ACT and federal jurisdictions.

Allocation of resources

6.68 Concerns were raised over whether the AFP's emphasis on counter-terrorism had compromised its activities in the area of drug law enforcement. Federal Agent Phelan explained:

52 National Drug Law Enforcement Research Fund, *Developing and implementing a performance measurement framework for drug law enforcement in Australia*, Monograph Series No. 18, 2006.

53 *Committee Hansard*, 5 June 2006, p. 74.

54 *Committee Hansard*, 5 June 2006, p. 74.

...there is a high priority placed on counter-terrorism activities both here and offshore but, having said that, the AFP also delivers its resources towards drug interdiction, and there we have to focus on what we believe are the most important areas of responsibility that get the best result for us here in Australia. There has been a shift in priorities, but it does not necessarily mean that there is a total move away from other areas of interdiction. In recent times we have had some great successes in drug and in particular precursor seizures both here and, most importantly, offshore before they even get anywhere near our shores.⁵⁵

6.69 The Committee considers that the AFP's response is somewhat equivocal. Whilst acknowledging the paramount importance of counter-terrorism measures to national security, the Committee suggests that the escalating availability and use of AOSD require a discrete, sufficient and appropriate allocation of resources.

6.70 Although the Committee does not criticise the AFP's allocation of priorities, the Committee is concerned that the AFP does not compromise its efforts to reduce either the supply of drugs or the threat of terrorism by being forced into invidious choices in the allocation of funding and resources. The Committee considers that the seriousness of AOSD trafficking and manufacture requires that drug interdiction remains a high priority area for the AFP.

Collection of data on illicit drugs

6.71 The development of effective drug policy begins with a soundly-based assessment of the problem, which cannot occur without accurate data. The Committee heard from a number of organisations that produce research and data in this field.⁵⁶

6.72 The Queensland Alcohol and Drug Research and Education Centre (QADREC) noted that modelling the size and value of illegal drug markets provides both a strategic intelligence function and benchmarks against which to assess the effectiveness of market regulation. However, this type of modelling requires the systematic collection of quality data on both consumption and seizures.⁵⁷

6.73 Data on the consumption of illicit drugs is available from the following sources:

- National Drug Strategy Household Survey;
- Illicit Drug Reporting System and Party Drugs Initiative;
- Drug Use Monitoring in Australia;
- Australian School Students on Alcohol and Drug survey;

55 *Committee Hansard*, 5 June 2006, p. 71.

56 The Committee acknowledges the valuable work of the Queensland Alcohol and Drug Research and Education Centre, which provided a tailored analysis of data collected on AOSD.

57 Queensland Alcohol and Drug Research and Education Centre, *Submission 12*, p. 2.

- National Mental Health Survey; and
- National Drug Law Enforcement Research Fund studies of the extent and nature of organised crime involvement in MDMA and methamphetamine markets.

6.74 Data on the supply of illicit drugs is gathered by various law enforcement agencies. The primary data sources are:

- Australian Customs Service drug and precursor seizures;
- AFP seizures made independently, with Customs and with other police services;
- state police clandestine laboratory detections and drug and precursor seizures; and
- arrest data pertaining to offences of possession, use, supply and manufacture.⁵⁸

6.75 The Committee heard that there are a number of limitations in the current methods of collection. QADREC identified the following weaknesses in the arrangements for the collection and availability of data on illicit drugs:

- inadequate data collection on drug seizures and clandestine laboratory detections by some state and federal agencies;
- unknown degree of overlap in federal seizure data;
- poor and inconsistent record-keeping at a state level;
- lengthy delays in drug seizure and clandestine laboratory analysis as well as limited information on clandestine laboratory capacity in this data;
- failure to separate data on MDMA from data on methamphetamines;
- limited use of open source intelligence on the demand side of the market and on consumer behaviour in retail transactions;
- delays in building research partnerships for strategic intelligence; and
- inadequate information sharing among agencies and with the research community.⁵⁹

6.76 In particular, the accuracy of data was questioned. Mr Greg Fowler, from QADREC, explained that there is a danger of double counting. Mr Fowler said:

Sometimes for a joint operation between AFP and the state police force the seizure amount may be reported in the state government system and the AFP system, and those amounts then get rolled up again into reports that go

58 *Submission 12*, p. 4.

59 *Submission 12*, p. 6.

to ACC. So that same amount collected by two organisations can be counted twice.⁶⁰

6.77 Dr Andreas Schloenhardt, from the University of Queensland, observed that while there is significant research done on the demand and consumption of illicit drugs:

...there is a lack of in-depth research. I do not know if the agencies should do that themselves, but even independent research on this particular nexus between organised crime and drugs is completely lacking. The most substantive recent report is that produced by this committee when it was the NCA committee in 1995.⁶¹

6.78 QADREC also commented upon what it perceives as the decline in the quality of the ACC's principal public domain intelligence product, the Illicit Drug Data Report (IDDR), due, at least in part, to major internal restructuring and the loss of experienced intelligence officers. Mr Fowler told the Committee:

The publications of the ACC and one of its previous organisations have been some of the best public domain intelligence about the supply side of drug markets. In the past those publications have systematically provided the best available summary of seizure data in particular, sometimes some case scenarios and quite often international supply chain intelligence which would not be relatively accessible to other people who have ongoing work in the illicit drug field. However, the document itself has undergone a couple of title and format changes, and for the last two levels of publication the data contained within the report has been less detailed and perhaps more what I, as a social scientist, would call anecdotal, in the sense that you are using case studies to describe successful operations.⁶²

6.79 Mr Fowler went on to acknowledge the difficulties faced by the ACC in gathering reliable information. He said:

The ACC is in a difficult position. It relies upon state police forces to supply a lot of this information. It relies upon the Australian Federal Police and the Australian Customs Service. It can only produce as good an intelligence document as the data which is provided to it. Some of those agencies do an excellent job. Australian Customs would be a good example. Perhaps the data some other agencies provide is of a poorer quality, less consistent or not described in the same way.⁶³

6.80 In response to QADREC's comments, the ACC accepted that the current version of the IDDR may give rise to expressions of concern about its reporting methodology, but rejected the criticism. In a supplementary submission the ACC said:

60 *Committee Hansard*, 15 May 2006, p. 13.

61 *Committee Hansard*, 15 May 2006, p. 23.

62 *Committee Hansard*, 15 May 2006, p. 13.

63 *Committee Hansard*, 15 May 2006, p. 13.

The ACC inherited the report from the ABCI. The Australian Illicit Drug Report (AIDR) was a substantially larger volume than the IDDR, containing more generalised information about illicit drug markets as well as illicit drug data...the ACC...strongly rejects the ill-informed assertions that this is a consequence of restructuring or a loss of skilled intelligence officers...The change in nomenclature to IDDR reflects the ACC's view that while there remains a niche for a report aggregating law enforcement data on illicit drug seizures, its primary responsibility is to provide a flow of strategic and tactical intelligence to partner agencies in a way not previously undertaken by any of the ACC's predecessor agencies.⁶⁴

6.81 The ACC went on to argue that the IDDR exists because there is a 'commitment to information sharing on this issue'.⁶⁵ The ACC commits considerable resources and a high degree of collaboration to the report, and the collated and synthesised data is shared with research bodies without charge. The commission concluded:

The ACC does accept that there is scope for more collaborative work with research bodies and has work in hand to improve partnerships in this area.⁶⁶

6.82 The ACC's acceptance of the need for a collaborative approach is pivotal to the resolution of the problems of data relevance and data quality. QADREC made some suggestions as to how this might be improved across the board.

6.83 QADREC emphasised the importance of developing a research agenda that gathers and analyses all relevant intelligence from seizure, detection and arrest data sources. The Committee heard that there was a need for greater consistency across jurisdictions, and for the compilation of a standard data dictionary. The QADREC submission argued:

These data sources require the development of a data dictionary for consistent description of drugs and drug related events. Such data should be updated in a timely fashion, to allow analysis of dynamic market trends. This is not currently the case where, for example some State jurisdictions do not distinguish ecstasy seizures and arrests, from those involving methamphetamines. Also some joint state police and AFP seizures may be counted twice in national seizure estimates.⁶⁷

6.84 QADREC also recommended expanding the sample size and response rate of key surveys, particularly the National Drug Strategy Household Survey, which would improve the validity of drug consumption estimates. Significantly, it was suggested

64 ACC, *Submission 18A*, pp 2-3.

65 *Submission 18A*, p. 3.

66 *Submission 18A*, p. 3.

67 Queensland Alcohol and Drug Research and Education Centre, *Submission 12*, p. 4.

that the over-sampling of young urban males, with more innovative data collection methods, would contribute to improvements in data quality.⁶⁸

6.85 The discrepancies in quality and quantity of information sharing are matters that were canvassed in the Parliamentary Joint Committee on the Australian Crime Commission report on the review of the *Australian Crime Commission Act 2002*. In that report, the Committee recommended:

...that the ACC in consultation with the Attorney General's Department identify barriers to information sharing, and where regulatory or legislative remedies are necessary [that] these be developed and implemented.⁶⁹

6.86 The Committee acknowledges that the ACC itself recognises the limitations of the data on which it relies to produce the IDDR. These limitations range from the comparability of law enforcement data across states and territories to the recording, storage and quality of data across law enforcement agencies.⁷⁰

6.87 The Committee notes that some of these shortcomings are the inevitable result of a system that focuses on regions—that is, the states—in order to respond to local needs, but which depends on the federal government for integrated intelligence and, to an extent, funding. The Committee considers that an overarching body to coordinate data collection at the federal level would go some way to addressing the issues canvassed above. The functions of this body would include setting standards for the material to be collected and the methodology for doing so, and would enhance the interoperability of state and territory law enforcement databases. Unless governments, LEAs and research institutions have reliable and accurate data on which to base drug policy and strategies, attempts to address the problem of AOSD will be less effective.

6.88 The Committee acknowledges that there are several initiatives that would assist this process. First, there is a clear need for a standard data dictionary. This would ensure that data contributors would be doing so according to the same set of definitions. Second, in a federal system the risk of double counting is always present. The Committee believes that the ACC should carefully review its current sources of information so that the potential for double counting is minimised. Such a review should be published so that stakeholders have a clear understanding of the basis and accuracy of supply data.

6.89 Evidence to the inquiry suggests that the IDDR in its current form appears to have limited value. Although it presents facts, there is limited analysis of what those facts actually mean for Australia. The Committee acknowledges the ACC's work on the IDDR; however, there are opportunities to enhance the quality of this important intelligence product.

68 *Submission 12*, p. 3.

69 Parliamentary Joint Committee on the Australian Crime Commission, *Review of the Australian Crime Commission Act 2002*, p. ix.

70 ACC, *Illicit Drug Data Report 2004-05*, pp. 76 - 80.

Recommendation 15

6.90 The Committee recommends that the Australian Crime Commission and other Commonwealth law enforcement agencies, in conjunction with the relevant state and territory agencies, develop a standard data dictionary to ensure that information shared is as accurate as possible.

Recommendation 16

6.91 The Committee recommends that the Australian Crime Commission review its current sources of information so that the potential for double counting between state, territory and Commonwealth agencies is minimised. Such a review should be published so stakeholders have a clear understanding of the basis and accuracy of supply data.

Recommendation 17

6.92 The Committee recommends that the Australian Crime Commission work with the state and territory law enforcement agencies to increase their participation in data provision to the Australian Crime Commission's databases.

Recommendation 18

6.93 The Committee recommends that the Australian Crime Commission work to include the data provided by the state and territory law enforcement agencies to further develop the Illicit Drug Data Report.

Conclusion

6.94 This inquiry has highlighted that, while the use of AOSD in Australia is increasing, governments and LEAs have increased their efforts to meet this challenge. The Committee has heard that current supply-reduction strategies have proved to be effective in limiting the availability of AOSD. However, as discussed in this chapter, it is extremely difficult to quantify and get a true picture of the effects of current strategies on the AOSD market.

6.95 Despite the successes of the response to the AOSD problem to date, the question of how this is resolved by policy makers must be reviewed often to keep in step with trends in drug use, and to remain relevant to the experiences and needs of LEAs and the health, research and community support organisations that deal at the coalface with the consequences of the illicit drug market.

6.96 As acknowledged in this report, the illicit drug market is a dynamic one. The potential for large economic gains ensures that those involved with AOSD are innovative and well resourced and will seek to stay ahead of drug law enforcement efforts. The Committee finds that the response of the ACC and Australian LEAs through collaborative arrangements and coordinated operations has been adequate, and continues to improve with the addition of policy responses and new legislation and the targeting of operations towards identified trends in and areas of the AOSD market. The Committee commends the drug law enforcement efforts of the ACC, the

AFP, the ACS and the relevant state and territory LEAs, and encourages them to continue to work collaboratively and proactively in this difficult task.

Senator the Hon Ian Macdonald

Chair

