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AFP National submission to the Parliamentary Joint Committee on the Australian Crime Commission Inquiry into Amphetamines and other Synthetic Drugs
Introduction

1. The Australian Federal Police (AFP) National welcomes the opportunity to provide the Parliamentary Joint Committee on the Australian Crime Commission (the Committee) with information relevant to its inquiry into Amphetamines and other Synthetic Drugs (AOSD). ACT Policing are providing a separate submission.
2. This submission addresses each of the particular issues contained within the Inquiry's Terms of Reference except for issue (f) specifically regarding assessment of the adequacy of the response by Australian law enforcement agencies, including the ACC. However, information regarding the AFP's performance monitoring activities is included in the discussion against "the nature of Australian law enforcement response".

Role of the AFP

3. The AFP's role is to enforce Commonwealth criminal law and protect Commonwealth and national interests from crime in Australia and overseas. The AFP works with its law enforcement partners to prevent and detect the supply of illicit amphetamine type substances and their precursors into Australia.
4. The AFP's functions are set out in section 8 of the *Australian Federal Police Act 1979* (AFP Act). Within that framework, the AFP is to pursue clearly defined outcomes agreed by the Government:

Outcome 1: The investigation and prevention of crime against the Commonwealth and protection of Commonwealth interests in Australia and overseas; and

Outcome 2: Policing creates a safe and secure environment in the ACT (funding for this Outcome is provided by the ACT Government).
5. Under section 37(2) of the AFP Act, a Ministerial Direction outlines the Government's priorities and expectations for the AFP. The current Ministerial Direction, signed on 31 August 2004, directs the AFP to give special emphasis to a number of activities, including:
 - Preventing, countering and investigating transnational and multi-jurisdictional crime, **illicit drug trafficking**, organised people smuggling (including sexual servitude and human exploitation), serious fraud against the Commonwealth, 'high-tech' crime involving information technology and communications, and money laundering;
 - Providing an effective contribution to the implementation of the Government's Tough on Drugs Strategy;
 - Ensuring that its strategic directions in relation to the above activities appropriately complement priorities set for the ACC at Board level, particularly in the area of national criminal intelligence; and

- Contributing effectively to the Government's international law enforcement interests, including through United Nations Peace Operations, the restoration of law and order and foreign law enforcement capacity building missions including the Law Enforcement Cooperation Program, enforcement of child sex tourism legislation, and appropriate agency-level agreements with overseas law enforcement agencies.

Trends in the production and consumption of amphetamines and other synthetic drugs in Australia and overseas

6. Amphetamines and other synthetic drugs (AOSD) is a term used by the ACC to incorporate synthetically manufactured illicit drugs and their precursors. On a global level the term Amphetamine Type Stimulants (ATS) is used to describe this group of drugs. In the interests of global nomenclature consistency the AFP has continued to use the term ATS and reports separately on ATS and MDMA (ecstasy) seizures.

Production

7. According to the United Nations Office on Drugs and Crime (UNODC) and the United States Department of State, in excess of 50% of all global seizures of ATS take place in East and South East Asia, North America accounts for 16% and West and Central Europe around 22%. Overall global seizures have decreased over the past few years.

8. According to the UNODC's World Drug Report, global ATS production is currently above 400 metric tonnes, three quarters of which is either methamphetamine or amphetamine and one quarter of which is MDMA. Production of amphetamines is concentrated in Europe; methamphetamine in China, Myanmar, the Philippines, and North America; and MDMA in the Netherlands and Belgium.

9. Global laboratory seizures (includes ATS and MDMA laboratories as well as heroin and cocaine processing laboratories) have been steadily increasing for a number of years. Between 1998 and 1999 a significant spike was identified in global ATS detections. During this period there was a 350% increase in global laboratory detections and since that time the number of laboratories detected has been steadily increasing.

10. Most ATS in Australia (predominantly methylamphetamine and amphetamine) continue to be manufactured domestically. Detections of ATS through parcel post have continued. There has been a trend towards increased importation of the purer forms of methylamphetamine (ice). While almost every state jurisdiction has anecdotally reported increases in ice availability, seizure rates have remained relatively low. China remains and Myanmar is emerging as significant global producers of ice.

11. It is expected that in the short term ATS will continue to be manufactured domestically by crime syndicates operating within Australia. This manufacture is expected to be largely facilitated through the diversion of precursors and pharmaceuticals. Tighter domestic controls may prompt a greater push towards the importation of these precursors. It is also expected that the purer form (ice) will continue to be imported from South-East Asia.

12. In the first half of 2005, Australia saw a sudden increase in law enforcement detections of MDMA or its precursors, either at the border or already in Australia. During a two month period in early 2005, the AFP and the Australian Customs Service (ACS) seized almost three

times as much MDMA (or its precursors) as was seized in the previous financial year. Operations have been conducted in which specialist MDMA chemists travelled from Europe to manufacture the drugs locally. Asia has seen similar instances, as shown by the recent arrest in Indonesia of a Dutch chemist at a commercial-scale MDMA laboratory. This indicates may be indicative of a move by syndicates to shift the manufacturing of MDMA away from Europe and closer to the consumption countries.

Consumption

13. Based on responses to the 2004 National Drug Strategy Household Survey (NDSHS), 38% of the Australian population aged 14 years and over had used any illicit drug at least once in their lifetime and 15% had used any illicit drug at least once in the previous 12 months. In 2004, the six most common illicit drugs used in the previous 12 months were marijuana / cannabis (11%), ecstasy, meth/amphetamines, and pain-killers/analgesics for non medical purposes (all 3%), tranquillisers/sleeping pills and cocaine (1%). The average age of initiation was 18.7 years for marijuana/cannabis, 20.8 years for meth/amphetamines and 22.8 years for ecstasy.

14. A 2005 National Drug and Alcohol Research Centre study into *Estimating the number of regular and dependent methamphetamine users in Australia* revealed that 1 in 10 Australians have tried methylamphetamine and that there are approximately 103,000 regular methylamphetamine users, three quarters of which are dependent users. The consumption methods for ATS vary greatly depending upon the form of the drug available. Powder ATS is generally ingested orally, smoked or dissolved and injected. Crystal methylamphetamine is generally smoked or rubbed between the fingers for absorption through the skin, while MDMA generally comes in tablet form which is ingested orally.

Strategies to reduce the AOSD market in Australia

15. The ACC's AOSD National Action Plan is currently under consideration by the Inter-governmental Committee on Drugs. It is proposed that the Action Plan be used to form the basis of development of a National Strategy on Amphetamine Type Stimulants. The Strategy would encompass the range of activities being undertaken under the National Drug Strategy and would highlight gaps, emerging trends, and future opportunities.

16. Under *Tough on Drugs*, the Australian Government has allocated \$5.4million over five years for the National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture (the National Strategy). The 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 Strategy benefits pharmacists, industry, Customs, Police, intelligence officers and policy analysts by improving their capacity to share information and by enhancing intelligence on the diversion of precursor chemicals.

17. The National Strategy's implementation 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 (the Working Group), which was established as an initiative of the Minister for Justice and Customs in September 2002. The Working Group brings together 44 members from law enforcement, health and industry and held its inaugural meeting on 4 December 2002. The Working Group is focused on the diversion of pseudoephedrine and other precursor chemicals from both legitimate and illegitimate sources,

including pharmacies and the chemical industry. The AFP is represented on the Working Group and was involved in the development of the National Strategy.

18. The ACC has a leading role in the annual Chemical Diversion Congress. The ninth Chemical Diversion Congress, held in Darwin in 2005, brought together delegates from national and international law enforcement agencies, chemical service industries and prosecutorial areas for the purpose of further developing a united approach to combating the diversion of precursor chemicals into the clandestine production of illegal drugs.

19. The 2005 Congress focused on identification issues, emerging precursors, chemical control programs, legislation and prosecution and information technology. A number of resolutions were compiled at the end of the congress for endorsement by the National Working Group on the Prevention of the Diversion of Precursor Chemicals into Illicit Drug manufacture. The AFP was well represented at this and past Congresses.

20. Since November 1997, the Australian Government's 'Tough on Drugs' National Illicit Drug Strategy (NIDS) has provided cumulative funding of approximately \$190m to the AFP to the end of 2005-06. This funding has enabled significant expansion of the AFP's Overseas Liaison Network and of the Law Enforcement Co-operation Program.

The extent and nature of organised crime involvement (importation only)

21. AFP and open source intelligence suggests that drug trafficking is one of the region's most prevalent forms of transnational crime. Organised crime groups generate substantial black market profits through the manufacture and trafficking of illicit drugs and their precursors.

22. 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.

23. There is evidence that drug trafficking syndicates have commenced using Pacific Islands for storage, production and transshipment locations.

24. The extent and nature of organised crime involvement in ATS importation varies greatly. ATS importation is highly lucrative which has drawn attempts from organised criminal syndicates while also attracting small opportunistic importation attempts.

25. Global MDMA manufacture and trafficking is generally controlled by European syndicates emanating from the Netherlands. Information received from the AFP Liaison Officer in the Hague has identified that these groups operate in a manner similar to that employed by multinational companies including conducting cost benefit analyses on MDMA trafficking which took into consideration factors such as foreign exchange rates in the transshipment of drugs. This level of sophistication is alleged to exist within the transnational MDMA market while small opportunistic importation attempts continue to occur. The street price of MDMA in Australia is considerably higher than in other countries, ensuring that Australia will remain an attractive target for MDMA trafficking syndicates.

26. Recent intelligence suggests that domestic drug manufacturing groups are making moves towards the domestic manufacture of MDMA. This has been highlighted by the recent detection of MDMA labs in Australia, the increased detection rates of MDMA precursors and the identification of specialist Dutch chemists travelling to Australia allegedly to manufacture the drugs onshore.

27. Domestic manufacture of ATS is similarly diverse with involvement of organised groups ranging from several of the outlaw motorcycle gangs to small individually operated ATS labs. These smaller labs are capable of producing ATS quickly for personal use or small scale supply. Domestic organised crime is more appropriately categorised as fluid networks that amalgamate for specific purposes or enterprises and then disband, rather than the traditional monolithic image of organised crime.

The nature of Australian law enforcement response

28. Domestic manufacture and supply is largely the responsibility of State and Territory jurisdictions.

29. 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 AFP disrupts transnational syndicates offshore to ensure illicit drugs are seized at the earliest opportunity and with the greatest law enforcement impact.

30. The AFP monitors and responds to the emergence of global trends in trafficking of precursor chemicals, the manufacture of ATS, the movement of specialist chemists, and the diversification of global production centres. AFP Intelligence collects and assesses information to build a strategic understanding of the transnational illicit drug markets to aid law enforcement on tactical and operational levels.

Law Enforcement Co-operation Program (LECP)

31. LECP is the key mechanism by which the AFP increases the awareness and understanding of transnational crime issues within the international law enforcement community. LECP funding has enabled specific programs to be delivered in the region on identification of precursor chemicals and clandestine laboratories.

32. LECP funding continues to allow the AFP to deliver high quality training programs, provide equipment, undertake short term attachment and/or exchange of law enforcement personnel, conduct strategic law enforcement seminars and workshops and facilitate visits by high-level representatives.

33. The LECP enables the AFP to undertake specific bilateral police to police capacity building and assistance projects. In addition, the LECP undertakes major project activities with other international stakeholders (eg. United Nations Office of Drugs and Crime) and government partners (eg. AusAID).

Strong partnerships

34. Strong international law enforcement cooperation plays a vital role in many AFP operations undertaken to counter this market and has been integral to some of the most successful outcomes.

35. The AFP's International Network is instrumental in facilitating the flow of intelligence and the coordination of overseas operations which impact on Australian interests. Approximately 84 per cent of all high-impact work undertaken by the AFP in 2003/04 involved the International Network.

36. In 1997/98 the AFP had liaison officers located in 14 countries. In 2005, the AFP's International Network had 67 officers in 26 countries. The identification of possible locations for the expansion of the international network has involved a process of strategic intelligence assessments, internal and external consultations and a review of the international network as a whole.

37. The AFP also assists countries in the region establish transnational crime centres as a fulcrum for effective drug investigations, allowing proper coordination with intelligence and related crime such as money laundering.

38. The AFPs cooperative arrangements with a number of key international law enforcement partners have been formalised through the signing of MOUs. These focus on 'Combating Transnational Crime and Developing Police Cooperation' encompass measures to target illicit drug trafficking. The AFP has MOUs with law enforcement agencies in a number of key countries in the region and other MOU's are being considered and progressed as appropriate.

Operational activity

39. During 2004/05, the AFP was involved in the seizure of over three tonnes of precursors. In the previous financial year, 2003/04, just under 40 kilograms of pre-cursors were seized by the AFP. Further, in 2004/05 nearly two tonnes of MDMA was seized.

40. These figures do not include off-shore seizures where the AFP has worked with overseas law enforcement agencies to prevent the importation of precursors into Australia. AFP investigators have been assisting some international police agencies with precursor chemical investigations and 'super lab' investigations. For example, in 2004, a significant joint investigation by the AFP (Operation Deva) which involved the Fiji Police, uncovered a large clandestine laboratory set up in a warehouse in Suva, and involved the seizure of precursor chemicals with the potential to produce up to one tonne of crystal methylamphetamine. A further example is the arrest of 14 people in November 2005 in Jakarta. The joint investigation with the Indonesian National Police, resulted in the seizure of the suspected 3rd largest clandestine laboratory ever discovered in the world. The clandestine laboratory contained an MDMA operation at one end of the complex and a crystal methamphetamine operation at the other end. One Dutch and one French chemist were arrested.

Australian Illicit Drug Intelligence Program

41. On 2 November 1997, NIDS funding was provided to establish a National Heroin Signature Program. In 2002, further NIDS funding enabled expansion of the program to include ATS and cocaine, and the program was renamed the Australian Illicit Drug Intelligence Program (AIDIP).

42. The program is designed to provide enhanced support for operations through the physical and chemical analyses of illicit drugs. Strategically, the analytical results are used to identify regions of origin, manufacturing trends or spread within a drug market. For a specific investigation, comparisons can be conducted within and between seizures to identify different batches in a single shipment or potentially demonstrate links between individuals and/or networks that do business in illicit drugs. This information assists in targeting resources available to law enforcement, as well as further developing understanding of the illicit drug trade and local markets.

43. In developing the program, partnerships with domestic and international law enforcement agencies, as well as academia, have been pursued.

Performance Measurement

44. In recent years, the AFP has further developed existing and identified new methods of measuring law enforcement outcomes in relation to illicit drug investigations.

45. 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.

46. The AFP also assesses the cost effectiveness of its activities through economic evaluations, which contribute to accountability and building Government and community confidence in the investment of resources to the AFP. This research, which has been independently verified, demonstrates that the AFP returns over \$5 for every one dollar invested in economic and illicit drug investigations.

47. 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.

The adequacy of existing legislation and administrative arrangements between Commonwealth and State agencies in addressing the importation, manufacture and distribution of AOSD, precursor chemicals and equipment used in their manufacture

48. Existing legislation at a Commonwealth level is adequate to effectively combat the threat posed by ATS importation, particularly with the passage last year of the *Law and Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005* which introduced:

- offences relating to the manufacture or possession of precursors for the purpose of manufacturing illicit drugs;
- possession offences for controlled precursors and equipment for commercial manufacture; and
- aggravated offences where trafficking or manufacture endangers children.

Principally, the Act moved previous import and export offences from the *Customs Act 1901*, together with a number of new drug offences, into Chapter 9 of the Criminal Code.

49. These amendments correspond with Australia's obligations under the *United Nations Convention Against Illegal Traffic in Narcotic Drugs and Psychotropic Substances 1988* and will substantially complete the implementation of the Model Criminal Code.

50. The Standing Committee of Attorneys-General established the Model Criminal Code Officers Committee to develop a model criminal code which could be adopted by all Australia jurisdictions. Chapter 6 of the Model Criminal Code is entitled *Serious Drug Offences*. Its accompanying report was published in 1998. Legislation based on Chapter 6 of the Model Criminal Code has been passed in the ACT, Tasmania and Victoria. The amendments to the Commonwealth Criminal Code contained in the Law and Justice Legislation (Serious Drug Offences and Other Measures) Act 2005 are based on but not identical to the model Criminal Code which was developed for adoption by all jurisdictions. Some of differences include the addition of:

- aggravated offences when trafficking endangers children;
- offences relating to the manufacture or possession of precursors for the purpose of manufacturing illicit drugs;
- a presumption of commercial purpose when a threshold quantity of illicit drugs is involved; and
- simple possession offences.

51. The Act has significant implications for Commonwealth law enforcement. Tiering provisions provide a better regime for targeting offences relating to the importation and trafficking of significant amounts of illegal drugs and precursors. The Act also broadened the scope of law enforcement operations to include greater geographical jurisdiction over Australians operating overseas.

52. Administrative arrangements between Commonwealth and State agencies, including the APMC and IGCD and their subgroups and the Working Group and Congress mentioned above, are progressing development of national strategies to address the importation, manufacture and distribution of ATS and their precursors and the equipment used in their manufacture.

53. National standards apply to the sale and supply of the necessary precursors for ATS manufacture such as ephedrine and pseudoephedrine. During 2005, pseudoephedrine-based products were reclassified under the direction of the Therapeutic Goods Administration, to Schedule 3 of the *Standard for Uniform Scheduling of Drugs and Poisons*. This will reduce the opportunities for domestic diversion of these products.