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JOINT COMMITTEE ON THE AUSTRALIAN CRIME COMMISSION

Reference: Amphetamines and other synthetic drugs

MONDAY, 5 JUNE 2006

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JOINT STATUTORY COMMITTEE ON THE

AUSTRALIAN CRIME COMMISSION

Monday, 5 June 2006

Members: Senator Ian Macdonald *(Chair)*, Mr Kerr *(Deputy Chair)*, Senators Ferris, Ludwig and Polley and Mrs Gash, Mr Hayes, Mr Richardson and Mr Wood

Members in attendance: Senators Ferris, Ludwig and Ian Macdonald and Mr Hayes, Mr Kerr and Mr Richardson

Terms of reference for the inquiry:

Pursuant to the Committee's duties set out in paragraph 55(1)(d) of the Australian Crime Commission Act 2002:

to examine trends and changes in criminal activities, practices and methods and report to both House of the Parliament any change which the Committee thinks desirable to the functions, structure powers and procedures of the ACC;

The Committee will inquire into the manufacture, importation and use of Amphetamines and Other Synthetic Drugs (AOSD) in Australia.

In particular:

a. Trends in the production and consumption of AOSD in Australia and overseas.

b. Strategies to reduce the AOSD market in Australia.

c. The extent and nature of organised crime involvement.

d. The nature of Australian law enforcement response.

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

f. An assessment of the adequacy of the response by Australian law enforcement agencies, including the ACC.

WITNESSES

Committee met at 9.07 am

ALLBON, Dr Ann, Director (CEO), Australian Institute of Health and Welfare

COOPER-STANBURY, Mr Mark, Head, Population Health Unit, Australian Institute of Health and Welfare

MADDEN, Ms Rosamond Helen, Head, Functioning and Disability Unit, Australian Institute of Health and Welfare

MAGNUS, Dr Paul, Acting Head, Health and Functioning Group, Australian Institute of Health and Welfare

PSYCHOGIOS, Ms Chrysanthe, Project Manager and Senior Analyst, Australian Institute of Health and Welfare

CHAIR (Senator Ian Macdonald)—I declare the hearing of the Parliamentary Joint Committee on the Australian Crime Commission open. We are inquiring into amphetamines and other synthetics drugs. I particularly welcome our first witnesses from the Australian Institute of Health and Welfare. You have confused me on who is leading the delegation because you are all disclaiming knowledge, but we will come across that as you start. This inquiry has terms of reference, which I am sure the witnesses are all familiar with, relating to amphetamines and other synthetic drugs in Australia and, in particular, looking at trends in production, consumption and strategies to reduce the amount of amphetamines in the market in Australia; the extent and nature of organised crime involvement; the nature of Australian law enforcement response; the adequacy of existing legislation; and administrative arrangements between the Commonwealth and state agencies, looking at things like importation, manufacture, distribution, precursor chemicals and equipment used in their manufacture. The committee is also looking to assess the adequacy of the response by the Australian law enforcement agencies, including the Australian Crime Commission—of course, we are the PJC on the Australian Crime Commission.

The committee is quite a full one today and there are some others that will turn up as planes arrive in town. I have asked the secretary to try and rearrange the program so that we finish by 4 pm, which will probably mean Attorney-General's, who were going to speak to us and who are Canberra-based, will now come and see us during the next sitting fortnight for an hour one evening. That will allow us to put everyone else forward three-quarters of an hour and will allow us all to be here to hear the Australian Crime Commission in their evidence to the committee.

Again, I welcome those from the Australian Institute of Health and Welfare. Amphetamines are huge problem for Australia, and indeed the world. We are trying to look at ways of lessening the problem to see if there are things that we could recommend to the government that the government might adopt, so we welcome your participation. The difficulties caused by amphetamine use, particularly with young people, are becoming a national tragedy and the consequences of all that are very sad. We want to all try and make a difference. Would you like to make an opening statement before subjecting yourself to questions from members of the committee?

Dr Allbon—We are pleased to be here today. As you probably know, the institute is a national authority set up under legislation to ensure that we have a sound evidence base for policy in moving forward. I have here with me today two subject matter experts on our different collections and also our medical adviser, Dr Paul Magnus. We have two particular collections within the institute that are of relevance here today. I will hand over to each of the relevant people to talk about those collections; each is of a different nature. One is a survey that is carried out every three years, and the last data that we have available for that is 2004. That is the National Drug Strategy Household Survey. The second is a different nature of data; it is an administrative collection, the by-product of administrative services. It is a public sector treatment services collection, and that is the alcohol and other drug treatment services collection. I will also hand over to the relevant people to tell you a little bit about that collection. Thank you very much, Mr Cooper-Stanbury.

Mr Cooper-Stanbury—Good morning. We have managed the National Drug Strategy Household Survey in the AIHW since 1998. This is a national survey of household residents. Since 2004 it has involved those 12 years and over. Previously it has been 14 years. The results that we will discuss today relate to those 14 years and over. The survey is designed to determine community prevalence of tobacco, alcohol and other substances. The latest survey, as Dr Allbon said, was in 2004. It showed that 3.2 per cent of the Australian population aged 14 and over had used amphetamines in the past 12 months. That is our preferred measure of drug use—use in the past 12 months. There is also a lifetime measure, and perhaps monthly and weekly, but the last 12 months seems to be most sensitive to policy interventions and the most easily understood in recall and other issues around the survey methodology. So it was 3.2 per cent for amphetamines. There has been a slight decline in prevalence as measured through this survey since 1998. You are interested in ecstasy and the other drugs as well, I understand. The general prevalence of ecstasy use was slightly higher.

CHAIR—Is ecstasy not classed as an amphetamine.

Mr Cooper-Stanbury—It is a slightly different class of drug, but it is under that title of amphetamine and other synthetic drugs.

CHAIR—But we are interested.

Mr Cooper-Stanbury—The general prevalence of ecstasy use was slightly higher, 3.4 per cent, or around 560,000 Australians saying that they had used it in the past 12 months. We have seen an increase in ecstasy use since 1998. The prevalence of the other drugs of interest: cocaine, ketamine and GHB—I hope someone has explained these to you before—is much lower in the national prevalence. The figures were cocaine, one per cent; ketamine, 0.3 per cent; and GHB, 0.1 per cent. This is of the population aged 14 and over. It is important to consider the results of this survey series along with that from other sources. As we go into households in the community, we are not necessarily getting at the sort of dependant or very heavy users, so we need to look at this data in the context of others from the Australian Secondary Schools Alcohol and Drug Survey; the Illicit Drug Reporting System—you may have heard of that from the National Drug and Alcohol Research Centre; the treatment minimum data set, which my colleagues will talk to you about shortly; and other collections like the drug use among arrestees survey and drug use careers of offenders. You will hear from the Australian Institute of Criminology, I expect, on those two.

Today we have tabled with the secretary an extract of published national results. Depending on your interest we would be happy to take questions away and do some further analysis of these collections. The next survey is scheduled for 2007. We are currently discussing with the Department of Health and Ageing arrangements for undertaking that survey. We would be happy for anything that comes out of this committee that could inform the design and content of that survey. I will leave my introductory comments there.

Ms Psychogios—The collection was implemented in all states and territories on 1 July 2000 following endorsement by the National Health Information Management Group in late 1999. The collection reports on all closed treatment episodes for people accessing government funded alcohol and drug treatment services. The most recent data are those that have been published for 2003-04. For amphetamines it shows that there are over 14,000 episodes, or 11 per cent of all treatment episodes, for people nominating amphetamines as their principal drug of concern. Of these, over two-thirds were for male clients and the most common age group was the 20- to 29-year-old age group. That accounted for nearly 50 per cent of treatment episodes. We are tabling, as Mr Mark Cooper-Stanbury said today, this document which includes analysis from the National Drug Strategy Household Survey and also those from the 2003-04 collection. But we have also, for the purposes of this inquiry, re-analysed three years worth of data from the collection to show the profile of clients in the amphetamines and other synthetic drug categories, so it includes those accessing treatment for ketamine, GHB, LSD and cocaine. We have compared those against clients seeking treatment for all other principal drugs of concern. The 2004-05 NMDS report is scheduled for release in late July and we will be happy to provide the committee with a copy of that report if you think it would be useful. We thank the committee for the opportunity to contribute to this inquiry today.

CHAIR—Thank you. Your survey is well regarded, but do you have a feel for, or some evidence or some research on how accurate it actually is? Do people tell the truth when they are talking about their drug consumption?

Mr Cooper-Stanbury—That is a fair question. We do not have any objective evidence that what we collect in the survey is actually what is going on. We can get at it indirectly via the triangulation method that I mentioned. There are a number of other sources of information on the same sorts of behaviours. When they are all showing up the same sort of thing using different methods, then you can get an indication that the survey is working as well. There are some other techniques and we have toyed with trying this next time, which is to put in an artificial drug and see whether we are getting bogus responses to that. You could then calibrate one against the other. I understand that has been done in Australia before, but it has not been done in the three years that we have managed the survey.

Then there is the correlation of the self-reporting data with some of the other data. When the heroin shortage occurred in 2001 we saw a radical drop in the self-reported use of heroin. So we just have that sort of correlational evidence that what is being reported in the survey is happening in the real world. The other aspect of this, putting on a slightly different hat, from a surveillance perspective, is that what we are trying to do is look at trends. Regardless of what we are measuring, the issue is, if the same phenomena are happening across time, then we are seeing the change—and that I think is the greatest value in this survey.

CHAIR—How do you actually do your survey? We are all politicians; we are very interested in polling and surveys.

Mr Cooper-Stanbury—It starts off with a policy statement that comes out of the Department of Health and Ageing, as the principal policy department. They engage in a consultation program that takes in information from a number of stakeholders, including the national research centres, which you have had some discussions with, plus people working in the field. I will not go through the whole range; I do not know them all. They deliver us that policy statement. We then convene a technical advisory group, which converts or translates that policy statement into design and content of the survey. So we have this group and we very much build on previous waves. As I said, the time series is so important, so we do not want to throw any of that out, but we are also trying to improve it as we go. So the actual mechanics are that we use what we call a multistage stratified clustered design.

CHAIR—One of them, yes.

Mr Cooper-Stanbury—They are the sort of thing you keep in your back pocket all the time. Basically, that means that we are going to many areas all around the country, but we go into a particular suburb chosen at random and we interview in 17 houses or thereabouts in each one of those suburbs.

CHAIR—It is face to face, is it?

Mr Cooper-Stanbury—We make contact with the household and leave them a questionnaire—it is only 54 pages long—and we say we will be back in two or three days to collect that. If that has not been completed by the time the interviewer comes back then we leave another envelope with them and they have more time to fill it in and then they send it back. That is then collected in a central place. It is all of course done very confidentially. The results are collated, coded, inputted into a computer and that computer file is delivered to the institute for analysis.

CHAIR—Do people say, 'Taking drugs is illegal; you are subjecting yourself to three years in jail, so I am not going to answer this—they know my house, they know my address and they might snitch on me to the police.'

Mr Cooper-Stanbury—Understood. We do not record their names or addresses on the form so, yes, the field worker who goes out knows the house that they have gone to, but they have no way of associating that form with that house. Certainly, once it gets back into the field office there is no connection with the address at all. We ask people to leave their first name on the back page so that we can have an audit follow-up interview. That is just a quality control check so that a supervisor can ring and say, 'Did the interviewer do these sorts of things?' That is part of our quality control. The second thing is that this survey is now done under the institute's act. The institute's act has very strong powers of protection of personal information, so we have put on the front here, 'Section 29 of the AIHW Act prohibits the release of information about individuals collected in the survey.' That prohibition extends to a court of law or a parliamentary committee. So once that information is collected under our act it is completely locked up.

CHAIR—Thank you very much for that. I might ask the deputy chairman, Mr Kerr, whether he has some questions to start off the questioning.

Mr KERR—I suppose it is about comparison methodology. We read stories in the press saying, for example, that Australia has the highest use of amphetamines on a global basis. The UN report, I think, suggested that. Would similar methodologies underlie the collection of data in other jurisdictions, or are we comparing apples to oranges quite often in terms of these reported comparisons?

Mr Cooper-Stanbury—By other jurisdictions, do you mean in other countries?

Mr KERR—Yes.

Mr Cooper-Stanbury—We would have a survey most similar to that in the US. They use a computer based interview. The interviewer stays in the house at the time but is not part of it. So it is a self-completing interview. Like ours is paper based, theirs is computer based; and they use the same sort of clustered design. So lining up the methodologies, we would be most close the US. The British do theirs as part of a national crime survey. The Canadians have an infrequent survey and their tobacco survey is done by a telephone interview. We know that you get results two or three percentage points lower with telephone methods than with household based methods. The New Zealanders have a similar survey to ours. It is run out of a university rather than through a government agency. Sorry, the US one is also run through a contract with a university, the Research Triangle Institute. I think those four other comparators that we are interested in are using similar enough methods. You are right, the UN report says that we have the highest prevalence and we are almost getting bashed up because we have a good response rate and people are happy to admit their drug use. But in answer to the senator's original question: we think we are doing all right in our survey methodology. We have no way of knowing whether the other countries are not doing so well and are therefore not ascertaining the levels of use that we are.

Mr KERR—I suppose it is comforting that people still have enough belief in protections of the kind that the act provides and, the same as census data, people feel confident that they can provide—

Mr Cooper-Stanbury—Yes.

Mr KERR—I guess you would still expect some minor under-reporting because people might have that suspicion. Do you believe that or—

Mr Cooper-Stanbury—Absolutely. There will be some under-reporting, but it is more the case that we will get a complete non-response rather than under-reporting on any questions. Once somebody undertakes to do the survey we believe they will do the whole thing and they will do it honestly. There will be a little bit of skylarking amongst the very young, but this method is probably less prone to that sort of skylarking than the school based survey is, where you have everybody lined up in their classroom all doing the survey at the same time; whereas this of course is in the privacy of your own home. We encourage our younger people to go away from their parents to do the survey. We have no control over the parental supervision of that

survey, but we do encourage them to try and get away and do it on their own. It is, if you like, a double-edged sword. We try and get the accuracy as best as possible, but it will have overheads.

Mr KERR—One of the issues that has been raised in this committee is that there are shifting patterns of drug use. We have not yet made any conclusions about this, but it has been suggested that particular forms of amphetamines may be of greater risk to health and have greater harms associated with them. In particular, people have been talking about ice and various other forms of more potent amphetamine or producer drugs, designer drugs. Are you looking at disaggregating some of these issues further, because amphetamines is a broad brush? You have broken up amphetamines and ecstasy, I understand, in the past. Are you going to dig down? If you have a 54-page survey, there must be some point at which digging down becomes counterproductive—people simply say, 'I am not going to do that anymore.'

Mr Cooper-Stanbury—Already the survey asks what form of methamphetamine the respondent uses and they can nominate multiple forms. In a thing that we have tabled, of which I probably do not have a copy any more, we have a table on form of amphetamine use. Most of it is the powder, the classic speed. In 2004 74 per cent reported using powder; 38 per cent, crystal, which is the ice form; 26 per cent, base—and I do not know whether you have ever seen these things; that one looks like earwax and I do not know how anyone would contemplate consuming it; 11 per cent, tablets, which is probably prescription, dexamphetamine or the like that they have acquired; and 9.1 per cent, liquid. So the powder, the speed form, is definitely the most common, but the crystal is at 39 per cent.

Mr KERR—One of the significant submissions that we have received, or one of those that take a slightly different view, was from the Australia Institute, which does make some criticism about getting a handle on those trends. They suggest the household survey is not particularly useful in terms of disaggregation and looking at more potent methamphetamines having to rely on surveys with party drug and injecting drug users. So you would disagree with that critique?

Mr Cooper-Stanbury—No, I would agree. I refer back to my comments in my opening statement that our survey is one component of the suite of information that we need to understand this. The party drug initiative and the Illicit Drug Reporting System go to seasoned drug users. You are probably going to access a different range of behaviours than we can access through a household based survey. For something like, say, barbiturates—although we have very little use of that—benzodiazepines and maybe cocaine, we are probably capturing the typical user through a household based survey. But for the more dependant users of, say, ecstasy and methamphetamines, you might be best getting them through a party drug scene, which is how the Party Drug Initiative Study works. I reiterate that it is about bringing all these sources together to give a whole story, and we are not saying that ours should be used exclusively from others. It is about the whole suite of information.

Mr KERR—I know my colleagues have lots of questions, so I will not stay too long, but one area where the assertions about drug use differ—in many areas they are congruent but people draw different conclusions—is about injecting drug use. In the submissions we have the Australia Institute says about 0.5 per cent of the population is willing to self-inject. Families and Friends for Drug Law Reform put that at about two per cent. Do you have any information or view? Is your data helpful in resolving that conflict?

Mr Cooper-Stanbury—Our survey says that between 0.4 per cent and 0.8 per cent of the population are injecting drug users, so it is lower than both of those. But if you asked amphetamine users or heroin users, of course 70 and 80 per cent are injecting those. It just depends on who are asking; you are going to get a different prevalence amongst that population. But the community prevalence of injecting drug use is very low: it is under one per cent and has been for a long time.

Ms Psychogios—If I can follow on from Mr Cooper-Stanbury's response: in the administrative services collection we ask a question on method of use, and people nominate the main method of administering their drug of concern. The results from the collections show that over three-quarters of people nominating an AOSD drug inject their drug compared with 20 per cent of all other drugs of concern. But we also have another question specific to injecting drug use, and that shows that over 63 per cent of amphetamine users inject drugs compared with 22 per cent of all other drugs. So it shows of current users getting treatment that there is a lot more who have amphetamines as their principal drug of concern. Conversely, of people who have amphetamines as their principal drug of concern, only 11 per cent reported never having injected drugs compared with 47 per cent of those with other drugs of concern.

Mr KERR—I am hearing different stories that cannot be accurate, if I understand this right. If only 0.6 per cent of the population are injecting drug users and 3.2 per cent are using amphetamines, you cannot have 60 per cent of amphetamines users injecting. So something must be wrong.

Dr Allbon—The issue here is that we are talking about the whole population. Mr Cooper-Stanbury is talking about the whole population. So, of the entire population, you and I included, 0.6 per cent is the relevant number who actually inject drugs. But Ms Psychogios is talking about those who go into treatment services.

Mr KERR—All right. So this is people who are problematic, problematic drug use.

Dr Allbon—People who use the drugs in a problematic way are more likely to be injecting.

Mr KERR—Just so I get the picture in my head, and to confirm what must be obvious now: the majority of people who actually use amphetamines are not injecting; they are using them through pills or some other mechanism—sniffing or what have you? It is inconsistent to say that 3.2 per cent of the global population are using amphetamines and there is a cap on the number of persons in the community at 0.6 per cent who are using injecting as a means. It is impossible to have those two data unless the majority of amphetamine users are using it in non-injecting means.

Mr Cooper-Stanbury—I would need a Venn diagram on a whiteboard, I think.

Dr Magnus—I do not think it is inconsistent, but it is difficult to explain.

CHAIR—Perhaps you could come back to that. You said you could come back to us.

Dr Magnus—Yes.

Mr KERR—But it does seem to me impossible, as a matter of logic, to have a group of 3.2 per cent—32 in every 1,000—being amphetamine users, and six in every 1,000 being injecting drug users, and then to have any conclusion other than most amphetamine users do not self-inject.

Ms Psychogios—It is actually not six in every 1,000 injecting drug users. As Dr Allbon mentioned, it is of the treatment population, and there were 14,000 closed treatment episodes where amphetamine was a drug of concern. It was 63 per cent of that 14,000 who reported being current injectors, which may, thinking outside the square a bit here, actually mean that it is more hardcore drug users, amphetamine users, that are actually seeking treatment—so those who are injecting are those who are actually seeking treatment, which may show the recreational use of the drug.

CHAIR—I think we had better move on. We might start with Mr Richardson and then go down the table for the next lot of questions.

Mr RICHARDSON—From your survey, and therefore your analysis, how does the alcohol addiction versus drug addiction in Australia compare and is there any significant age of category where that occurs more regularly.

Mr Cooper-Stanbury—Our survey does not ascertain alcohol addiction. We adopt the language of the NHMRC, which is about risky and high-risk alcohol use, and there are two types of that. That relates to short-term episodic drinking, and therefore the harms that come from just being intoxicated at that point, and the long-term drinking, or the accumulated toxicity as you are drinking over many years. Sorry, I did not bone up on alcohol but I have it here. Overall it is about one in ten adults, 14 and over, drink at risky or high-risk levels on a long-term basis. Then up to 30 per cent, or one in three, could be having a high risk on a short-term basis in any one year, I think it is. So it is 30 per cent at any time in the last year have had a risky or high-risk drinking episode, but probably more like one in 16 on a weekly basis would have a high-risk drinking episode. So it is seven or eight per cent as opposed to three per cent who have used amphetamines, say in the last 12 months. If we go to the weekly use of amphetamines, it is much lower than that: in the last week 0.6 per cent of the adult population have used amphetamines.

Mr RICHARDSON—You said the amphetamine users in the 20- to 29-year-old group are the regular users.

Mr Cooper-Stanbury—The peak, yes.

Mr RICHARDSON—Is there an age for alcohol—either high-risk or addiction?

Mr Cooper-Stanbury—Again, we cannot get at addiction or even dependence from our survey. There are other surveys, not done recently, that attempt to get at that. Alcohol is more flat. Risky or high-risk use would still peak in the 20- to 29-year-old group, but it has a much longer tail. Amphetamines come up for the group in their 20s and then really drop off, whereas risky alcohol consumption carries on—it drops a bit in the 60-plus group, but still the peak is in that same group.

Mr RICHARDSON—Similarly, 14- to 15-year-olds would be starting to drink more frequently or regularly than using amphetamines. Is that right?

Mr Cooper-Stanbury—Yes. That is right. Use of amphetamines amongst young people is very low—0.7 per cent of 12- to 15-year-olds—whereas 3.3 per cent of 12- to 15-year-olds had a drink on a weekly basis. We do not have the risk analysis handy, but I can get back to you on that.

Mr RICHARDSON—Thank you. I also noticed in your submission that you said a fair proportion of drug users cannot be fully aware of the particular drug they are consuming. To what extent do you believe that is a problem?

Mr Cooper-Stanbury—Again, I go back to the thing I was saying about surveillance. I guess that what we are surveying is the behaviour of people taking something they think is ecstasy. That comment in the submission was about ecstasy. People who are at a party buy a drug that it is being sold as ecstasy, but they do not know—and perhaps even the vendor does not know—that it is ecstasy. What we are measuring is that behaviour of buying and consuming something they think is ecstasy. So the comment just went to exactly what it is; we are just trying to report on that behaviour rather than worry about what exactly it is. I have not answered your question.

Mr RICHARDSON—Is it correct that the chemical make-up of each individual varies somewhat, such that, if Duncan Kerr and I each take one ecstasy tablet, I may be fine but Mr Kerr may not be?

Mr Cooper-Stanbury—I cannot comment on that.

Dr Magnus—I think that would be the case, but they often have effects in common, as we all know. These drugs tend to have a stimulant effect, but they may have a different degree of effect on different people.

Mr RICHARDSON—That leads me to my final question—I know that Senator Ferris would probably ask it, but I might as well ask it now. Is there any evidence that pill testing at rave parties or nightclubs encourages drug use and, in your opinion, is it of any advantage or disadvantage?

Mr Cooper-Stanbury—I cannot comment on that.

Dr Magnus—I have no idea.

Senator FERRIS—Many of the questions that I am interested in have been asked, but I would like to explore one issue in your 54-page survey. Do you describe the drugs by names that are recognisable on the street, or do you use their chemical names? I am concerned that some kids know things as party drugs but may not recognise that they have other names.

Mr Cooper-Stanbury—I will read out the question: 'Have you ever used tranquilisers or sleeping pills for non-medical purposes, for example benzos, temazzies, tranqs, sleepers, valium, serepax, serries, mandrax, mandies, rohypnol, rohies?' Then we go on to 'steroids, roids, juice, gear'. The amphetamines question asks about 'crystal, whizz, goey, go-go, zip, uppers, ice,

amphet, meth, ox blood, leopard's blood, MDMA, methamphetamine, eve, chabu'. We update that list each time we do the surveys. The street language changes and we get advice from our reference group on that.

Senator FERRIS—I think that is probably all I wanted to know. I was just concerned that if you asked about the drugs by their chemical names it would be quite likely that the kids would not know.

Mr Cooper-Stanbury—Absolutely.

Senator FERRIS—I am interested to know to what extent they understand how dangerous these drugs are, but that is probably not something you ask in your survey.

Mr Cooper-Stanbury—No, it is not; but it is one of the ethical issues. I forgot to explain that we have an ethics committee that sits over this survey as well. In fact, we have two. We have the institute's ethics committee and the Department of Health and Ageing as the primary funder. One of their issues is that just by asking these questions we may be exposing young people to the drug culture that they would otherwise not be exposed to. That is a concern of our ethics committee, so we have to be very careful about how we approach those young people and what we explain to them. We have a section at the front of the survey which asks people to nominate drugs they think are a drug problem, without explaining what that means. We ask them which drug is perceived to be the most serious concern for the general community and which drug they think kills the most people. The response is that heroin is of most serious concern and has been so for a long time. Heroin is the drug most associated with a drug problem. Heroin is seen as the most serious concern for the general community, but so are excessive drinking of alcohol and tobacco smoking. Drugs were thought to cause, directly or indirectly, the most deaths—half the people get it right by nominating tobacco. Of course, 100 per cent should know that it is tobacco. Amphetamines were nominated by two per cent, and opiates by 13 per cent, as causing the most deaths. It is not a bad distribution actually. The distribution of people who think each one of these is right is about what the causes are.

Senator LUDWIG—I note that, in the range of areas that you look into, it is primarily statistical analysis and research. You also make recommendations to the minister on both health and welfare. It is certainly one of your functions that you are able to do. Have you made any recent recommendations to the minister for health in this area, particularly in relation to the household drug strategy—the rising statistics, at least, being reflected with MDMA and others in that household survey?

Dr Allbon—Our role in Australia's health system is to be that evidence base, and we are very conscious that the policy makers sit in government departments responsible for the policy. In this case, the Department of Health and Ageing is the policy maker and we provide information to them. I think it is very important that those who know the data well can talk with the policy makers, because that interaction very often produces some very good results. But we do not make recommendations on policy.

Senator LUDWIG—I do not think I asked that, but it is an interesting answer. In section 5 of the act that you work under, there are two parts—health and welfare. Under those two parts, if you go all the way down past statistical information, there is also an area that suggests you can

advise the minister directly about issues more broadly than just providing a statistical table and saying, 'Work it out for yourself.' You do more than that.

Dr Allbon—We do.

Senator LUDWIG—You do statistical analysis and you also do research on a range of topics.

Dr Allbon—Yes.

Senator LUDWIG—So you do have the capacity to make recommendations—and the act says that you can make recommendations, as I understand it. Do we agree thus far?

Dr Allbon—I am not clear about the recommendations.

Senator LUDWIG—What word would you use? Advice?

Dr Allbon—Analysis and, yes, advice.

Senator LUDWIG—All right, we will settle on the term 'advice'. We do agree that under section 5 of your act you are able to do that. Am I still with you on that?

Dr Allbon—Yes, you are.

Senator LUDWIG—Okay, so I will ask the question again. Have you, in respect of the household survey, which reflects a rise in usage of MDMA and other drugs, provided advice to the minister about your findings?

Dr Allbon—Not advice of the nature you mean, no.

Senator LUDWIG—Why would you not? I do not know whether it would concern you—it certainly concerns me—but do you just do statistical analysis without concern, or is that part of your function as well?

Mr Cooper-Stanbury—Certainly all of our reports are provided to the minister with a briefing from us and the Department of Health and Ageing. We do that in partnership with the department. The minister is not ill-informed as a result of our survey work and analysis, but Dr Allbon is saying that we have not made direct recommendations about responses to those data. I may be speaking out of school, but it has not been our practice to do that sort of direct policy advice.

Dr Allbon—It has not been our practice, and I believe the Department of Health and Ageing would see that as its key role. I have only been in the institute for the last three months, and it is certainly not something we have explored in those three months. But I think it is important that our information gets out there and that it is used as the evidence base. I stress what I said before: the interaction of those who know the data well and the issues that the data throw up with those who know the policy and the policy directions has a very important role to play. It is an interaction that we hope to use increasingly, and we do currently use it.

Mr Cooper-Stanbury—It might be also worth saying that a number of us get to be on committees, steering groups and reference groups for policy formulation exercises. For example, I was recently, with my supervisor, on the National Cannabis Strategy reference group. So we are taking our expertise from the data point of view and putting it into those policy documents, but we do not give direct advice to the minister.

Senator LUDWIG—Section 5(1)(k) of the act says that the institute's welfare related functions are 'to make recommendations to the Minister on the prevention and treatment of diseases and the improvement and promotion of the health and welfare awareness of the people of Australia.'

Dr Allbon—As I said before, I have been in the institute for three months. In the past, those parts of the act have never been seen by the institute—nor, I believe, by the Department of Health and Ageing—as part of its role. You certainly raise an issue that we would be happy to discuss with the department—and with the minister, for that matter.

Senator LUDWIG—It is an open question in the sense that it is certainly one of your functions. But you do not do it?

Dr Allbon—We have not, to date, done it in that fashion, no.

Senator LUDWIG—What do you mean by 'in that fashion'?

Dr Allbon—Making what essentially would be recommendations about policy.

Senator LUDWIG—That is your view that it would be about policy, but it would be recommendations based on the research that you have found and on suggested courses of action. You say that is policy, but I do not know whether that precludes you from making a recommendation about the material you find.

Dr Allbon—Let me clarify that. I am sure that that is the reason why in the past 10 years the institute has not gone in that direction. I hear what you are saying, and, as somebody who is new to the institute, I have no doubt that it is something we will be exploring.

Ms Madden—I think the view in the past has been not that the institute had any lack of desire to be policy relevant but that the mechanism that was seen as being useful was to work in partnership with policy departments—not only Commonwealth ones but also on national groups and national committees. For instance, with the treatment collection, we have worked closely with national governments and governments in all jurisdictions. We work at a policy and data interface. Our philosophy in the past tended to be that we worked in partnership with the policy departments to ensure that the data were fully understood but did not set up parallel policy advice channels.

Senator LUDWIG—That is interesting because it is the next area I was going to ask about. So that is a helpful lead in. The subject areas range from alcohol to other drugs and, unless you wanted to add any other areas that you look at, that is about the strength of it. That is obviously part of the committee's brief.

Dr Allbon—In relation to this committee.

Senator LUDWIG—So that would interface with the Department of Health and Ageing program, which goes a little further. Their programs also go into the National Drug Strategy. They also have the Illicit Drug Diversion Initiative, and that is quite a large block of money. Do you work with the Department of Health and Ageing in the Illicit Drug Diversion Initiative and/or with the Australian Federal Police, the ACC and the various state court systems as well in developing research statistical analysis for their use plus recommendations?

Dr Allbon—We certainly do work with the department and with all the state and territory jurisdictions. The National Drug Strategy, which was owned by the state, territory and Commonwealth jurisdictions, was the owner or the parent of the treatment services national minimum data set that we have set up. That was created to meet the needs of the National Drug Strategy—or under the needs of the National Drug Strategy. We certainly work closely with the Commonwealth government on any information needs that they have for the illicit drugs strategy.

Senator LUDWIG—So it is a provider of information upon request?

Dr Allbon—It is a provider of information on request. One of our frustrations is that we are limited to being the provider of information on request—

Senator LUDWIG—Looking at your functions, I am not so sure I agree with you

Dr Allbon—Sorry?

Senator LUDWIG—If you look at the broad stretch of your functions, I am not sure I entirely agree.

Dr Allbon—I think you might have misinterpreted me. What I am saying is that, within our resources, we do not have the opportunity to—

Senator LUDWIG—That is always a limiting factor.

Dr Allbon—to undertake independent analysis or research. Our growth over the last 10 years has been in contract work. We do it for a particular funder who wants to know something. That is another reason that has constrained what we might want to do of our own accord.

Senator LUDWIG—Can you take it on notice to provide an overview of the work you may have done with the AFP, the ACC and the various state police and other bodies in respect of the Illicit Drug Diversion Initiatives? If it is confidential you can say that it is confidential material and not provide it, or you can at least indicate that it does exist—unless that is confidential in itself—and advise the committee of the nature of the research or information you provide to those bodies.

Dr Allbon—Yes, we can do that.

Ms Madden—It is probably best to come back to you on that, and then you can ensure that it is exhaustive.

Senator LUDWIG—All right. Thank you very much.

Mr Cooper-Stanbury—Everything we do goes into the public domain, so there is no bit of work that we would not be able to tell you about. I do not think this list is going to be very comprehensive. I want to reinforce the fact that this survey and the treatment collection are very much a collaborative arrangement with the Department of Health and Ageing and the state and territory jurisdictions. This is the National Drug Strategy Household Survey. It taps into the policy directions and interests of the Ministerial Council on Drug Strategy. I believe that is health, law enforcement and Australian government education ministers. It is a very broad-based thing. We work in partnership with all of those agencies in developing, analysing and reporting on this survey. We are not doing this in isolation. It is very much a partnership arrangement.

Senator LUDWIG—I do not think anyone is cavilling with that. I am just exploring at the edges.

Mr KERR—Senator Ludwig is doing something quite unfair. He is requiring you to actually refer back to your act, which is an outrageous proposition on his behalf!

Mr HAYES—I am interested in those who have been introduced into the drug scene. One thing that prompts me on this is the level of correlation between material gathered by the household survey and the data that has been gathered at schools, for instance.

Mr Cooper-Stanbury—Again, I did not fully brief myself on the results of the school survey, but we certainly get consistent pictures. The general pattern is of the softer drugs being used more than the hard drugs. The so-called Australian secondary schools alcohol and other drugs survey went into all types of schools and interviewed people aged between 12 and 17. We have an overlap. We got very consistent results, as I said, on general patterns, age of initiation, use and the like. It is all about that triangulation that I referred to.

Mr HAYES—Are we able to define with any degree of certainty what determines the drugs of choice for the various age groups? I understand the position about kids and possibly alcohol usage, but you have made mention of the issues of partying and all the rest of it, and I suppose that starts to fall into different age categories. Is there anything that assists the various other agencies to determine the drug of choice that is being developed? Is the market based on whatever is being sold et cetera?

Mr Cooper-Stanbury—In our survey just recently—I cannot remember whether it was this one or the one before—we did have a question about what influenced young people to take up drug use or not take up drug use. I can give you more results on that. One of the things we did observe in the survey, though, was that there are different markets in Australia. It is jurisdictionally based, so amphetamine use is higher in some states than in others, for example. I have a crib sheet here.

Mr HAYES—Is there a discerning quality amongst those taking drugs? What are they seeking to achieve? Or is the market simply based on what is being sold?

Mr Cooper-Stanbury—I cannot answer that from the material that we get, but I am aware of some research that the Department of Health and Ageing commissioned as part of their formative research for a youth illicit drug campaign. Maybe you can follow this up with the department when they appear at 11 o'clock. Blue Moon Research has interviewed 15- to 17-year-olds very much around the cultural and sociological environments that cause them to take up drugs or not take up drugs. There have been some very interesting findings from that.

Mr KERR—I would like to know about the difference in drug patterns in the different jurisdictions.

Mr Cooper-Stanbury—I have a whole report on state and territory differences. I will not try to summarise it now, but I will organise to leave a copy for the committee. I did have, as I said, one summary sheet which says that amphetamine use is high in WA, the ACT, South Australia and the Northern Territory and low in Tasmania; and that ecstasy use is high in the ACT, WA and the Northern Territory and low in Tasmania. It ranges from six per cent in the high-use states to below one per cent in the low-use states.

Ms Madden—I would like to add something which I think is relevant to the question and relates back to what Mr Cooper-Stanbury said earlier about the need for a suite of information sources to ensure that the policy makers obtain the different aspects of information they need—and this is also relevant to Senator Ludwig's questions. One of the projects that we have just completed was an assessment of data sources on drug use among Aboriginal and Torres Islander peoples, about which we have made a series of recommendations to the intergovernmental committee on drugs. What you have said about the market and being aware of emerging markets was an issue of concern raised by a number of people that we talked to in that project. Three-yearly surveys sometimes are not picking up the subtleties of emerging markets and the effect they have on changing the patterns of drug use quite quickly, so one of the recommendations, in this report was that, in addition to improving surveys and longer term data sources, some sort of environmental scan of a community should be carried out in order to pick up some of those market forces issues more rapidly and to enable more rapid responses.

Mr HAYES—It would certainly help the various agencies out there—law enforcement agencies always talk about illicit drugs and then simply go and prosecute those found to have been in that business—if there were something that could be gained from people making discerning decisions about what type of drugs they move to. There may be a slowing of injecting drug use at the moment, but there are so many others out there. Do they take whatever is out there, or are they discerning enough to go down a particular path and ask, 'Is it going to be ice or is it going to be something else? Are they making those decisions and, if so, why? I just think that sort of information would help other agencies in coming to terms with a number of things.

Ms Madden—In making this recommendation, I do not want to get into speculating on the basis of the anecdotal evidence we heard in the course of this work. In making that recommendation, we were responding to what a number of people said, which was that what was available on the market had an effect on a number of Aboriginal communities.

CHAIR—We could go on and on for most of the morning, but time will not allow us to do that. Thank you very much for your attendance today, Dr Allbon and your team. We very much appreciate your input, the material that you have left with us and the other bits of material that

you are going to leave with us. We are going to ask if you will take a couple of questions on notice from Senator Ludwig. I have not seen them, so I hope they are not political. I am sure they will not be.

Senator LUDWIG—No. They are inquiry questions.

[10.05 am]

MACINTOSH, Mr Andrew Kerr, Deputy Director, Australia Institute

CHAIR—Welcome. We appreciate your input into this inquiry. Having lodged a submission, you are obviously aware of the terms of reference. I invite you to make an opening statement before the committee members ask questions.

Mr Macintosh—Thank you for giving me the opportunity. This is an issue of tremendous public importance and I hope the committee can have a positive influence on the direction of policy responses to it. The rise in amphetamine type stimulants in Australia over the past decade should come as no surprise. The history of drug markets, both here and abroad, is one of constant fluctuation. As one substance has risen in popularity, another has declined. Drugs like alcohol, nicotine, cannabis, LSD, heroin, MDMA and amphetamines have all had their peaks and troughs over the last 100 years.

In the late 1990s in Australia heroin dominated the hard drug scene as a result of a glut in supply. Prices declined, availability rose and usage increased, resulting in a dramatic increase in heroin related harm that saw the number of opiate overdose deaths exceed 1,000 in 1999. However, even when the heroin market was at its height, the police and other drug analysts were warning that methamphetamines would swamp the market in the coming years. This prediction came true. The heroin market fell away significantly in 2001 while the amphetamine market took off. Heroin remains Australia's greatest killer, with opiate overdose deaths numbering around 350 a year, yet the popularity and availability of methamphetamines has created a new range of drug problems, including a rise in methamphetamine dependence, amphetamine related violence and mental illnesses.

The question I would like to focus on is not so much the patterns of methamphetamine or stimulant use or even the health effects of these drugs but what is the best method of minimising the harm associated with these drug markets. All Australian jurisdictions currently have adopted a strict prohibition regime in relation to illicit stimulants. This means that the manufacture, import, supply, possession and use of these drugs are crimes carrying harsh penalties. This prohibition approach rests on what is called the deterrence theory. This theory assumes that people's decisions are a product of rational processes whereby the costs and benefits of a proposed course of action are meticulously weighed before an action is taken. Consequently, by increasing the costs associated with supplying and using drugs as well as the probability of these costs being incurred, prohibitionists believe that we can reduce the size of drug markets as well as drug related harm.

There are two fatal flaws in this theory. Firstly, decisions regarding drugs are rarely made through a thoroughly rational process. People tend to concentrate on a small number of factors like the benefits and neglect others like the consequences in deciding whether to take or even supply drugs. Therefore, increasing penalties or other drug law enforcement tends to have only a minor suppressive effect on illicit drug markets. The second fatal flaw is that prohibition has many negative effects on society as well as drug markets. Notwithstanding the logic of deterrence theory, strict drug laws and law enforcement appear to have both an expansionary and

contractionary effect on drug markets. To some people, harsh penalties may deter them from using or supplying drugs, yet amongst other groups the effects can be the reverse. I will give some examples.

Firstly, there is a forbidden fruit effect amongst some users whereby the risks associated with being caught can heighten the enjoyment that some people obtain from using drugs. Secondly, making drugs illegal can force experimental drug users to interact with harder drug users. As the experimental users become socialised with the harder users, the patterns of drug use escalate. A third factor is that by arresting and punishing drug users you cause employment, relationship and housing problems, which are all linked to drug misuse disorders. By increasing the incidence of these problems, you also increase the risks of drug abuse.

Strict drug laws and drug law enforcement cannot only increase the size of drug markets but also magnify the social costs associated with them. Again, I will give some examples. Firstly, when enforcement pressure is applied to users, it can result in greater risk-taking behaviour, like binge consumption, intravenous drug use, needle sharing and a refusal to seek medical assistance when problems arise. Only last week I was discussing the issue of sniffer dogs and raids being conducted in nightclubs in Sydney. They were telling me that one of the common responses of these drug users to these raids was for people to simply consume all the drugs they had on them. Another issue is that, as I have detailed in my submission, strict drug laws appear to be associated with increased potency in illicit drugs that are made available. A third factor is that strict drug laws can obstruct the development of effective prevention and treatment programs. They can also cause corruption.

In an acknowledgment of the adverse effects of prohibition on drug users, diversion programs have been introduced to try to ensure drug users who are apprehended are given access to treatment options. This sounds a sensible in theory. The idea is that you use the turmoil created by apprehension or prosecution to change a person's drug use behaviour. It is a model that has been applied in Sweden for many years. Unfortunately, while diversion programs are better than strict prohibition, they suffer from several weaknesses. They are expensive, there is no clear evidence that compulsive treatment improves treatment outcomes, they often result in the diversion of people that do not have a substance misuse disorder to treatment and the positive effects of the programs are often undermined by their limited reach, net widening and the inability of drug users to adhere to the terms of the program because of the chronic relapsing nature of substance misuse disorders.

The starting point for an effective drug strategy is accepting that the supply and use of illicit drugs is inevitable. A certain proportion of the population enjoy using drugs, and their behaviour will not change significantly as a result of law enforcement. It is now patently clear also that no amount of supply side drug law enforcement can put a notable dent in drug markets. This is not a critique of law enforcement agencies. I have no doubt they do their job professionally and effectively. However, they have an impossible task and they are bound to fail if the prime responsibility for minimising drug harm is placed on their shoulders. If these facts are accepted, it becomes clear that the nucleus of drug strategies must be prevention and treatment programs rather than law enforcement. By that I mean that the lion's share of funding must go to prevention and treatment and that the needs of these programs must be placed above those of law enforcement.

At the moment around 80 per cent of government resources are spent on law enforcement. Most of this is tied up in chasing down drug users rather than suppliers. Even when suppliers are targeted, it tends to be low-level street dealers who get caught. In many cases, the street dealers engage in trafficking to finance a drug habit. Police tend to catch the Mr and Mrs Smalls of the drug industry, not the Mr and Mrs Bigs.

In stimulant related prevention programs, the emphasis must be on peer based education programs targeting problem users and at-risk groups. Broad social based social marketing programs like the recent federally funded advertising program appear to have had very little impact on those who are most likely to encounter stimulant related problems. Peer based programs are not a magic bullet but they are likely to be more effective than other prevention options. Consideration should be particularly given to peer based interventions aimed at drug users who are at the cusp of losing control. These types of programs are likely to straddle the lines between prevention and treatment.

In terms of treating stimulant related disorders, as I am sure you have heard from others, the evidence of success is slim. Relatively little research has been carried out on pharmacological treatments and thus far most success has been achieved using behavioural therapies. However, if history is to be our guide, treatment is where the greatest gains are likely to be made.

The final question is what to do with law enforcement. I recognise that this is a difficult issue for politicians. But, acknowledging the political hurdles, the evidence indicates that the social costs of drug markets would be reduced by easing the punitive pressure on drug users and low-level suppliers. That does not mean we have to legalise or decriminalise stimulants like crystal meth. The prudent course of action would be to start with a modified prohibition regime where police are instructed not to prosecute people for minor possession and use offences. Meanwhile, diversion programs could be used for low-level dealers. The effects of these changes could then be evaluated, and depending on the outcomes further steps could be taken to improve the legal framework. It would be a sort of adaptive management for drug laws.

Mr HAYES—As I understand it, diversion programs are already in existence and are certainly applied by the courts in most jurisdictions at the moment. Do you have any view as to how effective they have been to date?

Mr Macintosh—My view on reviewing the evidence is that they have been relatively ineffective and certainly no more effective than voluntary treatment programs. The biggest problem is that they are extremely expensive, so you are paying a lot of money, and you are also prosecuting drug users essentially for a health problem rather than for the fact that they have done anything morally reprehensible, in my view.

Mr HAYES—Certainly that is true, but there is still a recording of conviction in many instances. They voluntarily go into a diversion program. I would have thought that is similar to what you are advocating.

Mr Macintosh—I would prefer that users just did not get prosecuted. I would prefer that we expanded the treatment and prevention options and we just did not chase down users. I recognise that the idea of not prosecuting low-level suppliers is not going to be tolerated in the community at this stage, so I think diversion programs are a good option for those sorts of people.

Mr HAYES—I suppose what is a low-level supplier is always going to be evidentiary based. It is what they have in their possession when they are apprehended or alternatively the extent of their business arrangements, I guess. Those things are always going to be difficult for the courts to—

Mr Macintosh—That is right. I think you are going to have to put that over to the discretion of the judges as opposed to having some sort of arbitrary cut-off.

Mr HAYES—I was interested in the proposition you were advancing about peer based intervention. I did not understand that.

Mr Macintosh—There are several types of education programs that you can run. Peer review basically involves getting other drug users, or other peers, to do the education. So, if you are trying to target 17-year-olds, for example, you get a 19-year-old to do the education. For drug users you get someone who has been through a substance misuse disorder to teach them about how to conduct drug activities more safely and how to get out of drug use. That is the whole idea of peer based intervention. It is about establishing a rapport and credibility with the drug user or with the prospective drug user.

Mr HAYES—You indicated that you think strict law enforcement exacerbates the problem. Could you take us a little bit further through that? I am assuming you are saying that strict law enforcement involves the prosecution of users and low-level suppliers but you are not suggesting that our law enforcement agencies should withdraw their level of commitment to examining and prosecuting those manufacturers, importers, et cetera.

Mr Macintosh—Not at all. In terms of the supply side, I would leave it as it is, although I think at the moment we are probably devoting too many resources to supply side drug law enforcement. Most of the research shows that you get the benefits you are going to get from supply side drug law enforcement with very little effort. Beyond that, you are actually not doing a lot.

Mr HAYES—I think the various police agencies would probably take a slightly different view from that.

Mr Macintosh—Yes, they might. They would say they catch more drugs. 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. I do not know if you have been through my submission, but 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. That was the only time. As to the seizure of the cannabis in North Queensland, I would be willing to bet my house, if I had one, on the fact that you will not see any change in the cannabis market as a result of that arrest. You are not getting a good return on your investment if you keep putting more money into supply side drug law enforcement, although I am not saying that we should get rid of it at all.

Mr HAYES—Solely concentrating on treatment is almost trying to pick up the pieces after the horse has bolted, isn't it? You are trying to ameliorate the effects of what has been allowed

into the country or what has been manufactured illicitly in the country at any particular point in time.

Mr Macintosh—I am not saying that we should back out of supply side law enforcement. There is certainly a role for it. There is a role for it under all regimes other than legalisation, and I do not think anyone is trying to suggest that we should go down the legalisation path. I am just saying that we cannot devote too many resources to it. You say, 'Well, you are just waiting to pick up the pieces.' But we have to also look at the prevention programs. That is about peer based education and in this case and also in the case of other drugs, say, heroin, it is about drug consumption rooms and the like.

Mr HAYES—So you are really advocating that at the school based level?

Mr Macintosh—What is that?

Mr HAYES—In terms of peer based intervention?

Mr Macintosh—Obviously, I would not want to have drug users turning up to school teaching them about how to take drugs more safely, because people are not going to accept that. I would advocate having ex-drug-users turning up to teach them about the dangers and trying to advocate that this is not the way you should be going, that these activities are dangerous.

Mr HAYES—I am just wondering how you would get that cohort involved in peer based intervention if it was not school based. You would not have someone at the door of a rave party trying to talk to people on their way in. I am wondering how you—

Mr Macintosh—How you would get hold of ex-users who were willing to engage in these programs? There are drug user groups who are interested in doing this and who do already do this sort of stuff. If you go to rehab centres, for example, you will see a lot of people who are in the process of trying to get out of drug use who are interested in trying to teach others not to get into drug use. I do not think you would have too many problems in recruiting. But in terms of a mass program you are going to start to have problems.

Mr HAYES—But these are the people who have either had treatment or were part of a diversion program. It is not actually discouraging people from participating in or initiating themselves into the drug culture.

Mr Macintosh—I am sorry; I do not understand your question.

Mr HAYES—Peer based intervention is not designed to do anything about preventing people from getting involved.

Mr Macintosh—It can be, for sure. The whole idea is you get an ex-drug-user to either turn up to say, 'Don't take drugs,' or turn up to say, 'If you are going to take drugs, here is the way to do it safely.' At schools the idea would be to get either ex-drug-users or people who have some sort of profile in the community, say, sports stars, to turn up and tell them, 'No, drug use is not the way that you want to go.' It is both. In terms of schools, I would probably say at the moment,

because of the politics, that you have to turn up and tell kids that drug use is dangerous and they should not get into it.

Senator LUDWIG—The Australia Institute publishes a range of what you say is independent public policy research.

Mr Macintosh—Yes.

Senator LUDWIG—Is your funding from independent grants from philanthropic trusts and memberships who commission research?

Mr Macintosh—That is right.

Senator LUDWIG—Is that research privately commissioned or publicly funded?

Mr Macintosh—We are occasionally commissioned to do research on some things, although it is quite rare.

Senator LUDWIG—The reason for the question is that I am trying to understand the range of issues that you might cover and the type of research you look into.

Mr Macintosh—It tends to be that we sit around and have a research committee and decide what issues we want to get into over a certain year or a certain period. In this case, drugs was an issue that we thought we wanted to get involved with.

Senator LUDWIG—Peer review?

Mr Macintosh—All of our discussion papers, like the drugs one, are peer reviewed by a collection of people we get together. There is obviously not one collection; it tends to differ. In this case it was Wayne Hall, Alex Wodak and one other. All our publications for discussion papers are peer reviewed.

Senator LUDWIG—Was the type of funding that sponsored *Drug law reform: beyond prohibition* from private sources or from the institute?

Mr Macintosh—Just from the institute's resources.

Senator LUDWIG—Do you have a program of future work you will be doing? Will you do more in this area?

Mr Macintosh—That depends. I would like to do it, but it depends basically on the boss and whether he allows me to do it.

Senator LUDWIG—You have provided *Drug law reform: beyond prohibition*. Will you follow that up with submissions to government or will you stop at this point?

Mr Macintosh—It depends. In this case I have made a submission to this committee, but we are not a lobby organisation. We do not generally go around and lobby for a certain position. If any of the people here want to discuss the research with me, they are most free to do it.

Senator LUDWIG—I was curious about the role of the law enforcement agencies. Do you make any substantive statements in taking it one step further, I guess, about their role and whether it is on the whole viewed negatively or positively in terms of that pre-court drug diversion area? It seems that there is an emphasis in states and some territories for pre-court diversion. Have you made any assessment about the effectiveness of pre-court diversion? It is about drug courts, but it is really about getting them before they end up in a court environment.

Mr Macintosh—It is like the cannabis ones that work in New South Wales, where you get the warning process and they try and divert people. In Queensland and most states other than the ACT, South Australia, Western Australia and the Northern Territory, you have those cannabis type ones, where either you are forced to go and see an educator or treatment centre or you have the option to, and you go through the processes, the set of three warnings or whatever it is. Then you have the pre-sentencing ones. Most of the evidence suggests that, while they are better than strict prohibition, they are not that effective. For example, when you catch a young cannabis user who is, say, 17, and experimenting with cannabis, you refer them to a treatment program, but they did not have a drug misuse disorder, they were simply experimenting with drugs. If you left them alone they would have dropped out anyway.

Mr KERR—Drop out of drug use, you mean?

Mr Macintosh—Yes, they seem to drop out of drug use. It tends to go away anyway. These programs do not seem to get you anywhere in terms of the hard drug users and the people who you really want to get off drugs. The evidence is quite consistent. There have been some problems with the types of studies that have been carried out on diversion programs. But, if you look across the board in terms of both Australia and overseas, you will see that they are no more effective than voluntary treatment.

Senator LUDWIG—Do you make any recommendation as to where the money should be spent?

Mr Macintosh—On?

Senator LUDWIG—If you say the pre-court diversions are not particularly helpful, what about court diversionary programs where they are actually in court and they get diverted? Do you have the same view about those as well?

Mr Macintosh—That is right. As they go through the process they more and more get the compulsory treatment option. That is not worse than voluntary treatment, but it is no better than voluntary treatment. My question for the policy makers is: is it no better or no worse? Why spend so much money on these programs? You are tying up court resources. Of all the people who would be most appropriate to supervise a treatment program, surely the judiciary has got to be down the list. It is a medical problem.

Senator LUDWIG—Where do you say they should be diverted to, more medical funding in this area or health and welfare funding? Do you have a view or a recommendation?

Mr Macintosh—As I said just then, you have to accept that drug use problems are going to be here. We cannot get rid of them. The best thing you can do is, firstly, have prevention programs to try and minimise the harm that people do to themselves; and, secondly, provide treatment for those who fall into problems. I think that is all we have. At the moment, we have drug rehab centres that are chronically underfunded. Why do we keep pouring more and more resources into law enforcement when we know they are not getting us very far? Why do we simply not pour more resources into treatment programs, where we know we can get much better returns?

Senator LUDWIG—That is helpful.

CHAIR—Are you saying that, if we spent no money on law enforcement, the cannabis problem would not be any greater than it is now? Are you saying that people will try it eventually and then a large percentage of them will drop out and not use it?

Mr Macintosh—No, I am not saying we should get rid of supply side drug law enforcement. I do not think, if we kept supply side drug law enforcement and went to, say, a decriminalised scheme, you would see any noticeable change in the patterns of cannabis use. I think that has been shown on several occasions. The evidence on that is really quite strong. If you went for a legalised regime, as I said, which no-one is advocating, you might get a change, but I do not think you are going to get a change if you go to a decriminalised option or even a regulated market option.

CHAIR—The difficulty with the problem as you see it is that the available money is being spent in the wrong direction.

Mr Macintosh—You could expand the size of the cake and direct more money into other areas. If you had the same cake, yes, I would cut it up differently.

Senator FERRIS—I would like to explore your statement that most people agree that harm minimisation should be the objective of drug strategies. Can you tell me how you get to the point of saying 'most people' and also can you define for me what you believe harm minimisation means?

Mr Macintosh—By 'most people' I suppose I am really talking about most people in the drug policy field.

Senator FERRIS—Where do you get that statement from? Have you done some research that suggests that most people in the drug policy field support harm minimisation?

Mr Macintosh—I have not polled people on whether they think that harm minimisation is the best approach, no. It is currently the policy that is adopted under the National Drug Strategy, and amongst those in the drug field who I have had contact with I have found that it is pretty universal.

Senator FERRIS—Do you think harm minimisation means the same to all of them?

Mr Macintosh—I think harm minimisation means what it says. You try and minimise the harm associated with drug markets.

Senator FERRIS—That is a very addictive way of describing it, because everybody wants to do that, but can you tell me what it means to you?

Mr Macintosh—It means just that—minimise the harm. It means designing your policies around what the evidence shows is going to minimise the harm associated with drugs.

Senator FERRIS—If we took that down a pathway, could you tell me how you would change the current bureaucratic structure?

Mr Macintosh—Which bureaucratic structure?

Senator FERRIS—I suppose there are two of them. There is the bureaucracy, the health bureaucracy, and then there is the enforcement bureaucracy. How would you change those bureaucracies to more effectively introduce harm minimisation?

Mr Macintosh—I would probably start with instructing police, as I said, to ease punitive pressure on drug users. I think that would be the first step. The second one would be an expansion of the health bureaucracy. I do not know about changing the health bureaucracy. I do not know if you include hospitals and rehab programs as health bureaucracy but, if you do, I would expand their access to resources and expand the community's access to those services. Then there is the education bureaucracy and how you get messages on harm minimisation and minimising drug use out to schools, universities and others and to drug users.

Senator FERRIS—What role would you see health playing in the education bureaucracy? In my state of South Australia we are now taking a much tougher view of cannabis that is grown inside houses—

Mr Macintosh—Hydroponics.

Senator FERRIS—with chemicals and so on added to it. My understanding is that we are now recognising that hydroponically grown cannabis has greater health effects than cannabis that used to be grown perhaps 20 years ago. How do you explain to 14- or 15-year-olds in a drug class your theory of harm minimisation based on that health evidence?

Mr Macintosh—I do not quite follow the question. You said that hydroponically grown cannabis is resulting in greater health effects?

Senator FERRIS—The evidence suggests very strongly now that the links between hydroponically grown cannabis and psychosocial disorders are quite strong.

Mr Macintosh—I do not think so. I think as the Australian National Council on Drugs report recently showed, the evidence on that has been quite consistent and has not changed dramatically at all over the last 20 years. It shows that, if you have a predisposition to a mental illness or an existing mental illness, using cannabis is going to cause problems. But there is very little evidence that cannabis actually causes mental illness.

Turning to the other part of your question—how you would explain the harm minimisation part of it to a 15-year-old in a class—I think it is twofold. The first part is saying that there are health effects associated with cannabis and, if you have a predisposition to a mental illness, if you take cannabis you are at increased risk of encountering those problems. The second part is discussing where people start to encounter drug problems and drug addiction problems. I think that would be a good idea. If you take drugs and you get into this realm, this is when you are going to start to encounter problems. My attitude towards school based education is that you are going to have input from the relevant communities and from the parents. If the parents do not want the teachers to discuss the second part of that then I think you have to listen to them.

Senator FERRIS—I am intrigued as to how you say to a 14-year-old, 'If you have a propensity for mental illness you should not take drugs.' How do you expect a 14-year-old to know that?

Mr Macintosh—I think 14-year-olds have a decent idea about risk factors. You simply discuss the fact that, if you take cannabis or any other illicit drug, or any drug, there are risks involved. There are risks involved with use of alcohol, tobacco, cannabis or any drug. If you engage in that behaviour there are going to be consequences in some circumstances. I am no expert educator—

Senator FERRIS—I think you are asking a lot of a 14-year-olds to know whether they are likely to develop a psychotic illness as a result of taking it because it is a pre-existing condition.

Mr Macintosh—I am not asking that. I am simply asking them to tell the kids that there are risks associated with drugs. What else do you want to tell them? I do not understand. Are you saying that you should not tell kids there are risks associated with drugs?

Senator FERRIS—No, I am not suggesting that at all. I am actually suggesting quite the reverse. I am saying that I think it is very difficult to explain that to a 14-year-old who may be unaware or only slightly aware that there is a likelihood that they are going to develop schizophrenia. I think the statistics show that a great number of young people now have developed schizophrenia as a result of drug use, or certainly some drug use. I am not suggesting it is only marijuana. It would be very difficult to develop an education program that would go across the class in a way that would enable each child to take from it a very important individual message.

Mr Macintosh—I understand that it is a difficult task. But if you are just saying take the abstinence approach—

Senator FERRIS—I am not suggesting that at all. I am trying to explore what you want to say.

Mr Macintosh—To the kids?

Senator FERRIS—Yes.

Mr Macintosh—I am not an expert educator so I am not going to be the one who is designing a program. I am just saying abstinence is not going to get you anywhere and the other part of it is

letting the kids know that there are risks associated with it. In terms of exactly what you say to them, I suggest you direct your questions to an expert educator, because I am not the one to ask.

Senator FERRIS—What role would you see for law enforcement, to go back to the second leg of my original question?

Mr Macintosh—On the supply side it would be to do what it is doing currently. Leave it doing what it is doing; I do not think it is doing a bad job. On the demand side, it is to not pursue drug users for minor possession and use offences, because I do not think that gets us anywhere. I think that would be the first step.

Senator FERRIS—Let us stop there. What would you see as a minor offence, for example? I think we have already had evidence that many of the amphetamine producers are mum and dad backyard operations. Are you suggesting that those should not be the people targeted?

Mr Macintosh—That is supply side. If they are producing methamphetamines in their backyards, then I say prosecute them as they are currently done—no change. On the demand side—I am talking about users—if you catch a drug user with a point of crystal meth, for example, at the moment that person would get prosecuted. They may get diverted at some stage or be offered a diversion program. I am saying it is better not to prosecute them. I do not think they should even search people for methamphetamines, if they just suspect them of being users. I do not think there is any point in doing that. But in terms of your backyard operators and, firstly, crystal meth, most crystal meth is not produced domestically; it is produced overseas. Either way, it does not matter. On the supply side, if you are caught supplying or producing anything, prosecute them as they are currently done. But let us go easy on the users, or ease the punitive pressure. That is the other phrase.

Senator FERRIS—Can I stop you there. What would you do if young people were picked up at a rave party with tablets of one sort or another? What would you suggest should be done? They should be able to keep the tablets? They should have somebody there explaining the danger of them? What would you suggest happens in a practical sense?

Mr Macintosh—It would remain an illicit substance under this first-stage process. I would say that the drugs would be taken off them, the kids would be given a lecture by the police and then they would be allowed to go. It is what happens, basically, in the Dutch system at the moment, to varying degrees, and it is sort of on the move at the moment. But it has been shown not to have a dramatic effect on drug use. From memory, cannabis use in the Netherlands—it is obviously the one that is most high-profile there—is about mid-range for Western and central European countries, notwithstanding the fact that they do not enforce minor cannabis possession and use charges. It does not have a dramatic effect on it.

Senator FERRIS—So you would still search people at a rave party?

Mr Macintosh—No. That is the whole idea about not chasing down users. Do not waste your resources in going into rave parties, having your sniffer dogs raiding dance parties, because it does not get you anywhere. Do not even bother. I am not saying if a kid is out there with a bag of meth waving it around in a public place you do not go up, take the drugs off him and give him a lecture. But there is no point in going to these rave parties and raiding them. There is no point in

raiding people's homes to try and catch drug users. It is counterintuitive, I agree. I first came to this 12 months ago, when I started this project. I am a lawyer by training and I like to think the law works. But, when you start looking at the evidence, in this case it just does not work.

Senator FERRIS—I accept your reasoning about increasing the amount of funding available for rehabilitation. I believe very strongly that there should be a great deal more put into that. Whether that money comes from other expenditure within the field is another matter to be explored. I find it hard to believe that you would go to a rave party and, if you saw kids taking tablets, you would not try to stop them given the health risks that they are undertaking.

Mr Macintosh—That is my point. If someone is doing it in a very public place and it is visible then, yes, go up to them and take the drugs off them. But I am saying just do not arrest them, because there is no point in arresting them. You cause that person more harm than good.

Senator FERRIS—But that might put them into the drug diversion program.

Mr Macintosh—Then what happens? They fall out of the drug diversion. If that person actually has a drug problem, if they are an addict, you put them into your drug diversion program. Say they went through the process of a drug court. They get six months at a drug court. They have a relapsing disorder. That is what drug disorders are. They drop off the program. Then what happens? The court convicts them of their crime. They have now got a criminal record. They have now got relationship problems with their families, which are crucial to getting over their drug problems. They now cannot get a job. You have just magnified the problems. It just means they are not going to get out of the cycle that they are caught in.

Senator FERRIS—Why wouldn't you put them into another drug diversion program?

Mr Macintosh—The only option then is to put them into jail, make them go into a compulsory drug program in a jail.

Senator FERRIS—I do not understand why. I would have thought that there was plenty of evidence that people sometimes take two or three programs of rehabilitation before they actually succeed.

Mr Macintosh—Yes, that is right. If you keep putting them into a program, they are going to keep dropping off—but not always. Some of them will get through the program and succeed. But you are saying we should go into the court program, where it is coerced at least—say, the drug court—

Senator FERRIS—I actually did not say that.

Mr Macintosh—That is what happens under the diversion programs. It is a coercion approach. If you go on to a treatment program—

Senator FERRIS—Very often what happens, as I understand it, is that somebody might be charged and they might go to the court but instead of going through the court system they go into a diversion program so they do not get a criminal record. There is an opportunity for them to

avoid all of those things that you have said. We could explore this for a long time, but I have probably spent my time so I will hand over to Mr Kerr.

Mr KERR—One of the interesting global statistics is that we have just been in the middle of what might be called a war on drugs with greater emphasis on law enforcement, yet we just heard our first witness this morning saying that we have the highest rate of amphetamine use in the world. Plainly, it ain't working, with 640,000 persons using amphetamines. How many people going into diversion programs or drug treatment programs are arrested for drug use?

Mr Macintosh—I am not quite sure.

Mr KERR—It is a tiny number, is it not?

Mr Macintosh—Yes, it is a very small number.

Mr KERR—As a percentage of 640,000 it is vanishingly small.

Mr Macintosh—Yes, that is right. It is minuscule. Because you have these dropout problems, it becomes even smaller than what you started with.

Mr KERR—So we have these huge amounts of resources that are focused—

Mr Macintosh—On a tiny number of people. It creates perverse incentives. If you are a drug user and all the resources for treatment are tied up in diversion programs and you want to get treatment, what is your option? You basically have to go and commit a crime.

Mr KERR—Notwithstanding the fact that we do have this, you say, greater focus on law enforcement directed at users, the experience of most users would be no arrests or no impact with the law at all?

Mr Macintosh—That is right.

Mr KERR—You look at this from an economic model really, don't you?

Mr Macintosh—Yes.

Mr KERR—If you increase the barriers to participation in a very economically lucrative market, you tend to encourage more professional entry. Isn't that the model that you are describing?

Mr Macintosh—Yes. The problem is that the more pressure you put on supply side through law enforcement, it tends to be that, yes, you get more and more professional people entering the market. The backyard mum and dads get bumped out by the Mr Bigs, the large crime syndicates, that are more professional and better at corrupting police and politicians. They are more used to using violence and they are better equipped.

Mr KERR—I suppose the emphasis, you say, by being benign to even small-time distributors is to re-create in a sense the mind-set that might have been around in those hippie-trippy days of

the sixties, where we did not have the kind of organised crime supply of drugs that now is the pattern of distribution.

Mr Macintosh—I do not know if you can recreate the hippie-trippy days of the sixties. I do not think we are ever going to be able to recreate that. The problem at the moment is I do not think we can shift to a fully regulated market without causing enormous at least political problems. So we are forced to go to this very minor step of basically not chasing users and easing the pressure on a lot of the other suppliers. I do not think you can ever again get to a more innocent market, if it was ever, unfortunately.

Mr KERR—That is an interesting disconnect that you have identified, because I must say from a policy point of view I have always advocated the capacity to attack those who choose to enter the market for economic reasons—that is, largely the Mr Bigs, the economic producers. But I suppose the downside of that argument is that you create a professional supply class which essentially sometimes can use violence, intimidation, corruption of police and what have you as it comes under greater pressure but becomes more efficient and also bumps off any competition. It produces the supply chain and yet we have a benign response to the users underneath. How do we work out this disconnect? How do we basically say, 'Look, we can tolerate in our society—

Mr Macintosh—A user group while we are attacking the suppliers?

Mr KERR—Yes, that is exactly the question I am asking. I am not antagonistic to your approach, but I want to clarify how in public policy terms it is possible to do this consistently, coherently and being aware of the sorts of concerns that Senator Ferris and others will naturally have about this.

Mr Macintosh—I know. Personally, I struggle with that because it is not logically consistent, particularly if you adopt a purely rational economic approach. It does not make a lot of sense. The economic outcome results in a regulated market that in theory is the best way to go. But the disconnect I think comes with the input of politics, essentially. The politics creates the need for that disconnect, because I do not think people are going to accept the fact that we should have a regulated market, where we get back to the hippie-trippy days or we at least have a cannabis or an alcohol type market. I think we have to accept in policy terms that it is not going to be totally logically consistent.

Mr KERR—Politics dictates two things, doesn't it? It dictates that we are not going to have police raiding every individual's house. There are 640,000 people; we cannot criminalise 640,000. We have no pretence of trying to do so. At the same time, we have a policy that talks about zero tolerance.

Mr Macintosh—That is right. There is already an inconsistency.

Mr KERR—What about this issue of diversion? You mention the difficulty with compulsion and diversion. Is there an exception in your mind of circumstances where people have problematic behaviour associated with drug use? This seems to be an issue, even accepting the propositions that you put forward that generally diversion for mere drug use is not going to be economically effective. Society cannot tolerate people who go around pinching television sets to support a drug habit without trying to find some way of dealing with the underlying cause.

Mr Macintosh—That is right. Diversion programs for those who have done a secondary crime, I think, are spot on. They are what we have to do. From an economic point of view it makes much more sense and from a compassionate view it also makes sense. If someone has an underlying problem that is causing them to engage in illegal behaviour, we have an obligation to help them solve that problem and in doing so we solve our problem.

Mr KERR—You are talking about targeted compulsion?

Mr Macintosh—Yes, targeted towards those who have committed a secondary crime.

Mr KERR—Would it also apply to those who have the care of small children?

Mr Macintosh—Yes. I have not actually put a lot of thought into it, but that would seem to make sense, without devoting my mind to it.

Mr KERR—If we are trying to find the most effective allocation of resources applying the sort of model that you are suggesting, we have to be hard headed about this. There are certain things that our society will not tolerate going on. People will not say: 'It's just your responsibility as a drug user. Fix yourself up, sunshine.' They will say, 'Look, there's a social interest or a larger interest that has to be imposed.'

Mr Macintosh—For a parent of a child who has a drug problem, what do you do? Just thinking about it, diversion programs would not make a lot of sense, because what is the option? You are saying, 'Well, we'll force you to go and get treatment.' If you drop off that, what is the consequence of that?

Mr KERR—Perhaps you could have a think about how to draw these lines and come back to us, because I am struggling with this. Basically, I accept your proposition that the evidence does not suggest that for simple drug use alone you get better results from forcing people through the system; you also give them convictions at the end if they break down. But on the other hand, if we just took that approach of no compulsion, there are going to be things that—

Mr Macintosh—Yes, just turn a blind eye, basically.

Mr KERR—the public will not accept.

Mr Macintosh—I suppose with the case of a parent who has a drug problem, compulsion is going to be the way to go from the outset. If the person is being shown to be a neglectful parent, if they have been shown to be neglecting their parental duties—

Mr KERR—Sorry, I do not mean that you have simply got a child and you smoke a joint on a Saturday night; I am talking about people whose behaviour has involved either a criminal act or some neglect of their family responsibilities.

Mr Macintosh—In that case, yes. Again, it comes into that secondary crime area, doesn't it? You have committed a second crime, you have been neglectful of your child and therefore you are forced into some sort of treatment program. But, yes, it is a difficult area.

Mr RICHARDSON—You have provided an excellent snapshot of the current day. I am very concerned about this leading to psychosis and mental illnesses. There are extra policing resources, there are extra hospital resources and the general community is put at risk largely because of the additional psychotic and mental illnesses related to both marijuana and, increasingly, amphetamines. I share your view. As a former police officer in South Australia, I was involved in organised crime raids and also, as a police youth officer, in dealing with diversions and family conferences for young people.

In South Australia we have come full circle. You can say some state legislation has got tough on drugs. Fifteen years ago we started with being able to grow 10 plants for an on-the-spot fine. It then went to three. It then went to one. It then went back to three and now currently stands at one. Interestingly, people in South Australia believe that it is actually legal to grow a plant. I think that is also because of the mixed messages that we have provided across Australia in this arena, let alone the drug arena. When I was dealing specifically with the young people and sending them to diversions, like you said, so scared were some of them that it had a profound impact on those young people. Criminals from the jails would basically scare the living daylights out of these young people and just say, 'Don't follow my path,' if you like. It was one of those intervention programs that you mentioned.

I notice that you mentioned, too, the 17-year-old, the 14-year-old or the 19-year-old that may be experimenting with marijuana, say. But it may also mean that they have been smoking it and using for 15 occasions over the last two years and need help at this time. Should we take away diversion? Like Mr Hayes said, we do not want to prosecute them and give them a criminal record, but we want to address their issues so that they do not fall into crime and mental illness. When I am speaking to young people, they are actually saying: 'Get the message right and leave it right. Not the 10 plants, the three, the one; possession, diversion. Put us in court, scare us a bit and divert us.' They are saying that that is the only method that they have seen that has had an impact for them. Would you have any comment?

Mr Macintosh—The evidence does not back that up. In a lot of cases you divert the people who would have stopped using anyway. So diverting them does not get you very far other than paying a lot of money. When you divert someone who would have gone on to develop into a hard-core user, a lot of the time they are going to drop out of the program. The program is not going to really impact on their behaviour. That is the problem.

In terms of the arrest or diversion programs that are working in relation to cannabis, particularly the voluntary ones, I do not really have a big beef about them. In most cases they involve some relatively inexpensive education program. I do not have any problem with them. The problem comes in when you get the coerced treatment. It is not so much the fact that these people are forced to go and get treatment; it is the fact that the treatment does not work. It is exactly the same as you got from voluntary treatment. Why not simply expand the treatment options, make sure these treatment options are available voluntarily? We can get a lot more voluntary treatment programs than we can compulsory treatment programs. Why not go for the voluntary ones when we know they are about the same in effectiveness? That is basically my point.

The comments you made about scaring people seem to be consistent with what you get from the social marketing evidence as well. When you have the social marketing campaigns—talking

about TV ads—if you scare people in a TV ad, the response you get back is that it seems to work. But, again, you tend to scare those who would not have had a problem anyway. You are not really getting at the group of hard-core users that we want to get at. They are the ones that cause us all the problems. Those who are around the edges, the recreational users and the experimental users—preferably I would not want to see anyone using drugs, in my perfect society, but they are there—do not really cause us that many problems. The problem is that hard-core group. We do not get to them with these programs, unfortunately.

CHAIR—Thank you very much, Mr Macintosh. That is a challenging set of ideas that really adds to the mix. We very much appreciate those and your research and submission. If the secretariat has some other questions, we might contact you privately just to clarify some things.

Mr Macintosh—Thank you for your time.

Proceedings suspended from 10.59 am to 11.07 am

BUSH, Mr William Murdoch, Member, Families and Friends for Drug Law Reform

LEY, Mr John Francis, Vice-President, Families and Friends for Drug Law Reform

McCONNELL, Mr Brian Peter, President, Families and Friends for Drug Law Reform

CHAIR—I call the committee to order and welcome our witnesses. Thank you very much for your submission and for giving us your time this morning. Obviously, this is a real issue that involves the community at large but also your group in particular, and we do very much appreciate your inside information, so to speak. You are aware of the terms of reference and you are aware, I trust, that these committees are privileged, so whatever you say does have legal privilege attached to it. If you would like to make an opening statement, we would be pleased to hear it, and then the committee will ask questions.

Mr McConnell—Our submission describes the growth of the methamphetamine and ecstasy market from next to nothing 10 years ago to the booming criminal industry it is today, with Australia having the highest usage rate in the world of these drugs. In that sense, our submission is a history, but a forgotten history is doomed to repeat itself. What are the lessons of that history that we must learn? Criminal intelligence that foresaw what would happen was not acted on. In the 1990s, the Office of Strategic Crime Assessments told governments that Asian crime syndicates would cut back heroin imports into Australia and push potent methamphetamine instead. In 2000 the Australian Bureau of Criminal Intelligence pointed out the threat of violence and danger to mental health due to methamphetamine. The National Crime Commission quite rightly warned at the height of the heroin drought that Australia was going backward in its war on drugs and that a different tack was needed. Some law enforcement performance indicators claim success but are in fact indicators of law enforcement failure. At best, such indicators reflect wishful thinking; at worst, they are deceptive and self-serving.

The information for accurate market indicators of law enforcement effectiveness is already there or easily obtainable. Not all illicit drugs are as dangerous as each other. Old amphetamine is not as dangerous as methamphetamine. Ecstasy and cannabis are not as dangerous as ice. A mindset that lumps all illicit drugs together as highly dangerous is a prescription for policy paralysis and maximisation of harm. The illicit drug market, from manufacturers to retail suppliers and consumers, is multifaceted, adaptable and very resilient. It quickly responds to law enforcement pressure and quickly influences or responds to changing consumer tastes. If governments are able to make headway against drugs, they must face up to the economic reality of this illicit industry and its economic drivers.

Use of illicit drugs is synonymous with young Australians, with 58 per cent of 20- to 29-year-olds having used them. This means that strong law enforcement against the grassroots level illicit drug market is law enforcement against our children. We are seeing a penetration of methamphetamines and ecstasy into wide sections of the youth population. We must assist young people to negotiate the rash, risk-taking years of their lives and not add to the dangers through the known harms of law enforcement.

In reading the transcript of this inquiry so far, we think we detect a note of frustration arising from two areas. The first is the committee's search for a fix that will turn around a policy that has patently failed to prevent the rise of synthetic drugs. The second is an authoritarian mindset that is offended by the fact that young people are blatantly doing what they should not do. As we read the evidence, there is no rational basis for believing that the measures we have seen discussed will have a hope of turning the situation around. Measures like strict precursor controls, identity checks, cognitive behaviour therapy, effective education programs and more and even more resources will no doubt help at the margins, but the committee will shirk its duty if it represents them as capable of doing more than that. A bleak representation of reality is far better than a statement of hollow optimism.

There is an over-reliance on law enforcement to solve drug problems, when its effectiveness is limited. Methamphetamines seized generally represent less than three per cent of the Australian market. According to the latest *Illicit drug report*, 80 per cent of those arrested for drugs are consumers, not providers. It should be the other way around—the Mr Bigs should be the 80 per cent, but they are not. Consumers' contact with the criminal justice system is unlikely to make a difference to their drug use, but they are likely to be worse off after their ordeal. This over-reliance on law enforcement has consequences. Funds find their way to law enforcement when they could be more effectively spent on health, treatment and education. Research shows that a dollar spent in the health area is up to seven times more effective in reducing drug use than that same dollar spent in law enforcement. Despite intelligence that indicated that methamphetamines were heading to Australia, anecdotal evidence is that many treatment centres were caught unawares by the increasing use. They were ill-prepared, particularly for the associated aggression; nor was there any effective treatment, because relevant research had not been undertaken early enough. If we can prepare for the advent of HIV or a possible bird flu pandemic, then surely some preparation was possible for methamphetamines.

The recommendations of Families and Friends for Drug Law Reform are plainly set out in the executive summary of our submission. I would only reiterate: law enforcement agencies should use drug market indicators of their performance and not indicators that are, in fact, indicators of law enforcement failure; policy should reflect the fact that not all illicit drugs are as dangerous as each other; governments must face up to the economic reality of the illicit drug industry and its economic drivers; strong law enforcement against the grassroots level illicit drug market is law enforcement against our children; the committee should not attempt to hide policy failures regarding synthetic drugs behind a collection of recommendations that will have only marginal impact; and the committee should abandon an authoritarian mindset that puts more importance on securing obedience to a no-drug-use command than on securing the general health and wellbeing of young people. Thank you.

CHAIR—Thanks very much, Mr McConnell. Your website describes your organisation as having been 'formed as a direct result of heroin related deaths' and including 'parents, siblings, friends, past and present illicit drug users and other concerned members of the community'. Without getting too personal, what is the expertise of the three of you? I do not mean this in a challenging way; I am simply trying to work out the authority with which you make these statements.

Mr McConnell—I had a son who died from a heroin overdose in 1992. It happened under circumstances where we started to ask questions. How could this happen? We knew nothing

about it until two weeks before he died. We knew very little about drugs and their effects, why people use drugs and those sorts of things. It led us to a number of questions around why it happened. The circumstances were that he had overdosed previously. The police arrived at the scene after my daughter called the ambulance, and he was taken to hospital. The police went backwards and forwards into his hospital room. We were told to wait in the waiting room. He woke up with the police at the end of his bed and was frightened. He discharged himself from hospital, took a hurried holiday, overdosed and died while he was on that holiday. We really did not have the chance to find out for ourselves the information that might have helped. We just did not have the time.

CHAIR—Sorry, I did not want to get down to your personal situation, but thank you for that. But, since then, you have discussed and read about it. What is your profession?

Mr McConnell—I am basically retired.

CHAIR—But you are not a chemist or a psychologist or anything like that?

Mr McConnell—No. But we have collectively done a lot of research. We organise public meetings with people who are well informed—professionals and others—and, informing ourselves, we make them open to the public so that we can inform the public as well.

CHAIR— I am just trying to remember. We have read a lot of submissions but, as I recall, you are very critical of the current situation, and I appreciate why that might be. The submission also seems slightly critical of the approach of the committee so far, but I am not sure that we have got an approach quite yet. That will be something we will do once we have heard all the evidence. Is there is a one-line or a five-line solution that you think should be applied? If you, as a single person, were the government, what would you do?

Mr McConnell—That would be very nice.

CHAIR—I was going to say, perhaps, forget governments; if you were the benevolent dictator of Australia and saw this problem, how would you fix it?

Mr McConnell—I think we would go back to first principles. One of the main points that we would make is that we should be looking to evidence based policy. The policy should be based on evidence—that is, measure the evidence to see whether it is effective or not. If the policy is not effective in doing what you are trying to achieve then you need to change that, you need to adjust it. You need to evaluate policies and, where there is no or very little evidence, you might need to conduct some trials or projects to test the evidence—do a small pilot study, evaluate it and see whether it does in fact achieve what you want to achieve. I should add also that there is a great deal of evidence already there from research bodies as well, so you would draw on that.

CHAIR—We have this Tough on Drugs strategy. And each year there are new strategies being worked on by various governments because—perhaps accepting what you say—what has happened in the past clearly has not worked. Perhaps it might have been worse if what has been done had not been done, but are you familiar with the latest strategies of governments? There is a working party that I think is trialling new approaches. Are you conscious of those and do you think they are heading in the right direction?

Mr McConnell—I am not sure of the details. Perhaps one of my colleagues might be aware of some of the details. I am aware of the National Drug Strategy and of the latest push on mental health and relationships.

CHAIR—Are they heading in the right direction?

Mr McConnell—I will let you answer that, Bill.

Mr Bush—That is an enormous question because of the drug field being enormous and the enormous range of matters being touched—tackled, even. But on the mental health side of things, it is clearly not being addressed adequately. This is really brought out in the recommendations of the Senate Select Committee on Mental Health. Mental health and co-morbidity are regarded as the top two issues that have virtually brought the mental health system to its knees. There are just not the treatments available out there to treat people adequately who have a mental health problem and a substance abuse problem. Also, there are two strategies: the National Mental Health Strategy and a national drug health strategy. One says that the other will deal with it and the other says that service providers should solve this problem, that they should get together and work out better solutions for it. Effectively that, at least as we read it, is the response—at least, the initial response—of the federal government; it is over to the providers to do it. There is not an integration of those two policies.

CHAIR—In the budget I think there was quite a lot of additional money allocated to mental health.

Senator FERRIS—It was $2 billion dollars. It is based on quite a big strategy with the state governments.

CHAIR—I am not sure you heard the senator say that the budget contained a lot of extra money for mental health; that is, following a strategy. Are you familiar with that? Obviously, I am not; but are you familiar with that and is it heading in the right direction? Or is that the answer you have just given, that everyone is getting the other one to do it and nobody is actually doing it?

Mr Bush—The money is very welcome, because mental health treatment facilities have been grossly run down by governments—principally state governments, I suppose, but they have been grossly run down. So it is extraordinarily welcome that there is serious Commonwealth money coming to it. But, basically, it is money for service providers, treatment people, to solve the problem. There are a number of recommendations, as I mentioned, of the Senate standing committee, one of which is the coordination of policies relating to suicide, mental health and drugs. As I have read the media releases that have come out from that, the Commonwealth has yet to address that issue. They are not coordinated, and throwing more money will not solve the problem. It is question of coordination of policy which ultimately should save money, and that is yet to be addressed. It is early days, but it is yet to be addressed.

Senator FERRIS—Mr McConnell, following on from the chair's question about there being one thing that you could implement, I thought you might have said more rehabilitation programs. Thinking back, and I am not wanting to explore your personal circumstances—I should declare here that I have served on the board of a drug rehabilitation house for some years, although I am

not on that board now—there was no doubt that it was a great relief for many of the people who came into our drug rehabilitation centre because they became part of a caring environment with people who understood the problems they had. I was surprised that you did not say that in your response to the chair's question because, whether they went to a system that used to prevail in the South Australian judicial system—which Mr Richardson and I were exploring before, where you appeared before a JP and you were referred for treatment—it seemed to me in the years that I worked within the rehab system that there was just not enough rehab. There were not enough acute beds for people who were at an acute phase of addiction or in the early stage of substance abuse where a short course, sometimes even as an outpatient, could assist. There is no simple answer, but we had a number of different treatment programs. I have always felt that the answer was to get more treatment programs in various stages. It surprised me that you did not mention that. Could you reflect on those thoughts for me.

Mr McConnell—I agree with you entirely, but I think I did have the answer in talking about evidence based policies. If the evidence is that we are diverting too much funding into law enforcement, where the effectiveness has reached marginal returns, you would have to say that the funds are going to the wrong place and should really go elsewhere. I think I did say that in my opening statement.

Senator FERRIS—Perhaps I did not quite understand it.

Mr McConnell—Perhaps I did not put it at such a level as you were talking about. Certainly, when I talked about the dollar that is spent, if you spend a dollar in law enforcement compared with a dollar in education and treatment, that dollar is seven times more effective in education and treatment. Simply by moving $1 million from the law enforcement budget, or not giving that extra $1 million to the law enforcement budget, and putting it into health and treatment, it is worth $7 million to that particular part of the service.

Senator FERRIS—I am not sure whether you were here right at the start when our first evidence was given, but it is quite clear that the ACT is one of the very large consumers of amphetamines. As an agency that has been going for some time now, can you tell me what experience you have had in a practical sense, perhaps, with Families and Friends in that area? In the ACT, which is a relatively small city really to manage, can you tell us what sort of experience you have had in trying to come to grips with this growing amphetamine problem?

Mr McConnell—Yes. Perhaps I can just cover a point about the highest use of amphetamines being in the ACT. The ACT is a city-state, different from the other states. There are lots of country areas and the drug use in country areas would be lower than the drug use in the city areas, simply by virtue of it being available. If you compared the ACT with Sydney, Melbourne or Adelaide, you probably would find that it might be lower or might not be that much different from those cities. As to my experience, I have been on various government committees with the ACT government. I was on a committee to develop a drug strategy for the ACT. I am now on a committee which is following up the implementation of that strategy. That is a government-appointed body. I was a government appointee to the board of ADFACT, which is one of the alcohol and drug treatment centres here in the ACT, and I am currently on the board of an organisation called Directions ACT, which is a non-government organisation that provides needle and syringe programs, counselling and various other services to drug-using people.

Senator FERRIS—In the years that you have served on all of those boards, has the number of treatment programs increased? Has the number of beds available for substance abuse in the ACT increased?

Mr McConnell—Not really. Marginally, in one respect. There was a program a few years ago. Money was provided to develop Karralika, which is the alcohol and drug program. There was a bungle in providing the information to the residents who lived around the area. It would not have affected the residents in the area, but they felt that it would and they were not being provided information. It happened over Christmas time when anyone who knew anything about it and could provide information was away. The residents mobilised themselves and said, 'Not in my back yard.' There it stays, which is a really sad state of affairs.

Senator FERRIS—It must be very frustrating for you as a group to see that that has occurred, since most of the surveys that were done in the rehab house that I was associated with indicated that the kids very strongly believed that an interception program like that was the first start in recovery—not simply having more opportunity for self-determination, I suppose you would say.

Mr McConnell—You are talking about compulsory treatment?

Senator FERRIS—No, it was not compulsory. Some people were referred as a result of the court diversion program, but most kids just turned up and said, 'Can we come here? We know we'll be safe here.' I think that idea of safe treatment houses is clearly a dimension that we are still coming to grips with, unfortunately.

Mr McConnell—Yes, I think it is a great idea. Unfortunately, we have not made a great deal of progress in this state and I suspect that it is pretty much the same in other states.

Senator FERRIS—There is an increased focus on it in South Australia, but I am afraid that it is slow coming as a program.

Mr Bush—I think a couple of us are also on the family drug support phone line and have found it is a constant refrain that there are not enough treatment places. Undoubtedly, resources are needed for it critically around the country. But there is the economic point that we heard Mr Macintosh make: where are you going to get the money from? Because it is expensive to run these residential rehabilitation places. It needs a lot of money and you have to consider the mental health angle as well.

But there is the other issue, with the substances that you are particularly addressing, that there are not the attractive treatments around for them. You have been asking questions of CBT and things like that. These are in their infancy. The statistics show that people who are on these stimulants are far less likely to have recourse to treatments than people on heroin or even those who have a dependence problem with cannabis. So, this is the issue. They are not so much going to the treatment and, when they go to the treatment, there are the psychoses that are being induced by it. The costs of those treatments and dealing with them are extraordinarily large, because of the violence and the psychotic behaviours. How to deal with these problems has driven a lot of the treatment agencies to distraction. So you come back to the drugs and to the economics as to how we can fix this as best we can, how we can minimise the clearly large harm that has been caused by these new drugs.

Senator FERRIS—Given that more than 50 per cent of crime—I know in South Australia; I am not sure about other states—is related to the drug industry, perhaps we should look at the insurance companies.

Mr Bush—They would make their premiums with more—

Senator FERRIS—It is a flippant remark but it is a serious principle—that is, until we address the underlying cause of a lot of this crime, the crime will continue to grow.

Mr McConnell—Just to finish off, I think Mr Ley has something to add to what has been said. Mr Ley is on a committee. You asked about our membership on various committees. Mr Ley has been a member of the opiate program, which is a small program that has started here in the ACT providing support to doctors and so on. Mr Bush is also on the crime prevention committee in the ACT and with the ACTCOSS prisons committee. So we have a fairly wide scope within the ACT.

Mr Ley—I just wanted to strongly endorse what you are saying about the benefits of better funding for treatment. We are concerned for the focus to be on enabling people; first of all, on trying to help prevent people becoming addicted but also, when they are addicted to any drug—and here we are talking about the amphetamines and so on—the way forward is through greater support, advice and assistance for the people who are addicted.

Senator FERRIS—And for the desperate parents who are absolutely terrified of the unsafe environment their children are living in.

Mr Ley—Yes. Without going into it extensively, I have had this experience with a son who had a perfectly good schooling and secondary education and so on and then, without my having any idea, he became addicted to heroin. What has saved his life has been his being able to get onto a methadone program, which was quite difficult at the time. There was a lot of turbulence, if I can put it that way, from the time that he first got on it. For the first 12 months or so he was using other drugs as well. But he is now stable and he is living a normal life with a dose of methadone, which he is gradually reducing. It has taken five years for him to get to this point. I am quite sure that, had he been prosecuted and ended up in jail, his life would have been ruined. As it is he has recovered, he has gotten back to where he was before and he is doing extremely well.

There is this problem with the amphetamines that the research has not thrown up adequate treatments yet, and there really ought to be funding to enable those treatments to be developed and for there to be places for people to go to get that treatment. Certainly, the aggressive behaviour is very damaging for the person themselves, the community, their relationships and the treatment centres who have to try and deal with them.

Senator FERRIS—Cost is a huge issue, and Medicare probably has to start thinking about looking at this.

CHAIR—Yes, that is true.

Mr HAYES—On the point you made, that had he been prosecuted he more than likely would have ended up in jail and it would have had a deleterious effect on his condition: I am not quite sure about the other states, but I think at least in New South Wales, with the drug courts, for instance, they do favour diversion programs, including the methadone program. Do you see any evidence of that being a positive thing in New South Wales at least?

Mr Ley—To having more emphasis on the methadone program?

Mr HAYES—Yes, where the courts are recommending people into those programs.

Mr Ley—Yes, I think so. Imprisonment should be the last resort—no question. From what we know about what happens in prisons, it is very hard to turn things around at that stage.

Mr HAYES—But it is at the moment in terms of law enforcement. Imprisonment is not the first course recommended even by the courts at the moment.

Mr Ley—No, that is true. What I would say about treatment is that compulsion is difficult to make effective. It is difficult enough when the person wants to have appropriate treatment and to recover and they take voluntary action. It is very difficult even then because they tend to fail. If there is a compulsory aspect to it, that makes it even harder. Certainly, the coercive approach should not be the direction that is taken.

In relation to heroin, methadone is still regarded as the gold standard treatment. There is a lot of misunderstanding about how effective it is. It is in fact extremely effective, but now there are other options—buprenorphine, for example. It is possible to have a graduated approach whereby a person is initially having to go every day to get their methadone, for example, and then when they become more stable they can go to a pharmacy and get it instead of going to the clinic, which means they feel that they are back in the community again.

Mr HAYES—It depends on their level of dependency. Those who are highly dependent would go on to the methadone blockade program and then be effectively weaned off over a long period.

Mr Ley—Yes, that is right. It takes time, and then they can have take-home doses, up to about five days I think it is in some jurisdictions. Therefore, they can get back into the workforce; all of that is really important. When people are addicted to a drug, their self-confidence and self-esteem is affected. To build that up again is a slow and steady process, and you need good supportive treatment agencies and sufficient funds for people to be able to do that treatment.

Mr McConnell—Could I just say something about the diversion programs. Most of the diversion programs are through the courts. It seems to me that this is one step a little too far along the way. Police usually have a discretion—and, if they do not, they should have a discretion—where they might divert people.

Mr HAYES—They do not have it in all states, as I understand it, but some courts do.

Mr McConnell—If you look at the figures of arrest, which I mentioned before, some 80 per cent of the arrests for drug related crimes are of consumers, people who are using the drugs. It is

quite a high arrest rate. Diversion programs have conditions on them. They must be non-violent drug crimes and so on. There is a limited field that is being diverted.

Mr HAYES—On your statistic, the 80 per cent arrest rate applies to users. But, as I understand it, a lot of those would be arrests in relation to supply, so not exactly just being users.

Mr McConnell—No, the figures are quite clear. They are split into two parts: consumers and providers. In the latest figures, 80 per cent are consumers and 20 per cent are providers.

Mr HAYES—That is not as I understood, but I will take that. Mr McConnell, you indicated from the outset you thought that we should be realigning our policy settings to allow for differentiation of various drugs. How would you see that occurring, bearing in that they are proscribed, illicit drugs? How would you see realigning the settings, effectively saying one drug is less harmful to a human?

Mr McConnell—If you go back to what I would see as the first principles of what should be drug policy, it should be about protecting our children. You need to weigh up the cost in terms for the individual or for the society of treating all drugs the same, treating the person as a criminal and processing them through the criminal justice system for whatever the drug might be and then look at the consequences of doing that. I would suggest that for some drugs that that would create more harm for the person than if you introduced a system like South Australia has with the cannabis explanation note. There is some research that shows that the tough law enforcement approach on cannabis, when they compared South Australia and Western Australia—when Western Australia had one of the toughest cannabis laws—made very little difference to the person in using the drug and in fact processing them through the criminal justice system.

Mr HAYES—But you take the same position then, for instance in relation to ecstasy. Again, in terms of a synthetic drug, how would differentiate that from methamphetamine?

Mr Bush—It is quite clear. Ecstasy is associated—

Mr HAYES—In talking about us realigning our policy settings, how would you be seeking for us to do that?

Mr Bush—You do not have policies that apply with equal stringency to ice and ecstasy, because ice is known to lead to psychoses four times faster than—

Mr HAYES—Can we say then that one drug is more illicit than another drug?

Mr Bush—This, ladies and gentlemen, is your political problem, but it is also the problem of the Australian communities. If we are lumping in all illicit drugs and saying they are equally dangerous then what is the point of having your inquiry? Surely you have to make hard decisions, and one of the hard decisions is getting behind the political rhetoric that any amount of use of any drug is completely beyond the pale.

Mr HAYES—Are you seriously asking us to give a half-tick of approval to a particular drug out there that is untested, unseen and marketed spuriously and have us say we will enforce that arrangement differently to something else?

Mr Bush—We have no expertise on party drugs, but you have heard evidence from Dr Caldicott in Adelaide about party drugs. You have heard how he has wanted to conduct a trial on that. That is how we should move, but the political difficulty is in being able to conduct that sort of test and get that sort of knowledge base. We must face the issue that ecstasy is not as dangerous as ice and that people are better off using ecstasy than they would be using ice. That is not to say that ecstasy is a harmless drug, because it is not harmless. That is the political issue and that is where public policy in relation to drugs has to go if we are going to make any headway.

Mr HAYES—Can we follow this one step further and look at the economic sense of drug distribution and the marketplace? I think I asked this question of the department earlier. Do we have a discerning consumer out there who decides in the marketplace, whether it be a nightclub or wherever, 'What I am going to buy at that party?' or do they buy what is available? Is it a consumer driven differentiation as to what they are going to take or what drug might be consumed—I am calling it a marketplace but it could be, for instance, a rave party—or does it come down to what is available? That goes to policy settings and what sort of indication we give to our law enforcement agencies when they are seeking to track down and prosecute people for illicit drugs.

Mr McConnell—I think it is probably a combination of both. We saw from the evidence that came out around the time of the heroin drought that, as Commissioner Keelty said, the Asian crime gangs have done their market research and decided that methamphetamines would be a better proposition to market in Australia. It is a push from that angle, but there is also a change in fashions, and at the moment we are seeing the use of cannabis reducing and the use of methamphetamines and ecstasy increasing.

Mr HAYES—Is it a matter of what is available or is it the discerning taste of the consumer who says, 'This is what I want'?

Mr KERR—Is it supply and demand that is leading people to particular drugs? Is it the supply that is there?

Mr McConnell—That is a difficult and complex question.

Mr HAYES—It is one that we are going to have to address if we are going to change our policy settings. This is what I was getting down to.

Mr McConnell—You might try a small change in policy, and we do differentiate drugs that are on the market now. We have different policies for alcohol, tobacco and, in some states, cannabis. We do differentiate.

Mr HAYES—If we had a different policy for ecstasy, would that mean that the ecstasy market would go up significantly because they would be less likely to be prosecuted? Would we have people move out of the amphetamine market to get back into ecstasy?

Mr McConnell—Assuming all else is equal and you do not change anything else, I would hazard a guess that there probably would not be a great deal of difference.

CHAIR—But it would also send a message to those that are not taking drugs at all that, if a government is saying ecstasy is not good but not too bad, nonusers might say: 'Oh, well, I might get into that. It's cheaper than alcohol'?

Mr McConnell—I do not think that is the case. Look at the difference in cannabis use among the states that have the expiation notice and those that do not. Even though people might think it is legal to grow and smoke cannabis, the usage between states is no different. That has not caused cannabis use to increase.

CHAIR—We are grossly running out of time and you could have gone longer. That was a very interesting line that I think we are all following.

Senator FERRIS—Very interesting evidence.

CHAIR—It is.

Mr RICHARDSON—As the voice for other families, friends and parents on drug law reform, how do you think the message of drug education is going in the schools?

Mr McConnell—On the evidence that I see, drug education is not very well handled. About three per cent of the drug education programs, from what I read, are effective, and very often the drug education programs are not evaluated and followed through and are pretty much a waste of money. That is not to say that all of them are. Some of the most important messages that you might get from that is that there has to be a lot of hard work done in putting in the right education program. You have to evaluate the programs that you have or have a database of what are effective drug education programs. You need to provide factual information for the kids, not hype, exaggeration and that sort of thing. You could say to a kid, 'Smoke cannabis and you'll get psychotic' or 'you'll get schizophrenia,' but the kid will know someone who is using cannabis and has never been psychotic or schizophrenic, so it puts a lie to the education—the hype—that is being put through.

Mr RICHARDSON—Is there a preferred year level that you as families, parents and friends are advocating?

Mr McConnell—I probably would not limit it to just school programs, but it seems to me there is a shift. When kids are in their subteenage years, say 12, 11 or less, you can tell them what to do and they will usually do it. When they get to their teenage years it is a little harder to tell them what to do. I would think the early teenage years might be a good time to start. That is not to say that you disregard the early part, but there seems to be some sort of switch-over at the teenage years, from what I have read in the evidence.

Mr RICHARDSON—I would encourage you to do an analysis of those programs that you have been critical of and share that with us so that we can make some recommendations.

Mr McConnell—The various programs, yes. There is a good research paper that has been through this. It is probably a little dated, but I do not think too much has happened in the drug education field since.

CHAIR—Were you talking about drug education or more broadly?

Mr RICHARDSON—No, drug education.

Mr McConnell—We will put something together for you.

Mr RICHARDSON—You have made some significant criticisms of them so it would be good to see which ones you are actually referring to and get another viewpoint on that.

Mr McConnell—In a general sense, what would be helpful would be a database of effective programs, ones that have been evaluated and that show the outcomes. There was a very good trial undertaken back in 1989 on cannabis. It compared a number of schools. Some had the program in and some did not, and the evaluation showed that it did work. It was not only the school, though, it included the parents as well. It involved parents and guardians and so on as well as the kids.

Mr KERR—Senator Ferris in conversation with me just asked why, if we are interested in treatment programs, we do not mainstream them into a system where they are provided under Medicare as an ordinary, routine part of the health delivery system. It came out of the blue to me, but we do seem to have this sort of silo of drug treatment programs which are treated in a quite different way than those on, say, the health risks of tobacco, where we have mainstream doctors involved in programs—like Quit—and a whole range of other things. Has that kind of model ever been discussed or in your thinking?

Mr McConnell—No. That is a revelation to me as well. I thought that they would have been covered by Medicare. You will appreciate that there is a lot of prejudice and stigma associated with people labelled as drug users. In other circumstances they would be perfectly normal people.

CHAIR—I think the department, who I assume are sitting behind you, are probably the better ones to put that question to. Be warned on notice: it is coming.

Senator FERRIS—The ACT, given its structure of health centres, which is quite discrete from that of other states, would surely be a good place to trial something like this. I wonder if, as a group, you have ever thought about advocating it, because in funny sorts of ways the health system already does in the sense that people are put into the psychiatric unit at Woden hospital—now called Canberra Hospital—if they are considered dangerous to themselves as a result of drug abuse. In a sense, the Medicare system is indirectly subsidising a lot of those treatments in any case. It is just that it has never actually been focused on. I do not understand why we have to look to charitable agencies or the private sector to fund drug treatment centres. I have never understood that. I thought it was quite unreasonable to suggest that that should go there.

CHAIR—That is probably not for these people to say.

Senator FERRIS—I think it probably is, really.

Mr Bush—Can I add one little snippet to your questioning. A theme, again that came up in the Senate committee on mental health, was that the split that occurred between mental health and drugs only happened in the early 1950s. The same diagnostic provisions apply to addiction as apply to a whole range of issues. Addictions are included in the DSM and the ICD as mental health issues. It is rather a question of structure. I think one of the difficulties is that we have silos, and that came very strongly through in the mental health inquiry.

CHAIR—Sorry, Mr Kerr. We have interrupted you.

Mr KERR—You were being pressed on the difficulty of being less focused on the dangers of some illicit drugs than others. Have you worked through a way in which the public policy would unfold if our approach was in line with that which you advocate? Could you give us a little picture of how you would see public policy unfolding if we made that a key element of how we were explaining risk to potential users?

Mr Bush—It is a case of the perfect being the enemy of the good. A point Mr Macintosh made has echoed with me. We work on evidence and we work on small steps. We cannot say what is the best solution to what is obviously on the facts an increasingly more difficult social problem. This is probably the most serious social problem that Australia is facing. You have to take small steps. You have to gain evidence. One of the things would be prosecutorial discretion—that is, to make adjustments to that and do assessments. Again, we do not know much about party drug testing. What we do know clearly from the party drug initiative is that users are very concerned about what they take and are concerned that it be safe, in their terms. There is surely within this the building blocks for taking small steps. What you would do this year would not necessarily be the thing you would do next year.

Mr McConnell—We might follow up with a supplementary submission. I note that we have spoken for longer than we were allocated.

CHAIR—We have questioned you longer than we were allocated, actually.

Mr Ley—We appreciate your interest and the creative approach of your questions. We do not have all the answers right now but we can come back to you with something.

Mr KERR—Interestingly, Mr Bush ended up saying it is one of the most significant and dangerous social issues we face, and yet you would say tobacco use is much more significant in terms of its impact on our society than many of these issues that we are contemplating. So our rhetoric sometimes does not match.

Senator FERRIS—This is taking out young people.

Mr Bush—Yes, you are quite right. It is the young person. Mr Kerr, I think we could provide you with some information on your question about drug-using families. But it is about the ancillary issues, the collateral damage that is being caused. People should take responsibility for themselves. When you give the message on the one hand, 'You have to solve your health

problem,' namely, your addiction problem, and on the other hand, 'You have got to be a good parent,' which is going to give?

CHAIR—Before Senator Ludwig returns and gives us another five minutes, thank you very much for your evidence. We really do appreciate it. It is certainly a different perspective.

[12.04 pm]

PRICE, Ms Karen, Director, Research Data and Policy Development, Drug Strategies Branch, Population Health Division, Department of Health and Ageing

RIGBY, Ms Linda, Assistant Director, Illicit Drugs Section, Drug Strategy Branch, Population Health Division, Department of Health and Ageing

STUART, Mr Andrew, First Assistant Secretary, Population Health Division, Department of Health and Ageing

CHAIR—Thank you for your submission. You are obviously aware of the terms of reference and the rules of these sorts of committees so I will not repeat that. Perhaps I could ask if you wanted to make an opening statement and then we will get straight into the questions that we have.

Mr Stuart—Thank you very much for the opportunity to speak with the committee today on this important issue. It has been interesting listening this morning and also interesting reading the transcripts from other hearings. The department's submission provides a summary of the department's work with relevance to the committee's inquiry. Our role in Commonwealth health is to work with other Commonwealth agencies including across education, law enforcement and family and community services as well as to work with a similar array of portfolios in the states and territories. We also manage the secretariat for the Ministerial Council on Drug Strategy. We have largely a policy role and a research role with some national coordination. We do fund some programs, but principally the responsibility for funding of treatment services lies with the states and territories.

The federal government has a balanced strategy of supply reduction, demand reduction and harm reduction. We do not think that there are magic bullets. We think that it is important to continue to work across all of those facets. The data referenced in our submission is mostly from the National Drug Strategy Household Survey, which the AIHW spoke about before and that we fund them for. I do not think we need to go further into that now.

Since making our submission, two really important things have happened on this front that I will briefly mention. Firstly, in May the Treasurer announced an additional $214 million in funding for drug and alcohol initiatives. The new measures include a number directly aimed at ecstasy and amphetamine problems, one called Combating Emerging Trends, and also funding that will indirectly support the sector to better manage the mental health problems associated with this form of drug use. Secondly, the Ministerial Council on Drug Strategy met in Perth also in May, so May was a big month for us, and the council resolved that we would now embark on the development of a new national strategy on amphetamines to mirror the sorts of national strategies we have on alcohol, tobacco and illicit drug use. The Department of Health and Ageing will be funding and leading the development of this strategy in consultation with our colleagues and experts both from within and outside of government. I am aware the committee has taken a range of evidence now with a broad range of views, many of which are likely to

focus on law enforcement issues that are really at the heart of the terms of reference of your inquiry.

I would also like to draw your attention to the *Road to recovery* report, which was completed some three or so years ago, in a related field, which carried 128 recommendations, most of which were in the health field and many of which we are still working through, although increasingly from budget to budget and in working with the ministerial council on drugs we are ticking those off.

In summary, we are aware of shifts in drug use and markets. We have effective data and monitoring systems. You have heard from the AIHW and from Professor Mattick from NDARC, both of which are exercises that we fund. Firstly, we are aware. Secondly, money is following the problem, and I think the most recent budget illustrates that. Thirdly, we are working on a strategy with states, territories, law, education and health.

I did just want to take a moment, if you will bear with me, to deal with a couple of factual issues from earlier hearings and submissions. There have been some fairly sweeping statements made about things that do and do not work. We have not spent $100 million on advertisements in this area, as Enlighten Harm Reduction might have suggested. We have spent $31 million over about four years and we have now an additional budget over the next four years of about the same again.

CHAIR—When you say 'we have not', do you mean the Commonwealth government or all governments?

Mr Stuart—The Australian government, the Department of Health and Ageing.

CHAIR—I forget the comment about $100 million, but was that directed specifically to the Commonwealth or was it directed to all governments?

Mr Stuart—I am not certain, but I do not recognise the number of $100 million. There is also evidence that it does work, and we would be happy to share that with you through the hearing or otherwise provide additional evidence in writing. I am also happy to comment on the testing issues that have been raised.

I have a comment on the heroin supply reduction, which is called a heroin shortage, but this sort of shortage is a good thing. There was a report commissioned by the department through the National Drug Law Enforcement Research Fund, from NDARC—Richard Mattick's outfit. It was called *The causes, course and consequences of the heroin shortage in Australia* and was released in 2004. The report found that the most probable cause of the shortage was disruption to supply, including through law enforcement. The effects of the shortage included a reduction in usage, a reduction in deaths and a reduction in injecting behaviour. Of course, a reduction in injecting behaviour is very important from a health point of view, because injecting leads to significant health harm through the spread of hepatitis C and HIV, amongst other things. There have been 357 heroin deaths in each of the two last recorded years, down from over 1,100 in 1999. That level of health harm has not been replaced by deaths from methamphetamines or any other substitute drugs. I would like to mention that for the record. The oft quoted comments from

Commissioner Keelty about the causes of the heroin shortage I think were made off the cuff and well ahead of the publication of the report that I have mentioned to you.

CHAIR—I was trying to get the secretary to remind me that someone said—and I thought it was the AFP—that the heroin shortage was a deliberate decision by the Asian crime bosses to move into amphetamines. You are saying you disagree with that, and you are also saying that Commissioner Keelty said that as an off-the-cuff remark?

Mr Stuart—That was my understanding. The published source that is available is the report from NDARC, which was a review of the evidence. It is the only published source or review of the evidence that I am aware of and it was released in 2004. We can provide you with that reference.

Lastly, about treatment services, while the principal responsibility for funding treatment is with states and territories, there was a comment made earlier that far too much is compulsory and far too little is voluntary, but really the balance of the treatment is the other way round. Of government funded treatment services, we had 136,869 treatment episodes in 2003-04. Some 95 per cent of that was clients seeking their own treatment, so five per cent was enforced. Methamphetamines diversion accounts for seven per cent, so slightly higher than the average but still a minority of the treatment episodes for methamphetamines are from diversion. Amphetamines account for about 11 per cent of all those seeking treatment for their own drug use, and the majority seeking treatment for methamphetamines relates to injecting, which accounts for 79 per cent of those treatment episodes. So that is at the hard end of methamphetamine use when you are dealing with injecting. I wanted to put that on the record as well.

CHAIR—Is it right to say the department is the principal source of government advice on drugs and drug strategy?

Mr Stuart—We are a coordinating agency for drug policy within the national government and also across Australia.

CHAIR—But the policy advice would come from you, you having coordinated other people's—

Mr Stuart—Yes, we are a source. I also ought to mention the Australian National Council on Drugs, which is a body that has been established to provide external and expert advice.

CHAIR—Yes, they have given evidence. I appreciate your correcting what you see as factual errors, and you are obviously reading the transcript, so I would ask you to continue doing that. As a committee, we cannot go back to everyone. Some of the things that you challenge we might send back to some of the people who said it to see if we can have an indirect debate on these things. You are probably the best source and best funded to be accurate in these sorts of things, so if I could ask you to continue, as I know you will, to watch the transcripts and, where there are factual errors that you perceive, to let us know, please. That would be very good. You did say you could let us have the information on the fact that advertising or communications does work. My impression has been from a number of witnesses that it has not worked. Can you briefly indicate that and perhaps give us a more complete answer later?

Mr Stuart—In brief, the way that we manage education campaigns under the National Drug Strategy is that we do focus testing of examples of campaigns. We choose the ones that are the most effective and the messages that work the best. Then we do post-campaign interviews and focus groups to understand what messages people are taking away. It is a very difficult thing to do to establish that a campaign actually reduces drug use in itself, quite apart from any other intervention. The kind of evidence that we do have is that from the previous rounds of campaigns 97 per cent of parents recognised the campaign and remembered seeing it. Half of parents reported that the campaign had prompted them into some action. More parents had recently spoken to their children about illegal drug use. Two in three parents thought it was easier to speak to their kids about illegal drug use as a result of the campaign and 97 per cent of young people surveyed found the commercials believable and credible.

CHAIR—Did you say 97 per cent?

Mr Stuart—Yes, 97 per cent of young people surveyed found the commercials believable. We take a lot of care with the credibility and believability of the campaigns. The sorts of representations of people undergoing the effects of particular drug use are very carefully chosen.

CHAIR—Yours are obviously planned surveys, but that is different from the evidence we were given in Western Australia from a quango that was talking about different posters designed by well-meaning adults—bureaucrats and advertising agents—that had no effect. Then the kids designed their own posters. That was one small example. There was also a phone-in from the Triple J program. I am hoping you will convince me that I am wrong, but I think one of the witnesses said this morning that the campaigns demonise drugs and then kids know their next door neighbour who has done this and those symptoms do not appear in those kids, so they just disregard the whole thing. I hope you can convince me that 97 per cent of young people think they are effective.

Mr Stuart—We do take care not to overdramatise.

CHAIR—You should go and see Holden cars or Coca Cola. They would not even get a 97 per cent response, would they?

Mr Stuart—We are saying that, of those who saw them and recognised them, 97 per cent found them credible. This is material that we publish on our website. We publish evaluations of all of our campaigns on the web and I will go and check that and I will provide a follow-up response to the committee.

CHAIR—I hope you do continue to take the positive approach to it, but the facts seem to be that we are losing the war. There are more and more people taking amphetamines. One can only think that perhaps the strategies we have used in the past have not really made a difference.

Mr Stuart—I think the truth of the matter is, as I said in my opening statement, both health and law enforcement are chasing the market, and you need good market intelligence, which is why we have the surveys, and then you need to develop your responses. Developing evidence based responses takes a bit of time. The answers relating to previous drugs are not necessarily immediately applicable to new ones, so we are involved in an energetic process of evidence gathering and testing of interventions. We have already had a psychostimulants initiative, which

was largely about gathering that kind of information, and we now have a new budget measure over the next four years of some $35 million, again to respond to the new problem.

CHAIR—Someone gave us evidence, and I was not able to question this, that there was a report many years ago—was it a decade ago?—that suggested that amphetamines were going to be a problem in 10 years time and we did nothing about it. I think it was the previous people. I am not sure where you got your evidence from but perhaps you could tell us later. If we are getting the intelligence but they are not acting on it, what are we doing wrong? Anyhow, Senator Ludwig, I chastised everyone for speaking too long and I have limited everyone to five minutes except the chairman, who has had eight. Your five minutes is next.

Senator LUDWIG—Some of mine I can put on notice in any event. It was more a question of really trying to unpack the relationship between the Illicit Drug Diversion Initiative and the money that you spend—where it goes, how it is spent, whether or not it works and whether there is any research that indicates the money is being well spent and that you are getting return for your investment. The money comes effectively from your department in a range of drug initiative programs, but this is one of them and there is a range of others but I can also put those on notice. What I was looking at was the types of strategies that you have employed, the types of programs you have then funded and whether they have been reviewed for their effectiveness. The next point is how you work with, or whether you do work with, the Australian Crime Commission and the Australian Federal Police in their initiatives as well and whether you see anything that can be added to all of that. It is the sweeping statement that we give five minutes to answer the woes of the world.

Mr Stuart—Diversion is a key program. We do fund states and territories for the diversion initiative and Karen will give you some further detail.

Ms Price—The diversion program is about $340 million over eight years. Every state and territory has a working group and it involves members of the Australian government, the state and territory governments and the non-government sector. There are a number of broad principles that the diversion agreement should fulfil and it is up to each state and territory to then agree with the Australian government how the program will run in that jurisdiction, allowing for jurisdictional differences, of which there are a number. The number of projects and programs funded under the diversion agreement varies. It is fair to say that they are all based at taking first-time offenders, if you want to use that phrase, who have in their possession small quantities of illicit substances and who are non-violent and not posing any other risk of criminal behaviour and diverting them away from the criminal justice system into something we hope will be educative and will counsel them against continuing down the path.

The nature of your question is broad ranging. There are a number of other programs funded through the Department of Health and Ageing, like the Non-Government Organisation Treatment Grants Program and the Community Partnerships Initiative. Most of the programs we run are conducted in partnership with states and territories, and there is a lot of detail underneath your question. We can certainly provide some information on projects. The idea is that it is very much in partnership with the state and territory governments, who have the primary responsibility in their jurisdictions, to address drug and alcohol problems.

Senator LUDWIG—I am happy for you to take that on notice, and I will support it with a couple of questions that I will put on notice. We have heard evidence from the Australian Institute of Health and Welfare, which comes under your department. I asked them whether they make recommendations to you. You might want to have a look at the transcript and reflect upon that in your answer, if you want to take it on notice. They indicated that their role is not to make recommendations but to provide policy advice. Looking at the functions under their legislation, I am not sure that is the case. They can certainly make those types of recommendations under 'health', and under their welfare function it is not so clear. The interesting point, at least from my perspective, is that they produce a range of statistical information that is very valuable—for example, a household study on drug use which indicates that there is a rise in MDMA use in households. But it seems they stop at that point and do not recommend that this is an area you might want to look at more favourably in terms of refocusing some of your community programs. Or do you just read that information, take it on board and do without someone bringing it to your attention in a more formal way?

Mr Stuart—The department is the funder of that survey and principally runs it in order to gain intelligence for policy. The recent movement of the market towards amphetamines, which that household survey found, was followed by a psychostimulants initiative in the budget and now has been followed by the even more significant initiative that I referred to earlier. You will see from that that the AIHW work is well into the policy stream.

Senator LUDWIG—How does it manifest itself—grants, community requests for assistance in this direction? How does it translate into action on the ground?

Mr Stuart—The psychostimulants initiative was largely about research and evidence and it has funded a number of projects over some years. We can go to some of those if you like. The new initiative is in part about developing treatment and in part about alerting the community to the risks and harms of amphetamine use.

Senator LUDWIG—What would you say to the institute about its *Beyond prohibition* paper? I am happy for you to take that on notice and have a look at the transcript. My understanding of much of their submission was that these types of programs are less effective. In fact, they used stronger words. They said this was not going to produce an outcome despite the amount of money that you were putting in. The general import of what they said was that you were not getting much bang for your buck. I am happy to be corrected, but that seemed to be what they were saying.

Mr Stuart—Which kinds of programs were they referring to?

Senator LUDWIG—Diversion programs—particularly court based programs, and even pre-court programs. The ones aimed at that area are less effective. Have you done research to indicate whether they are effective? What is the feedback, in other words? That is the other half of the equation. We have got the research on one side. Your evidence seems to suggest that you base your community response—

CHAIR—It is a very long question.

Senator LUDWIG—I know.

CHAIR—You are over your five minutes.

Senator LUDWIG—Sorry. They can take it on notice. Where is the research done on community based responses and feedback to say whether or not it is effective?

Mr Stuart—We relied on initial research in establishing the diversion initiative. The states and territories, as I have said, are responsible for rolling it out and we will be managing a national evaluation of the existing initiative in 2007. So there is research at the beginning, then a basis of practice and then evaluation to consider the outcomes and reconsider direction. That is the high-level answer.

CHAIR—Perhaps you could help us with a bit more detail later. Mr Kerr has five minutes to ask not only his own questions but Senator Ferris's as well.

Senator FERRIS—I have deferred.

Mr KERR—You would have heard the question before about the silos that we effectively have in policy delivery. The question that Senator Ferris led me to inquire about is: if we were to see that voluntary treatment programs are insufficiently available across the board and at least as effective as compulsory programs, why do we not mainstream the provision of drug related medical services into the Medicare system?

Mr Stuart—My answer will be entirely off the top of my head. You will have to forgive me for that. This is the first time I have heard that proposition. We have a Medicare system that essentially works by providing rebates to individuals who seek services from medical practitioners. It is not a payment to the doctor; it is a payment to the person seeking the treatment. The services that are funded through Medicare are medical services, as the name implies. If someone has an issue that is amenable to treatment through medical services—a drug problem, an alcohol problem, a tobacco problem, an illicit drug problem or an infection relating to needle use—they can go to their GP and be tested for HIV or hepatitis C. All of those things are already done through the Medicare system. They can also seek help for psychological harm through the Medicare system. Drug treatment services are predominantly funded by the states and territories, so to move those to the Medicare system would be a significant shift in responsibility from the state to the Commonwealth. That is one point.

Another point is that we are looking more at long-term or ongoing services, including residential services, hotel-type accommodation and capital requirements. They seem to me to fit better within a program funding paradigm than within 'episode of care' remuneration to the person seeking treatment. Those are my initial thoughts on that sort of policy landscape.

Mr KERR—If we had this paradigm we would essentially want to move away from stigmatisation and to treat those who come forward with drug related issues in a way which is accessible and universal across all parts of the country, so it would seem that we have disconnected the provision of health care in a key area from the main mode of provision that applies in almost every other area.

Mr Stuart—Even where the Australian government is responsible for drug and alcohol services—for example, we run some alcohol services in Indigenous communities—we choose

more to use a program funding kind of model. That kind of intervention is more amenable to that. But, as I say, this is the first I have heard of this idea.

Mr KERR—Are any Medicare items available to a person who is under great pressure and wishes to present themselves and say: 'I have a health related issue. I am using amphetamines beyond my healthy capacity to manage. I have started to recognise that this is disrupting my life and I want to go to a service. Can I go to my local practitioner?' Is there a capacity to draw down on that? Why are we not developing a broad band of services that can respond to this?

Mr Stuart—You can certainly go to your GP and deal with a range of health related harms. For example, in terms of the detoxification program, you can receive testing and appropriate treatment for harms such as hepatitis C and HIV, which may occur due to injecting drug use.

Mr KERR—If I am a smoker, I can go to my local GP. A number of practices not only develop individual case management but also have group management. There has been an issue about fee management, because some practices were bringing in a whole range of people for counselling and broad assistance in giving up smoking. There is no such capacity to deal with those who would regard their illicit drug use as problematic.

Mr Stuart—For tobacco, you can be prescribed assistance or you can go to the chemist and buy a patch.

Mr KERR—The answer is no. We can think about it and you can come back to us with a more detailed explanation of the 'no'.

Senator FERRIS—What you are suggesting is a very worthwhile range of treatments for symptoms. We are asking questions about taking some steps back and addressing the point where the cause is going to roll on to those symptoms.

Mr Stuart—If you need a long time in a detox service, the GP would refer you to that. It would not currently be funded, as you have said, through the MBS. The treatment service would be funded by the state or territory. It is a long-term program. It is residential. It requires capital infrastructure. I do not see how that could conveniently be funded through the MBS.

Senator FERRIS—It is funded through Centrelink, which collects peoples' dole payments to pay for it. It is still being funded by the government, but just from a different bucket.

Mr KERR—It is the first time you have been asked but, at least as far as I am concerned, it is the first time I have asked it. I am not being critical of your response. I am simply saying that, as I understand it, your answer is no—although you were having a larger framework of explanation. Mr Richardson said it may be that some psychiatric services would be available already.

Mr Stuart—Absolutely, yes.

Mr KERR—It does seem pretty plain that we funnel down. The availability of structured drug programs through state and Commonwealth funded institutional arrangements is not inadequate. We have a large provision of health services right across the country, funded through

Medicare. But we have not found a sensible way of integrating it so that we can make these services more readily available—given that we say we want to shift our focus to a health response and away from law enforcement as the sole response.

Mr Stuart—I would be very happy to have a discussion with my colleagues in the Medicare area and provide a more considered reply.

CHAIR—That would be good.

Mr KERR—The other question is about the model that is being pursued. When we first experienced the AIDS pandemic as an incipient threat in Australia, we developed a unique response which was startling in that it had to deal with a set of attitudes that were reflected in state legislation—including the criminalisation of homosexuality and attitudes towards injecting drug use—all of which required destigmatisation so that the message could be communicated to an audience that would listen and be prepared to change its behaviour. We have been remarkably successful with that. I recently travelled to Papua New Guinea, where for a long time there was denial—and still the threat of a pandemic overwhelming that country is very real. In Africa we have seen similar phenomena. One of the key things in our very successful strategy against AIDS was our advocacy of decriminalisation. This was driven by a central government which said that if we want to get across effective communication we cannot stigmatise those persons whose behaviour may not be acceptable to the community at large. People will not come forward if they believe themselves to be at risk of criminal consequences.

We also developed institutional mechanisms that recognised that even where we had not removed criminal sanctions—for example, in injecting drug use—we would find facilitative mechanisms to minimise harms. That does not seem to be the bedrock of policy formulation that underlies the drug strategy even though it is asserted to be a significant health issue. In other words, we are using a different model. This is the point raised in a different context by Family and Friends for Drug Law Reform. I am just wondering how it is that we are not using a very successful Australian initiative in this area. We all ought to be screaming from the roof tops about how successful we have been.

CHAIR—Do you have any answer or any advice?

Mr Stuart—I understand. Some of the origins of that question go to HIV and hep C, which are communicable diseases spread by, amongst other things, injecting drug use. The hepatitis C epidemic in Australia is still largely driven by injecting drug use. The very low rate of HIV in Australia, on international comparisons, is the result of having put in place needle and syringe exchanges before the epidemic took off. But we have a couple of infectious diseases that are related to that activity. We did adopt a health approach to encourage people to come forward for testing, which was accepting and non-punitive, and that stood us in very good stead. I do not think we have changed that paradigm at all.

CHAIR—The question is: why are we not doing that with drugs?

Mr Stuart—I believe we are still following the same course in relation to the health harms that pertain to drug use.

Ms Price—I would like to add a couple of things. Through funding the Australian National Council on Drugs, the Australian government has come up with a couple of interesting initiatives on this issue. In terms of the stigmatisation of people with drug or alcohol problems, people with mental health problems suffer from the stigma of their conditions just like in the past. The ANCD is looking to develop a set of media guidelines, because the way the media presents certain things is one of the powerful mechanisms through which people form their opinions. The ANCD is working on a set of guidelines for the media on the way they should produce stories on drug and alcohol problems. Terminology is one aspect of the stigmatisation problem that we have recognised and are working slowly to change. Similar sorts of things have been done on youth suicide because media reporting of youth suicide was contributing to the problem. That has been slowly turned around with the assistance of the media.

Another initiative is Treatment Works Week, which the Department of Health and Ageing helps to fund through ADCA, the Alcohol and Other Drugs Council of Australia. It is a targeted campaign that runs nationally for a week to promote the fact that people with drug and alcohol problems are worthy of treatment and that treatment works. It is a campaign with a positive message. That is important, because a lot of people are lulled into the belief that drug and alcohol abuse is an intractable problem that you cannot do anything about it. Of course it is a complex problem, but some very good things are being done about it. There are a number of approaches that are leaning towards a change in the way drug and alcohol problems are presented to the community and accepted by the community. Some of the early work in the HIV-AIDS area helped pave the way for that.

Mr RICHARDSON—Chair, I suggest that we either get the department back or give them a whole series of questions. I have around 10 question that I would like them to address. Mr Stuart, you said in your submission, or in your opening statement, that you are able to comment on pill testing. Would you like to comment on whether pill testing should occur at rave parties? If so, could you indicate whether you are representing the department or giving your personal view.

Mr Stuart—Yes, absolutely. I am here representing the department. What I can tell you is that the Ministerial Council on Drug Strategy, at its meeting in May 2005, considered the issue of pill testing, including input from domestic and international evidence. Very recently, in fact this May, the ministerial council decided to make that evidence publicly available, so we have just put on to the ministerial council's website that literature review of the evidence on pill testing. I should tell you that the ministerial council decided not to pursue any further work on pill testing on the basis of that report. The report in the broad found that there was no evidence of harm reduction relating to pill testing, in part because there is very little evidence per se. My reading of the report is that it is very difficult to make a case for why testing would be a harm reduction strategy when the kits cannot test for harmful substances. The safety of the key active ingredient has not been established in long-term health trials, so even the ingredient that you are looking for cannot be declared to be safe, and the proponents of the testing do not tell people to take it or not take it. Just as a matter of logic, I find it difficult to see where the harm reduction comes in. I think it is a very different issue from needle and syringe exchanges—

Mr KERR—If you could separate alcohol from arsenic, you would not make the argument that alcohol cannot be proven to be safe; you would not pursue that course. We know we cannot prove alcohol to be safe.

Mr Stuart—What I am saying is we do not know very much about the long-term health impacts of methamphetamines or ecstasy and there is mounting evidence—

Mr KERR—You know that the immediate health impacts are adverse. If you make the case that these are ineffective, I would accept that. You cannot pick out the bad things, if that is the case that you are making—and maybe that is true or maybe it is not empirically. But the thing that you are looking for may not be safe—so what? Alcohol, as we know, is not safe. People are using it. People are seeking to use ecstasy and that then is their choice. But if it is arsenic or something else that is mixed in, and is foreign to that, surely you will not make the case that because you do not know whether ecstasy is perfectly safe, you would prevent people knowing that something in it is horribly dangerous. That to me is the sort of mad logic of somebody with an ideological rather than a harm prevention first approach.

Mr RICHARDSON—However, at the same time, the international studies such as you were referring to are showing that it is adverse at this time. I think we can leave it at that, anyway. I would like to call for that report, if I could.

CHAIR—We are going to have a meeting during the next parliamentary sitting to hear from the Attorney-General's, which we have put off. I wonder if we could impose upon Mr Stuart and his colleagues to come back then. We will try to get you some written questions before that. I think there are a lot of things that we would all like to pursue. Do you have an urgent question?

Mr HAYES—I think that would be fine, if you could invite them back.

CHAIR—If we could impose upon you to come back at a time that we will arrange with you so that we can pursue this. We are giving you a lot of our opinions, but we are not giving you a great deal of time to respond, either, which is unfair to you.

Mr Stuart—I would just like to complete my response in relation to the points that were made. What I am principally saying about testing is that I do not see where the harm reduction comes into that measure as a matter of logic. It is a very different terrain from needle and syringe exchanges, where what you have is an attempt to prevent infectious disease spreading more broadly, both across the using and non-using communities. There is no such spread of disease, except in the case of injecting drug use. But through tablet use there is not the sort of herd issue that pertains to needle and syringe use.

CHAIR—I respect your view as an expert in this area. I am inclined to Mr Kerr's view, but I think it is something that we could explore in terms of background to that. Unfortunately, it will have to be at another time. Thank you very much for coming along today, and we look forward to seeing you again in the future.

Proceedings suspended from 12.53 pm to 1.29 pm

LINDSAY, Mr Craig Hamish, Director, Law Enforcement Strategy, Law Enforcement Strategy and Security Branch, Border Intelligence and Passengers, Australian Customs Service

VALASTRO, Mr John Peter, National Manager, Law Enforcement Strategy and Security Branch, Border Intelligence and Passengers, Australian Customs Service

CHAIR—Ladies and gentleman, I call the committee to order. We are inquiring into amphetamines and other synthetic drugs. I welcome the Australian Customs Service, who do a great job for Australia. Thanks very much for coming along, gentlemen, and thanks for your submission. You are aware, having no doubt appeared at these inquiries before, that the evidence is privileged. I will invite you to make a short opening statement before we move on to questions.

Mr Valastro—Customs thanks the committee for the opportunity to appear at this hearing. As requested and by way of introduction, I would like to reiterate some of the key points that we made in our written submission. Customs does not work in isolation with respect to this issue. Amphetamines and other synthetic drugs present an ongoing challenge to Australian law enforcement and we are committed to meeting this challenge. Key respects of how we are doing this include, with regard to risk assessment, our results being based on intelligence-driven risk assessment philosophy. We recognise that the majority of international movements are legitimate and target resources at areas that are high risk for illegal activity. The ACC is an important partner in helping us do this effectively.

We also apply a variety of sophisticated detection technologies to target high-risk goods and people, including ion mobility spectrometers, x-rays, including our container x-ray machines, and chemical field test kits and detector dogs. Customs also trains and skills staff to deal with the threat posed by AOSD. For example, to enhance Customs' ability to detect and handle illicit drugs precursors, between 2004-05 and 2006-07 we are delivering a series of precursor training courses under the National Strategy to Prevent the Diversion of Precursor Chemicals into Illicit Drug Manufacture. Again, the ACC is an important partner in this activity.

As I already mentioned, domestically Customs works hand in hand with Commonwealth and state and territory partners to deal with the AOSD threat. We are an active member of the National Precursor Working Group and we also have very close relationships with key agencies on both a collective and individual basis. In relation to the ACC specifically, we collaborate on a range of levels, including joint operations, and crucially by sharing intelligence to facilitate the alignment of resources with risk. At the international level, we make a key contribution to Australia's fight against AOSD through a number of initiatives. Of particular note we are the Central National Authority for Australia and the focal point for Oceania under the International Narcotics Control Board's Project PRISM, which stands for Precursors Required in Synthetic Manufacture. This is an important project targeting key amphetamine-type stimulant precursors.

Finally, with regard to legislation, Customs continues to be active in the development of legislative responses to counter the illegal trade in AOSD and their precursors. In particular, we played a key role in the development of the serious drug offences legislation that commenced

under the Criminal Code Act on December 2005. The effectiveness of Customs' approach in protecting the community from AOSD is highlighted by key results that Customs, in conjunction with our partner agencies, has received in recent times. For example, in the last two years we have seized in excess of two tonnes of ecstasy. We have also had very substantial successes with respect to precursors, including 400 kilograms of ephedrine in August 2005 and numerous smaller seizures since then. In summary, Customs is committed to working with our partners to continue to enhance Australia's capacity to deal with AOSD related issues and we welcome the opportunity to expand on our written submission to the committee.

CHAIR—Thanks very much. I will invite Mr Hayes to start the questioning of Customs and move down the table.

Mr HAYES—I know that Customs works in conjunction with other Commonwealth agencies. How much does it work in conjunction with state law enforcement jurisdictions?

Mr Valastro—We work pretty closely with state law enforcement as well, and that is every single state because we have a presence there. Essentially we work with the AFP primarily in relation to these types of offences but, where there are opportunities for other agencies to be involved, we certainly bring them on board as well.

Mr HAYES—What is the proportion of imported drugs in the marketplace now?

Mr HAYES—That is not an easy question to answer. Essentially what we are talking about here is illegal activity. Because it is illegal, it is actually below our ability to be able to assess effectively. I cannot really give you an answer that says it is this proportion or that proportion. Essentially, all I can say is that, through the activities that Customs and other agencies do, we actually make quite a significant difference in terms of the types of results that we are getting.

Mr HAYES—Is it your jurisdiction, as drugs are being imported, up to the point they reach our shores?

Mr Valastro—We play a part at the border itself in detecting drugs, but there are also other agencies, particularly the AFP, which have a role. Essentially, if we make a drug detection, the seizure is actually passed to AFP to do the full investigation. In the area of precursors particularly, we have a much more shared role.

Mr HAYES—I am just thinking of things that have been prominent in the past, particularly the drugs in and about Cabramatta, for instance. I think largely it was seen to be a state policing role to address drugs in Cabramatta, yet the evidence at that stage was that the drugs that were in use in the streets in Cabramatta were imported drugs. I am just wondering how much cost shifting does go on and who is responsible in terms of jurisdiction.

Mr Valastro—I do not think we actually engaged in those sorts of discussions in general. We have found that the only way to be really successful in this environment is to not engage in saying that this is someone's responsibility and this is another's, but in working together. Taking that example further, the New South Wales Police provide us with enormous levels of information about what is actually occurring at the border as well, and potentially internationally. We work with them to get the best outcomes across jurisdictions essentially.

Mr HAYES—That is to be applauded. But I think the fact remains, at least so it seems to me, that if a lot of our problems with illicit drugs are with drugs being imported into the country, at some stage they cease to be a federal issue and then state police and territory organisations take over from there. Should there be a more coordinated law enforcement response between the Commonwealth and respective state jurisdictions?

Mr Valastro—There is always room for improvement in those sorts of areas. I have been with Customs for quite some years, and I have seen over time a much more integrated type of approach gradually coming into play. We all recognise that we cannot do it alone and that various agencies cannot stand alone in this sort of environment. We do quite a good job integrating the sorts of activities that we do, though again I will say that we can always do better in that respect.

Mr HAYES—Do Customs have their own intelligence gathering exercise?

Mr Valastro—Absolutely, yes. Because we tend to align our resources based on risk, intelligence is actually one of the key features of what we do.

Mr HAYES—You have offices in 20-odd countries.

Mr Valastro—Unfortunately, we have offices in only about seven countries. We have a reasonable overseas presence, but we do rely heavily again on both our relationships with other Customs administrations around the world and also with the Australian Federal Police overseas network to boost our capability from that point of view.

Mr HAYES—Is your capability augmenting what is already provided by the Australian Federal Police and the ACC, or is it duplicating that?

Mr Valastro—It is augmenting in the sense that Australian Customs has other responsibilities overseas as well, whether it is to progress free trade agreements or to look at the revenue side of the business. Also, in terms of augmenting, we collaborate even overseas to ensure that we capture both aspects. The AFP looks at investigative aspects. We look at the cross-border movement aspect and how we can actually leverage off each other to get a better result.

Mr HAYES—Does your intelligence gathering feed into the ACC?

Mr Valastro—Definitely, yes. It is an iterative process. We receive information that feeds into the ACC. What we look for from the ACC is product coming out, which actually assists us in being more effective in terms of our risk assessment.

Mr HAYES—Your organisation will rely on the ACC to provide that intelligence, if necessary—

Mr Valastro—Absolutely.

Mr HAYES—to all other law enforcement jurisdictions?

Mr Valastro—Yes. That is true. The ACC serves a particular role in being able to spread that information through its criminal database systems.

Mr RICHARDSON—Your submission states:

The manufacture of AOSD also requires specialist chemicals and equipment, and controlling the supply of these is a matter of effective regulation and industry cooperation as much or more than criminal law enforcement.

Can you expand on your thinking on the most effective way to control the supply of precursor chemicals and also manufacturing equipment?

Mr Valastro—We recognise that in this particular environment, because of the complexity of the issues involved and particularly with precursors, the issue we have is that a lot of precursors are legitimately used for a range of reasons. In that respect, law enforcement activity is only one part of the picture. We work very closely with the Office of Chemical Safety, which is within the Therapeutic Goods Administration, to look at what licensing regimes need to be put in place. Obviously, if they put something in place, we are the ones who have to respond to that.

Mr RICHARDSON—That is what you would actually suggest, too? Our job is to make some recommendations, so please help us to help you.

Mr Valastro—In that respect, there is a precursor working group made up of law enforcement agencies, health and also industry representatives, which is a very important part of the picture. We work closely with industry and those other partners to get the best outcome. We have had some pretty good success most recently with putting in place regimes that affect, for example, the diversion of cold and flu preparations. That has been a really key thing coming out of the precursor working group. In terms of the cross-border movements of issues, we work most closely with OCS, the Office of Chemical Safety, to try to work out what sort of regime can be put in place to make us effective but also will not damage the relationship that we have with industry as well. It is a bit of a balancing act from that point of view.

Mr RICHARDSON—Is it your opinion that that is probably one of the best strategies to see the decline in the increase of amphetamines?

Mr Valastro—It is one of the key measures. You need to have a multilayered approach. You cannot handle this from one particular perspective alone. That is one of the key planks, from our point of view, that is making a difference.

Mr RICHARDSON—What about the training of staff and resources? Is the answer, 'We would always like more'?

Mr Valastro—I will not say that. I am very proud of the work we are doing with the Attorney-General's department under the national strategy looking into precursors. They have given us some support in putting together a precursor training package. That package looks at things like how to identify a precursor, how to handle it effectively and the occupational health and safety aspects of it. Basically, it provides a complete picture of how to be as effective as possible when we come across these different products. As you are probably aware, there is a very wide range of different precursor substances out there. We are always trying to stay ahead of it by having

these training programs in place. So far we have trained about 126 people, but we are constantly updating the process. In fact, now we are at the point of getting other agencies to get involved as well, which is again expanding the number of people that understand the issues and the challenges around this.

Mr RICHARDSON—In most states there are the backyard cooks of the amphetamine trade. Therefore, the resources of those police forces and agencies have to double their number for occupational health and safety reasons. Do you have to do the same?

Mr Valastro—The clandestine lab environment is probably a more dangerous environment that what we are dealing with, which is cargo shipments coming in that are described as particular products. We then handle them quite carefully. We will not just open up a particular container and dip our finger in or anything like that. We will control the way that we examine a particular substance. If the substance is already identified, there are very clear procedures that have to be followed in terms of handling a particular substance. Essentially what we are doing there is trying to manage the safety issues. I do not think that we actually need additional resources to handle the safety issue, because we have quite clear procedures about how we handle them.

Senator LUDWIG—Where are the overseas offices based? Please take that on notice. Are they based more in locations for trade facilitation—or, in other words, where Customs works in trade facilitation roles? Or are they more likely to be where there are border integrity/security issues?

Mr Valastro—I can go through them very quickly. We have got people based in Washington, Jakarta, China and Bangkok, and one based in Brussels. Most Customs offices are placed because of law enforcement issues. For example, the people based in Jakarta, Bangkok and even in Washington and Brussels deal very closely with their law enforcement counterparts in those places. That does not mean that we do not use them for commercial purposes as well, but certainly they understand that they have a very broad remit when it comes to handling the types of issues that Customs deals with. Certainly, the ones based in South-East Asia have a very strong focus on the sharing of intelligence, working closely and cooperating with their law enforcement counterparts in those places.

Mr RICHARDSON—In terms of control operations, do you only confine yourself to the wharves and ports, or do you come back further into the market, particularly in terms of drug operations and the like, for tracking the supply chain?

Mr Valastro—Our focus from an operational point of view is essentially at the border. From an intelligence point of view, we are interested in the whole chain, ranging from domestic use, low-level distribution, et cetera, right up to the international supply as well. We look at the whole chain from that perspective but, in terms of our operational focus, most of our work is done on the border. Again, if the AFP or a state police service say that they would like to involve us in a particular matter, then we will definitely be there to provide whatever support that might involve. It can sometimes mean all they are looking for is the use of some of our technologies, like our dogs, or it might be that they want intelligence support for a particular matter and, if they ask, we will provide investigative support as well.

Mr RICHARDSON—Could you take it on notice to indicate over the past 12 months the types of requests and the types of responses you have provided, as diverse as assistance with dogs, control operations or those ones that you can at least advise us of?

Mr Valastro—That we can talk about.

Mr RICHARDSON—There might be ones currently afoot that I am sure commonsense will exclude. You have your own intelligence unit. Does it work with the AFP and the ACC or does it work independently?

Mr Valastro—We have a branch that is devoted to intelligence and it operates at a number of different levels. We have operational units based in every region that support very closely our operations there but also work with the regional counterparts of both the ACC and the AFP. Centrally, most of our activity is around strategic activity, looking over the horizon at what sorts of issues we need to be focusing our attentions on and, again, at that issue of aligning risk with our resources. At both levels we work hand in hand with the ACC and with the AFP, amongst others, but particularly with those two agencies.

Mr RICHARDSON—Do you have your own database or do you use the ACC's database for storing intelligence material, accessing the intelligence material and otherwise passing around the intelligence material that you collect?

Mr Valastro—We do have our own national intelligence system, which is essentially the tool that we use internally to gather and store intelligence material. That does not mean, though, that the material that we store and gather does not get shared with the ACC. We are a very heavy user of the ACC's internal resources as well, from an intelligence point of view.

Mr RICHARDSON—Does your computer have a name? Do you give it an acronym?

Mr Valastro—We do: the National Intelligence System.

Mr RICHARDSON—That is part of Customs?

Mr Valastro—Yes, it is.

Mr RICHARDSON—Are the AFP or other agencies able to access that?

Mr Valastro—Yes, they are. Amongst the agencies that we are talking about—the AFP, the ACC and ourselves—we have quite a high level of sharing. We provide access to other agencies to use our systems and, vice versa, we have very good access amongst those agencies as well.

Senator LUDWIG—Is the type of operation mainly associated with shipments of drugs, drug related matters, people's names, places, events and that type of information? Whether you can say that or not is another thing.

Mr Valastro—I can say that it is a criminal intelligence database. It has all the things that you would expect might be contained in that respect. It is mostly focused on cross-border type issues.

Senator LUDWIG—Is the Australian Taxation Office able to access it?

Mr Valastro—I am not entirely sure. I would have to take that one on notice.

Senator LUDWIG—Your intelligence database has a name, you manage it and you effectively control it. Do you have an access regime in place?

Mr Valastro—We do.

Senator LUDWIG—Please take on notice to provide who has access to it and how you manage the access regime.

Mr Valastro—Yes.

Senator LUDWIG—How do you share criminal intelligence that you have gathered with other agencies as well?

Mr Valastro—I will just add, though, that under section 16 of the Customs Administration Act 1985, which is one of the mechanisms that we use to share information, the Australian Taxation Office is covered as an agency that we can share information very freely with. Whilst it might not have—and I will have to check—access to the system, it certainly does have access to the information.

Senator LUDWIG—Do other areas like AUSTRAC use your primary data?

Mr Valastro—Yes.

Senator LUDWIG—They can institute quite sophisticated searches in their own systems; whether they can do that in yours is another question.

Mr Valastro—Again, with the example of AUSTRAC, we work incredibly closely. AUSTRAC have people placed at Customs and we work very closely together in that respect.

Mr KERR—I was interested in the evidence we received in Brisbane from the police in Queensland, who were saying that essentially the task of identifying and preventing access into Australia of precursors is likely to become more difficult as people develop different ways of cooking up these synthetic drugs. How does your intelligence anticipatory role operate? Will the law of diminishing returns apply or can we be confident that the kinds of materials that are necessary as precursors can continue to be identified and tagged?

Mr Valastro—Part of our monitoring activities, and certainly the way that we try to stay one step ahead, as we already mentioned, is our considerable international network, again working closely with the AFP. In term of new products coming online or at least being made aware to us, I can think of some examples. Most recently, New Zealand seems to be experiencing the use of a particularly new substance. As we are made aware of them, we have mechanisms within our legislation particularly and certainly under the new serious drug offences legislation, and under our own regulations, to upgrade what is banned, licensed or controlled under those

arrangements. We can move pretty rapidly, which is a very powerful tool, in my mind, to get around those sorts of issues.

Again, from experience, the market is constantly changing. The pressures that we put in certain areas lead certain groups naturally to move to other areas. From a precursor point of view, I do not think they are going to stop. In terms of new areas, I suppose we would almost say that some of the products that they are currently trying to work up or modify to get around some of the legislation, et cetera, probably are not a great way for them to go, either, in the sense that they are actually harder to manufacture. Cooking some of those new substances requires a substantial amount of equipment and knowledge. There are avenues there that I do not think have a lot of productivity from that perspective. Again, the market is constantly moving. It is a dynamic environment. We use the intelligence capabilities that we have, again, working with our partners to make a difference in that respect.

Mr KERR—I suppose from your interdiction you would have some sense of this, but what is your perception of the volume of precursors being imported into the country as opposed to materials that have been manufactured and then supplied in a finished state?

Mr Valastro—That is not an easy one to answer in the sense that we have a reasonably good idea of what is being imported legitimately across the border. We keep quite sophisticated details on that. Around the proportion that is being diverted, we do not really know for sure. Again, we work closely with our state counterparts to get some feedback from that perspective, but I cannot give you a hard answer on that. Certainly we do monitor what they can bring to our attention and get a feel for it. The other thing, too, is that it can vary from a state-to-state perspective. It can also vary across time because of the particular focus that a particular state may be taking. It is hard for me to say that I know this is the proportion or that I have a percentage to give you, unfortunately.

Senator FERRIS—I am interested to know your views on why Australia has such a high use of amphetamines, despite the impressive interdiction that Customs has carried out. Why do you think the use is increasing here? Have you got any views on whether or not, as your interdiction has been more successful, there has been more local production?

Mr Valastro—That is not an easy one to answer. I think partly it might have to do with the interdiction work that we have had. I think some of the successes that we have had in particular parts of the market—and I am talking about the much broader drug market, essentially—has perhaps shifted some people from particular areas to others. We are talking about a very short period. We are talking about the last couple of years generally where we have seen this market change. When I say 'market', we are still talking about a small percentage overall. We would have to see a bit more time before we can say what is causing the increased consumption. I cannot tell you why people are saying, 'Let's move to amphetamines or move to amphetamine type substances' as opposed to other substances. At the moment it seems that it is increasing. The successes that we have had seem to be counteracting to some degree in certain areas, but I cannot give you a hard answer on that one, I am sorry.

Senator FERRIS—You have some pretty impressive methods of interdiction now. I am aware of some of them. It surprises me that Australia still has such a high level of consumption in amphetamines. They must be coming from somewhere.

Mr Valastro—Yes, true. There is some suggestion that some of that high consumption is coming through domestic production based on the diversion of precursor chemicals and particularly pseudoephedrine. But, again, acknowledging that the environment is changing with respect to the hardening of controls around those areas, we anticipate that our work at the border is going to become a key factor in the future. Certainly, we see that as a big issue for us. Again, if the controls on that domestic production are coming more strongly, which they are, then certainly we are looking to see how the market is going to shape itself in the next 12 to 18 months or longer.

Mr KERR—As a former justice minister, I can point out that there are an awful lot of boxes that come in and out of Australia, and with drugs being so tiny in volume, the chance of getting it all is—

Mr Valastro—We do not suggest that we are getting all of that or that we are the only player in this particular space. As I said in my introductory statement, we are just one player amongst many but, again, the critical issue is that we work together to get the best outcome.

CHAIR—As I understand your submission, you have aids to detect drugs being imported. Are they foolproof? Does every drug send off a signal that you can somehow pick up with one of your aids, or should I not ask these questions?

Mr Valastro—I mentioned it earlier, but I will just reiterate that we use a multilayered approach. We use intelligence as a way of refining our targeting approach: we focus on certain key areas within the whole environment. We use technologies, particularly a range of detection technologies, as a factor to multiply our capability. We have limited resources as far as people are concerned. We can use the technologies to then give us a much broader scope. I have quickly referred to the detector dogs, the x-ray machines and the various other systems that we have at our disposal. The way that we try to use those is that, where one cannot pick something up, another one plays a role. What we try to do is create an interlocking arrangement so you have multiple layers that are building a barrier against the movement of these goods.

CHAIR—But there is, as I understand it, increasing methamphetamine being imported. I agree with Mr Kerr that you do a marvellous job and there are a lot of boxes and a lot of ports, but you are not winning the war against importation. We make a lot of busts, but there is still a lot more coming in. Is there anything that can be done to enhance your capacity? Is it a question of money or personnel?

Mr Valastro—I do not see what we do in terms of winning or losing, in many ways. The type of work that we do serves as a powerful deterrent to a lot of people. Our successes show to people that the border is not a safe place to use if you are going to commit some sort of illicit activity. I think the types of things that we do are very effective, and in fact I think we are world leaders, in many ways, in these sorts of activities.

CHAIR—Yes.

Mr Valastro—If I was going to say 'Where to next?' or 'What more can we do?', the area that we identify as being key is working more closely with our partners, and I make the point that it has to be an international and domestic approach. The border is not a static line. It is something

that can move depending on the issues that are involved and the risk that is identified. The future for us is about being much more flexible about working with various partners who have different areas of expertise that we do not and bringing that expertise together. In that sense, I think we are being very effective now. As we bring these sorts of additional ideas together and these concepts forward, I think we will become even more effective.

CHAIR—Of the interdictions you make, do most of them involve people or do they involve containers or some other form of packing?

Mr Valastro—I cannot give you an exact figure. I can take that one on notice if you like and give you much more detail.

CHAIR—What would it be, fifty-fifty?

Mr Valastro—I could not say. One factor is the dynamism of this environment. There is no particular way that a criminal group or individual will attempt to get across the border. In terms of how we do our business, we actually treat it as being by any means possible, so we are very creative and in many ways innovative about how we approach the issue of cross-border illegal activity.

CHAIR—Some evidence has been given—and I think everyone accepts this—that there was a period when there was a heroin drought. Do you claim any credit for that, or was it the drug lords deciding that amphetamines were a better proposition?

Mr Valastro—We certainly do, and I am sure that the AFP will say the same. From my own experience of being involved in that environment as well, what we saw around 2001 was an approach to interdiction that was very effective for us. We focused very heavily on different groups, and I think we made a substantial difference. But also what proved that from our perspective was that overseas—particularly in some of the other countries that were receiving product out of the golden triangle, which was at that time a key area for heroin provision for us—we were not seeing any shifts in their production or even in prices and various other things.

CHAIR—You are saying it fell in Australia but not elsewhere?

Mr Valastro—Not elsewhere—that is right. There has been substantial research to back up that perspective. Again, as I said, we saw quite a shift here, but were not seeing it in some of what we would probably describe as similar countries—Canada, Europe and others. We definitely saw that as a big effect.

CHAIR—That is all I have. No other burning questions?

Mr RICHARDSON—I notice that China and India, from intelligence, were reported as the main two countries of importing precursors. You set up an office in China but you have not in India as yet. Secondly, as a result of that, who does this in India? If you are going to say that it is the AFP, some of my other opposition colleagues would say, 'Why not the AFP? They have 31 offices in 26 countries. Why does the AFP not take over the Customs roles?'

Mr Valastro—In a particular country?

Mr RICHARDSON—In those countries that you already are in and in India.

Mr Valastro—What I was alluding to before is that the AFP and Customs provide a different type of expertise that can be brought to a particular matter. There is really no duplication of effort in those countries where both the AFP and Customs are based. I do not necessarily see that there are any issues there in terms of the type of work that we are doing and the type of work the AFP are doing. What I will say, though, is that they complement each other perfectly in a number of respects. With respect to India specifically, it is not a country that we were planning, at this stage, to expand into. I really do not know, to be honest with you, about whether or not that is something that is being considered for the future, though I can take that on notice, if you like.

Mr RICHARDSON—I would imagine, therefore, that the AFP in India would do a lot of the Customs-type work.

Mr Valastro—When you say 'Customs-type work', if we are talking about particularly their law enforcement activity, then essentially we tap into that network from that perspective. But in terms of Customs specific activities, the way that we operate is that a person who is based in a particular country, say, China, would have regional responsibility. They would identify countries that they would work very closely with. That is the way that we break up our responsibilities overseas. Certainly the person based in China would have responsibilities around that area; if not, for example, the person in Bangkok.

Mr RICHARDSON—Can you share with the committee the most prevalent way of importing? Is it false identity?

Mr Valastro—In terms of how goods are brought across the border?

Mr RICHARDSON—Brought into Australia.

Mr Valastro—No, I do not like to say there is a particular prevalence of a particular style. As I alluded to earlier, the market is very dynamic. As soon as you think that you know what the criminal entity is going to do or contrive to do, then they will move to a different type of operation. We do not allow ourselves to get into a position where we think, 'This is the way that it is being done.' There is no one single way that you can get across the border; there is also no one single way that we do the type of work that we do to counteract that activity. Staying mobile and flexible is the key to being successful. Again, I think we have shown that we have done that pretty well, certainly in the last few years.

Mr RICHARDSON—What do you do in respect to the false identity arena?

Mr Valastro—Identity fraud and identity crime is one dimension of the bigger picture. An identity task force has been put in place with the AFP. ACC provides it with great support in that respect. We see that as another dimension of what we do—not as a particular way, but just another one of the mechanisms that we have to counter.

CHAIR—Thank you very much for being with us again and for answering those questions. There are a couple of things we have put on notice to you that we hope to get back.

[2.09 pm]

HILL, Federal Agent Bruce, Manager, Border, Australian Federal Police

PHELAN, Federal Agent Michael, National Manager, Border and Intelligence Network, Australian Federal Police

CHAIR—Thank you, gentlemen, for coming to answer our questions today and thank you for your submission. I would invite you, if you feel so inclined, to make an opening statement, and then we will ask you some questions.

Federal Agent Phelan—We would like to thank the committee for the opportunity to give evidence here today. As you are aware, we made a written submission—and I know that has been digested—and we are quite happy in the interests of time for us to field questions based on that submission, if that is acceptable.

Senator FERRIS—I will just ask you a question that we explored in our hearings in Sydney, which is the extent to which pharmacies are now accepting that cold tablets such as Codral can no longer be displayed on open shelves. I speak for a number of members of the committee when I say we were surprised to discover that up to 50 per cent of those tablets have gone into diversion and the New South Wales Police told us that there were still some pharmacies that were displaying them in an area where they could be removed, shoplifted or purchased in bulk and then taken away. Can you talk to us about those products in the ACT, how they are managed and what view you might have had of the level of diversion of those products here?

Federal Agent Phelan—In relation to the ACT, if I could take those questions on notice, I would appreciate it. My area of responsibility is the AFP's national operations and our international operations, but we are quite happy to answer those questions in relation to the ACT. If I could take those on notice, that would be appreciated.

Senator FERRIS—That would be very good. My second question relates to one that I asked the previous witness, which is: with all of the new initiatives and all of the high technology that is now available both for police with telephone taps and so on and interdiction at our borders, why do you think we still have one of the highest consumptions of amphetamines and amphetamine products in the world?

Federal Agent Phelan—When you look at any type of illicit drugs, you are talking about a market economy where there is both demand and supply sides of the equation. Australia, being a relatively affluent society, has a large demand pool on the use of illicit drugs, so that is certainly one of the contributing factors. You are quite right in your assessment that the Australian border control agencies, whether Customs or the AFP, have significant resources at our disposal. We believe that we have been relatively successful over recent years in curbing the use of illicit drugs and stopping the importations, not the least of which is our offshore operations. But at the end of the day, we are talking about a criminal enterprise that is there to make money. Where there is a will there is a way and they will continue to exploit different methodologies to try to import and manufacture drugs here domestically. I think that will still continue. The job of law

enforcement is to try and keep ahead of the game in terms of developing our intelligence networks, working with our partners to try and stem the flow as much as we possibly can. I think we have been relatively successful at that over the recent years.

Senator FERRIS—I would like to agree with you, but the statistics do not reveal that. One can only imagine what would happen to the market in Australia if you had not had all that interdiction or all of your other opportunities to curb it, given the level of consumption.

Federal Agent Phelan—I suppose that is quite right, because if we look at the level of seizures over recent years, and particularly those that are offshore, we believe they have contributed to the decline of availability here. As our comrades from Customs said before, we are talking about a dynamic environment that has a shifting in commodities over time. If we go back to the seventies, for example, and early eighties, the majority of the commodity that was imported into Australia was cannabis and cannabis resin. We moved in the mid-nineties to heroin. We did see a heroin drought as a result of that in the early part of this century, and now we have seen a move towards methamphetamine and other amphetamine type stimulants. That was predicted by the majority of law enforcement. We continue to alter the ways in which we operate to try and move ahead of the game, to try and stop them as best we possibly can.

Senator FERRIS—Are you aware of any of the activities of the ACT police in undercover work and so on? Are you able to answer any questions on that?

Federal Agent Phelan—Not in operational specifics, no. The AFP has an undercover program that is at the disposal of the ACT component of the AFP.

Senator FERRIS—Can you tell us a little about that?

Federal Agent Phelan—Not unless we were able to go in camera could I talk a little bit about that. That is something that operationally we try and keep very close to our chests, for obvious reasons.

Mr KERR—One of the questions that emerges for us is the degree to which the efforts of the AFP have been undermined by a focus in different areas. It was suggested to us, I think by a senior researcher in Queensland, that the focus of the AFP had been diverted away from drug law enforcement into terrorism and national security. Would you like to comment on that? Obviously, there has been a refocusing of some of the priorities of the AFP, but can you comment on the degree to which this has occurred and the consequences of it?

Federal Agent Phelan—The AFP has a range of priorities that change from time to time. Law enforcement is a very dynamic business. Yes, 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. I do not necessarily subscribe to the theory that the AFP has moved all its priorities over to other

investigations. We are still seeing a rather large focus in all of our major offices and in particular in our overseas network on drug interdiction.

Mr KERR—Perhaps you do not want to supply this on the record, but I would be open to receiving this in a confidential briefing or later by written submission. Is there any empirical data that you can provide about the resourcing of the various areas of priority that enables us to dig down and look at what has been happening in terms of the resources available to the various strategic targets that the AFP may be dealing with?

Federal Agent Phelan—The AFP has been asked this question a number of times in estimates and has been able to clearly demonstrate the various crime types we put our hours towards. That information is available: where we put our investigative hours, to which crime types and over a period of time. We have supplied that on a number of occasions, so that is available. I would have to take the specific question on notice.

Mr KERR—That would illuminate an answer to the question that I asked.

Federal Agent Phelan—It certainly would, and it would show that we still spend in the organisation a significant amount of resources on drug interdiction as well as on other crime types—whether it be fraud or indeed counter-terrorism, protection of high-office holders—across the whole gamut of the AFP.

Mr KERR—Does it show any reduction? I am only responding to these suggestions that were put to us on the public record by someone who appeared to have some pretty significant weight in terms of—

Federal Agent Phelan—In raw numbers, yes, there has been a drop in the number of hours, but we would say that those hours are directed towards the high-priority investigations that the AFP conducts, and that would be in a similar vein to previous years.

Mr KERR—What about the resources of your overseas offices? I think you have quite a number now—mid-20s, I think.

Federal Agent Phelan—We have 88 officers overseas now.

Mr KERR—But in 26 countries?

Federal Agent Phelan—Yes, 26 countries.

Mr KERR—The initial focus for the location of many of those offices was in response to a law enforcement paradigm that was focusing in the drugs area on heroin. Has there been a review of the location of those international offices, given the shift of patterns of drug importations into this country?

Federal Agent Phelan—When the network was first set up 30-odd years ago, it was basically a drug network focusing mainly on drugs. Over time that has developed, depending on what the AFP's priorities and those of are, and we have put specific overseas for specific roles. We have people overseas in relation to people smuggling. We have also had people overseas specifically

to deal with counter-terrorism. The network has expanded to the point where we are now. It is a dynamic environment. In other words, we will sometimes shift officers from one country to another. We will upgrade some posts by putting more people in them. We will reduce some other posts in capacity depending upon the move in priorities at the time and what we believe are going to be our future threats, based on our environmental scanning. Yes, the network is constantly developing and the priorities have changed. Having said that, there are still a significant number of people out there who are working on illicit drugs. In particular, we look at our posts in Western Europe that are nearly 100 per cent devoted to ATS intelligence gathering, as well as our posts in the Philippines, Malaysia, Indonesia, Bangkok, et cetera.

Mr KERR—ATS?

Federal Agent Phelan—Amphetamine type stimulants.

Mr KERR—We have different language sometimes. You have AOSD and ATS. Sometimes the language we use is a little confusing. One of the issues that concerns me and also involves the AFP is the question of the death penalty for Australians overseas. What is the situation with the death penalty in these amphetamine related drugs? Is it the same as the issue that emerges with heroin in other jurisdictions?

Federal Agent Phelan—Yes, it is exactly the same. The policy has not changed and the policy is the same. It is not about the offence; it is about whether the death penalty applies. Whether it be homicide, drug matters or any other matter—a terrorism matter—the policy centres around the penalty, not the offence.

Mr KERR—Where are we up to in consideration of law enforcement exchange of information around death penalty related offences? What is the framework for information exchange at the moment?

Federal Agent Phelan—Fundamentally the policy has not changed. The AFP has an ability to exchange information with our law enforcement partners overseas before charging. Once a person is charged with an offence overseas that attracts the death penalty, to exchange any further intelligence or evidence in relation to the matter requires the express permission of either the ministry of justice, Customs or the Attorney-General, and that policy has not changed.

Mr KERR—I will just leave it at that. There is no point in pursuing it. It is a policy issue and ultimately to be considered as such. One of the things that would obviously trouble the committee is that the street price of these drugs appears immune to variation because of any of the impacts of the state or federal law enforcement or Customs interdictions. That appears to be somewhat different than might have been the case with the so-called heroin drought, whether it was as a result of law enforcement or supply side problems. There was an impact in terms of street prices. There seems to be no impact in relation to street prices in the provision of these drugs. In fact, street prices, if anything, are remarkably stable or downward.

Federal Agent Phelan—I can only offer this opinion, which is, as we know, that an economic model price is the product of both supply and demand. When we saw the heroin drought and saw the prices go up, there was obviously still significant demand over and above that, which was supplying the market, so that the price necessarily went up. In a market at the moment where, if

the price is staying stable, you are looking at both the demand and the supply having an effect on that. Obviously, if supply goes down and demand goes down accordingly, then the price will stay the same. It could well be that there are a number of factors for that that are probably directed at our health practitioners. Perhaps the demand of the addicts is not the same as that for someone who is addicted to heroin, for example.

Mr KERR—The statistics puzzled some of us because they seem inconsistent with the strategic framework of law enforcement that you are referring to. You have talked about there being a reallocation of resources but a focus on the most important areas, and yet we discover that some 80 per cent of those that are charged with drug related offences are charged with user related crimes. Does that figure need to be broken down so far as the AFP is concerned? It would surprise me if the AFP is making their 80 per cent arrests of users. Most of the AFP's work, I had thought, has been targeted to people who are further up the production chain than street users. Could you assist in terms of that information, because it puzzles me?

Federal Agent Phelan—Your assessment is correct. 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.

Mr KERR—Do you have any explanation for the number of people who are being picked up by other law enforcement agencies? This is me perhaps being a bit muggins, but it would seem that the focus on higher level suppliers ought to be replicated, in terms of scarce resources, across all jurisdictions. The AFP does not have so many resources that it can throw them around carelessly to less important targets, but how is it that we get such a large number of arrests coming through the statistics of low-level users?

Federal Agent Phelan—I cannot comment on some of the statistics that may be based on arrests by our state colleagues, but certainly within the AFP 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. As a matter of fact, as this committee is aware, we believe domestic trafficking fits within the remit of our state police colleagues with our assistance. When it comes to our resources, we do put them towards importation specifically. Recently we had an arrest in northern New South Wales in relation to a manufacturing laboratory there, but that was as a direct result of the nexus between an importation that the AFP was investigating based on intelligence coming from our overseas networks. We simply followed the trail through and got to the manufacturing lab. Apart from that, the majority of our stats would be towards the higher end and certainly our resources go that way.

Mr RICHARDSON—The AFP has developed a drug harm index as one of its performance indicators in relation to illicit drugs. Can you describe to the committee the strength and weaknesses of that and how that works?

Federal Agent Phelan—I think the Drug Harm Index has a number of strengths in that what the AFP is trying to do over a number of years is quantify our economic return, or the return on investment that the government puts in, particularly on drug operations. The basic figures that

come out of that say that we return on average $5 for every $1 invested, and when it comes to our overseas operations it is about $9 in return for every $1 invested by the government in drug interdiction. One of the strengths of that is that it measures the overall harm that would have caused to the community had those drugs hit the street.

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, so therefore we err on the side of caution and leave it out. By way of 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. We also count those seizures that occur overseas that the AFP has a direct intervention in that were destined for Australia.

Mr RICHARDSON—You mentioned deterrents. Would you like to make comments in respect to deterrents, such as education in schools? It may be reaching far from your own portfolio, but would you like to make any comments in relation to education and other deterrent strategies that are not working or that you would like to see implemented?

Federal Agent Phelan—Certainly I do not want to delve into the realms of government policy but, from my perspective, the fight against drugs has to be a three pillared approach. Law enforcement is only one of the three pillars. Health and education are vitally important to those. Certainly as far as we are concerned there has been a significant amount of resources going into those things and we believe that has obviously contributed to us as well, to our assistance.

Senator LUDWIG—There was a question that Mr Kerr asked about the sort of work, and you then said that a schedule was available that gives a break-up of your work output to certain areas. Is that available to the committee or have you recently provided that somewhere where we can look for it?

Federal Agent Phelan—I believe over time it may have been supplied to estimates.

Senator LUDWIG—I can recall it being supplied at some point. I do not know whether it was a recent version of that.

Federal Agent Phelan—I cannot recall off the top of my head.

Senator LUDWIG—I wonder if you could provide a recent version to this committee. That way we can use that information as being presented to this committee.

Federal Agent Phelan—Okay.

Senator LUDWIG—To expand on that, could you then indicate not only the percentage of work that you do in these various areas but how you fit the staffing profile around that work? Could you also indicate the number of staff you have that can be assigned to those particular output areas or work areas?

Federal Agent Phelan—The staffing is obviously very important to the AFP. For us it is a matter of making sure that we have the right people with the right skill sets to do the right job. Over time we have certainly seen a movement towards trying to get those right skill sets in the AFP, whether it be an increase in analysts, forensic assistance or so on.

Senator LUDWIG—I agree with you on that. The other area that you mentioned, and you went to the heart of it, is the three pillars. If you look at law enforcement, health and education, in what I have asked earlier—and you may not have been here—I was trying to develop the relationships that currently exist there. There is the research done under the Health and Ageing portfolio, which provides the household data. Health and Ageing provides a lot of the funding for some of the community initiatives, initiatives in precursors and initiatives for the National Illicit Drug Strategy. Then there is the work that you undertake as well. I was looking for the types of programs that are there where there is a combined effort of the AFP and the community, or the AFP and Health and Ageing, that demonstrates the three pillars are not working in isolation but that there is some overlap or some understanding that there is research being validated. That research is then used to develop a strategy and the strategy is then implemented in a three pronged approach—that is, it is on harm minimisation and harm reduction and there are AFP both at that level and all the way to law enforcement level. That may or may not be the case, but I was trying to understand the way that the strategy is implemented. If it is it done in silos, perhaps you can explain to me how those silos interact to make sure that you get an effective outcome.

Federal Agent Phelan—Certainly at the national level we do take note of the studies that are done by Health and Ageing and others, particularly of the demographics of the drug users, the drugs of choice, et cetera. They help us formulate our strategic policy, which assists us to determine our intelligence collection priorities for both our overseas network and our domestic intelligence collection system. In that sense they work hand in hand. On occasions we are called upon to assist in some of the strategies run by the Attorney General's department—and I prefer to leave to them to comment on those policy issues—but from time to time the AFP is called upon to contribute to those and we consider that we are a valued contributor.

Senator LUDWIG—I am referring specifically to the Department of Health and Ageing submission No. 16, page 5, item 17. It is something that you can perhaps take on notice rather than try to deal with in the short term that the chair will allow me this afternoon. Perhaps I have got the wrong reference, but I will get a better reference in a moment and provide it to the committee. Effectively there is $340 million which is provided for that initiative. How much effectively is dealt with by, or goes to, the AFP and what sort of programs would you then use it for? That is the more general question; there may be a bigger role. Then how much of those programs then really work with other agencies, and, for argument's sake, community groups and the like as well?

Federal Agent Phelan—Specifically that funding would not come to the AFP. It would be for their projects to run. We would have a hand in assisting where the AFP was called on to do so.

Senator LUDWIG—What programs would you receive funding for? The NIDS program, obviously.

Federal Agent Phelan—Yes.

Senator LUDWIG—When does that expire?

Federal Agent Phelan—The majority of it has been rolled into base funding for the AFP. Specifically, we have obviously been funded for a number of investigators throughout the country. We have also been funded for specific overseas posts that worked under various needs strategies 1, 2 and 3. Those open posts are in Beijing, Hong Kong, Jakarta and Rangoon, as well as some extra initiatives in the Pacific. We also have specific funding under the Law Enforcement Cooperation Program, which the AFP utilises to help our law enforcement partners overseas, particularly in terms of capacity building, where there are some long-term and some short-term projects. The majority of those projects are in capacity building, particularly within South East Asia and the Pacific region.

Senator LUDWIG—The better reference was the Department of Health and Ageing submission. They do not appear to have numbered their pages, which is always a challenge, but it is page 4, as I understand it and headed 'National Illicit Drugs Diversion Initiative'. That was the one that I was specifically talking about. In terms of funding, is it on a four-year rolling basis or does that end at some point?

Federal Agent Phelan—Most of it has been rolled into base of the AFP. There is another review due at the end of next year, but I would have to take that on notice.

Senator LUDWIG—Perhaps you could do that. How much has been rolled into base?

Federal Agent Phelan—The exact amount, I would have to take on notice.

Senator LUDWIG—Does that then go to staffing and providing additional staff, or is there an agreement with the Department of Health and Ageing as part of the program as to what outcomes they want? In other words, in dealing with the three pillars, can the Department of Health and Ageing say that as part of the National Illicit Drug Strategy we expect these outcomes from the AFP?

Federal Agent Phelan—Certainly not between that department and the AFP, no.

Senator LUDWIG—To your minister as part of the overall National Illicit Drug Strategy?

Federal Agent Phelan—From time to time we do inform the minister as to what our outputs are and the outcomes under the National Illicit Drug Strategy, and we have done since 1997 since the program was first initiated.

Senator LUDWIG—How often do you do that, advise your minister of what outcomes you are gaining from the National Illicit Drug Strategy?

Federal Agent Phelan—In terms of the specifics, I cannot tell you off the top of my head. When there were specific reporting requirements done it was done on a very regular basis. I do not know what that schedule is now.

Senator LUDWIG—Perhaps you could take it on notice, but what concerns me is that, if there is a three pillared approach, we have heard from the Department of Health and Ageing

about their role and what they fund and they have provided a submission to that effect, and we have heard what the National Illicit Drug Strategy's overall objective is, but what I have not heard from the AFP is your specific role and how you fulfil that role as part of the three pillars. In other words, I would like to know how you then take that money, utilise it, deal with it and effectively provide an outcome that is outcome based, that is objectively able to be assessed and that we can then say that you have spent this money in achieving this outcome. I might be going perhaps further than I want to, but that is the sort of information that I was trying to obtain from you, rather than just simply saying that there is good money that has been rolled into base, it helps us and we can employ staff. We have heard from a range of witnesses today and from one group in particular, the Australia Institute, and I did not want to go to their submission, that was not convinced, and I think I am being kind, that this end of law enforcement is in fact working. They think there are other ways of dealing with it. They are keener on you doing your demand side, but in terms of then targeting users and the like they see little value in that. I think that would be a reasonable assessment of what they have said.

Federal Agent Phelan—As I said before, the AFP targets not the users but those that are responsible for the importations, the production and manufacture here. If you are looking for specific outcomes of what the AFP has achieved in terms of the National Illicit Drug Strategy, I think we really need to look no further than the amount of deaths that were occurring before the heroin drought. There were approximately 1,100 people a year, moving down to around 300, which is the number of deaths now directly attributed to the use of heroin and other illicit drugs. In essence, over 700 lives per annum are saved out of the result of the direct intervention of the AFP in terms of the heroin drought and others associated with that. I do not mind saying on record, and I think others have as well, that we were one of the only Western countries to actually experience a drought particularly in 2000 and 2001, and most of the academics that have written about the subject have attributed that to law enforcement and, in particular, to our interdiction at the time and the great pressure we put on those syndicates that were importing heroin. In fact it could be argued that as a result of that those that are responsible for importing commodities have shifted their market to other different commodities. That is certainly one thing but, for people to look for outcomes, I think there is no better outcome than the saving of at least 700 lives a year.

Senator LUDWIG—What will we expect from the rising MDMA use in Australia? Will we see the AFP take similar initiatives and similar actions to drive it down as well? What do we expect to see from the AFP?

Federal Agent Phelan—It is certainly not a matter of what we will see, it is a matter of what we are doing now and what we have certainly started to do back not when we realised but when we predicted that this would be a problem. We have swung our intelligence resources overseas particularly to countries like China and western Europe, and other countries that are involved in the manufacture of ATS, such as across the Philippines, Malaysia and Indonesia where we have certainly given them a focus. They are asked to focus their intelligence gathering efforts on amphetamine type stimulants and, as a result of that and the work offshore, we have seen some rather large seizures, not the least of which is the lab in Indonesia last November which some pundits say is the third largest ever in the world. What it was producing was MDMA on one side and ice on the other. It was a large factory floor. With the amount of drugs that they were capable of producing, there was only one legitimate market and that is not in Indonesia. One of those is Australia. We worked very closely with our partners across South-East Asia to try to stop them.

As recently as last month we had another investigation in Greece where some people were arrested and we had one tonne of ephedrine that was going to be imported into Australia that was seized. I am not a chemist but my best advice says that ephedrine makes a one for one when you are talking about making ice, so the AFP there has clearly contributed to stopping at least a tonne of ice being manufactured here. I could go on, but there have been some rather large seizures, particularly in the last couple of years, that we have stopped offshore before they even get here.

Senator LUDWIG—To play the devil's advocate, what the Australia Institute says in answer to some of that is that there is no assessment as to quantity because it is a bit like you do not know the whole size of the market and when you remove some from the market more just fills in. In other words, it becomes a bit like a sand pit: you might move a bit around and take a bit out but effectively it will fall back down in and fill the hole that you have made, so the amount that is being consumed in Australia has not been appreciably affected by the work. I have no reason to say that it is not impressive and it is good statistics, but I think the Australia Institute, to play the devil's advocate, might argue that that is all it is.

Federal Agent Phelan—I do not want to profess that the movement away from heroin towards ATS does not some component of the substitute commodity but it is simply that, as a collective, we do not actually know—and this may be where the Australia Institute is coming from—how much of it is a substitute commodity for heroin and how much of it is a new market of people wanting to try a different type of drug and move towards it.

Senator LUDWIG—I think to be fair they talk a bit more broadly about all drugs. In other words, although you are removing heroin, you might be catching MDMA, you might be catching a range of amphetamine type stimulants or AOSD, as I think we call it, but there is still a demand there. The demand has not seemed to be appreciably affected by catching it at the border and so the question mark is that we do not know the full supply, we do not know how much the catching is as a percentage of the full supply and therefore it is hard to make an assessment whether all of that removal is not just simply being filled from other sources or whether or not even what is being removed is appreciably affecting the outcome. These are the type of issues that I guess you have to struggle with, but they do raise it as a legitimate concern.

Federal Agent Phelan—That is right. At the end of the day we are talking about a market here that is dynamic. As I alluded to earlier on, the shift in commodities from the 70s through to now has gone through a number of cycles. Sometimes they will be substitutes and sometimes they will be competing products for the market and those that are involved in the importation and manufacture will adjust their methodology accordingly. At times in the last couple of years we have seen poly importations, so we have seen some importations of ice and MDMA at the same time within the same shipment. That clearly says that it is market driven. We will continue to see these changes, but the role of the AFP through our intelligence is to make sure that we try to keep ahead of that. For example, one of the future issues is no doubt going to be substances like ketamine, which we see a large use of in places like China where they have seen an abundance of it. It is predominantly sourced from countries like India, and the AFP is in the process of putting an officer in New Delhi hopefully early next year. His or her riding instructions will be quite clear: you are to gather as much criminal intelligence as you can in terms of the movement of precursors either to Australia or to other drug manufacturing countries that ultimately supply Australia.

Senator LUDWIG—Thank you. Thank you, Chair.

CHAIR—Mr Hayes.

Mr HAYES—Your evidence is somewhat encouraging. You are one of the few groups that come before us and essentially indicate that we are not losing the fight on drugs at the moment. Is that a summary of what the Australian Federal Police position is?

Federal Agent Phelan—I think our position is that we are continuing to work as best we can. We can still see those results. The seizures we have had offshore in recent years have increased. The type of commodity that is being seized is consistent with what we have been saying in terms of our intelligence picture. We are seeing a greater focus on our efforts to seize precursors and those that are involved in the importation of precursors. In that sense that is encouraging and I think the fact that the price has not gone down markedly in certain drugs shows that the supply curve has not gone over the top and to that extent I think we are doing pretty well.

Mr HAYES—Could I just take you back to a question that Mr Kerr asked a little earlier. I read some commentary by Bob Bottom that there has been a diversion of AFP resources into antiterrorism. I am assuming that to be fact. In terms of your operation and your charges in respect to drug interdiction, how many people have you had diverted into antiterrorism and how many vacant positions do you hold in your own line of command?

Federal Agent Phelan—We do not actually work on an establishment figure. What we have is an amount of resources that are available to us. So rather than physical numbers it is in terms of a percentage of resources that are available in an office.

Mr HAYES—Has that amount declined in the last two years?

Federal Agent Phelan—Basically we still see around 40 per cent of the available resources in the AFP directed to drug operations—those operational resources in an office, basically. I think one thing that we need to remember is the AFP has moved some priorities towards counter-terrorism operations but at the same time the AFP has received significant funding to be able to move into those areas of business and the AFP's budget has increased.

Mr HAYES—It has, but it has not increased its establishment as yet?

Federal Agent Phelan—It has. We have increased it by at least by 1,000-odd people over the last three to four years.

Mr HAYES—Sworn police officers?

Federal Agent Phelan—No, not necessarily sworn police officers. We make no apology for that because that is the nature of the business that we work in these days. It is about having a proper support team around your federal agents and other sworn officers. When I say support, I mean close operation support like police technical units; the forensic services, which has almost doubled in that time; intelligence analysts; intelligence officers; and intelligence support officers. All these people go hand in hand to lighten the burden of federal agents, and they still produce the same output.

Mr HAYES—To what extent do you rely, in terms of drug intelligence, on information coming from the ACC?

Federal Agent Phelan—The predominant amount of AFP product that we do is for our own strategic or tactical needs and operational needs. We from our own internal processes feed that into the ACC. That helps assist them build their national picture for all of the jurisdictions to feed off, and that in turn feeds our position to help us set our strategic goals and helps us determine our own intelligence collection priorities overseas so that we can provide the ACC with what they need. It is very much a circular ring that we are part of.

Mr HAYES—Your aspect in this inter-jurisdictional cooperation is more overseas based than on shore?

Federal Agent Phelan—In terms of intelligence collection we have people here in Australia that have worked on our tactical intelligence but we also have people here that build up our strategic base. The predominant feeder for that intelligence, or the AFP's contribution to the whole product, is our overseas network.

Mr HAYES—For the purposes of this committee, when you consider the fact that most drugs are imported into this country, how would we carve up between the AFP's line of responsibility and state and territory policing in respect to drugs?

Federal Agent Phelan—That is pretty much the delineation. We are responsible for gathering intelligence and assisting and working with Customs to ensure the interdiction of drugs at the border and indeed, if we can, to try to stop them overseas before they even get here. Then other intelligence that we come across, for example, in terms of domestic trafficking, is supplied to the state police.

Mr HAYES—After drugs have successfully landed on our ports have been distributed through local networks, it becomes a state and territory police responsibility, notwithstanding the fact that they were imported into the country?

Federal Agent Phelan—Not necessarily, because the two go hand in hand. There are domestic traffickers who are also involved in the importations, and we have seen a number of joint task forces that the AFP is involved in. One particular one is a standing joint task force in Sydney that has the New South Wales police, the New South Wales Crime Commission, the ACC, Customs and the AFP. It is a standing task force that basically works on crime groups and will follow the commodity all the way from the importation through to the trafficking or the other way around—from the trafficking, more importantly, through to the importation.

Mr HAYES—I did use the analogy this morning about the position in Cabramatta. I think the two main issues there were, first, illicit drugs and, second, illegal firearms. At the time that was being prosecuted, that was regarded as being a state policing issue, whereas I think in every successful prosecution it was in relation to either imported drugs or imported firearms. Is there a strategy for having a more holistic approach for illicit drugs that seemingly breaks down some of those demarcations between the AFP, state and territory police, ACC and Customs?

Federal Agent Phelan—To be quite honest, 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. It is not as if we have all got not enough to do so we do the job of the state police and they do the job for us. Very much we work together. When we have information in relation to trafficking we pass it on, and certainly if the state police have information in relation to importing generally we work in task force type arrangements with them so that not only do we lock up the importers but they can also move further down the chain and disrupt or dismantle the trafficking route right down to the grassroots, say, in Cabramatta.

Mr HAYES—Given the dimensions of illicit drugs and the extent that they permeate through our community, are we as a community putting enough resources into preventing them at source from reaching our shores?

Federal Agent Phelan—Certainly I would say that our role, of course, is in gathering intelligence offshore in relation to the prevention in at-source countries. That is a very vexed question. There is a lot of work that needs to be done overseas and we are continually looking at the challenges that present to us overseas. We see precursors particularly as one of the pre-eminent problems at the moment, along with the production and importation of ice into Australia. For that reason our biggest vulnerability has been China and India, which of course are the countries that produce the majority of precursor chemicals. To that extent we are looking at, obviously, putting someone in India and also expanding our operations in China with a definite remit of getting as much intelligence as we can. We have the resources out there; it is a matter of making sure that they work on the right priorities. I believe it is fine.

CHAIR—In concluding, can I put to you three statements that have been made to us over the period we have been taking evidence in order to get your comments on them? I will also ask one question at the end. It was suggested to us a few years ago that the drug lords in Asia decided that heroin was not such a good proposition so they deliberately got out of the heroin traffic and found that amphetamines and synthetic drugs were a much better paying proposition. The suggestion is that that was the reason why we have had this lesser amount of heroin and more amphetamines in recent years. Do you disagree with that?

Federal Agent Phelan—I do not necessarily disagree, but I would look at other options for the reasons. Look at, for example, China's published view on the number of registered addicts that they have. They actually take a lot of heroin out of the market so, from the amount of heroin that is produced out of the Golden Triangle, they are a much bigger consumer now than they ever were before.

CHAIR—The Chinese?

Federal Agent Phelan—Yes, the Chinese. Heroin in China is rather expensive, so they are using a lot more of the available heroin from the Golden Triangle than was previously available. That may indeed lead criminal enterprises to look for other commodities. Then of course you have to have a market for it, and if our marketplace demands it then they will shift to those commodities as well.

CHAIR—There was a suggestion made to us that there was a cut-back in drug production in Burma and also that in other countries—Canada was mentioned—there was a reduction in the amount of heroin imported into Canada at the same time as it happened here. I am not putting these suggestions forward as true; I am just saying that they were made to us and I am seeking your response.

Federal Agent Phelan—Of course Canada is a major destination of Golden Triangle heroin as well. It is my understanding that Canada did not see the same sort of shortage as we did in 2001, it may in fact be post that, which would be consistent with the international movement away from heroin and towards ATS in western countries.

CHAIR—Again along that line, and I cannot vouch for the accuracy of this, it was suggested to us in other evidence that a number of years ago—it might have been eight to 10 years ago—there was intelligence around that there would be this switch to amphetamines and synthetic drugs and that, although the law enforcement authorities in Australia had the intelligence, nothing was actually done about it until recent times, when it was almost too little too late.

Federal Agent Phelan—I do not know if we could go back eight or so years in terms of when we knew it was a problem. Certainly around 2000 and 2001 there were predictors out there that this would be a problem, because Australia generally lags five or six years behind a lot of our neighbours within South-East Asia. We did see a prevalence in the usage of amphetamines in countries like the Philippines and Thailand around that time. Poor quality product, which is now good quality product, was certainly one of the triggers but, having said that, Australia's seizures of precursors, which if they occur offshore do not get the notoriety in the press here that they perhaps otherwise would deserve, have been rather large.

CHAIR—The suggestion was that the intelligence might have been five years ago, but we did not act upon it and we were not proactive in building up the defences. You would disagree with that?

Federal Agent Phelan—I would disagree with that. I would strongly argue that we work with our partners overseas to work on these drugs in particular and work with them in their country, where the problem was before it came here. We saw the example of the Fiji lab in 2004, which was capable of producing a ton of ice to be shipped into Australia. We worked with Malaysia, Thailand, mainland China, Hong Kong and other countries to try to close down syndicates that were operating within Malaysia and the Philippines. That was a successful operation and that was a number of years ago. That is where we are trying to take the fight offshore, and that was before we had large seizures of ice here at all.

CHAIR—It was suggested to us, and this is from statistics that I think I have got right, that 80 per cent of arrests made in Australia are of consumers and only 20 per cent are of sellers or pushers. The suggestion is that more of your resources should go into the 20 per cent and less into the 80 per cent. Do you have a comment on that at all?

Federal Agent Phelan—I cannot push any more of my resources into the high end because, I would submit, we are putting 100 per cent of our resources into the arrest of the importers and manufacturers. Those are AFP resources; that is certainly our remit. Our remit is at the border or

offshore. I would be extremely surprised if we were putting any resources, certainly in the national sphere—

CHAIR—No, it was law enforcement agency generally, and you make the right distinction.

Mr KERR—Could I just follow that up? Recent legislation that was passed, I think earlier this year or it may have been last year—

Federal Agent Phelan—December last year.

Mr KERR—In December last year that essentially federalised, with certain undertakings that state laws would not be affected if they took a different approach in relation to penalties for expiation notices and the like, drug use laws as well.

Federal Agent Phelan—Yes.

Mr KERR—You are saying that the AFP has not changed its focus or utilised those laws currently. That would be my understanding of that response—that you are fully devoted to high-level interdiction against the major drug importers and those who distribute at a significant commercial scale.

Federal Agent Phelan—That is entirely correct. The only time that we have used the legislation, there may have been a couple of smaller cases, was in relation to the closure earlier this year of the laboratory in northern New South Wales. That was because we directly followed the imported commodity based on information from overseas all the way to the lab and then, with the assistance of New South Wales Police clan laboratory team out of their drug unit, we dismantled the laboratory. Other than that we do not charge people with usage consistent with our undertakings.

CHAIR—Thank you very much for that and thank you for your responses. They were very direct and clarified a lot of issues. We very much appreciate that. Thank you for coming along this afternoon.

[3.05 pm]

KITSON, Mr Kevin, Director, National Criminal Intelligence, Australian Crime Commission

MILROY, Mr Alastair Macdonald, Chief Executive Officer, Australian Crime Commission

OUTRAM, Mr Michael, Director, National Operations, Australian Crime Commission

CHAIR—Mr Milroy, we could almost say welcome home. We are your committee.

Mr Milroy—That is correct.

CHAIR—Thank you for joining us on this very important inquiry into amphetamines and other synthetic drugs. Welcome to your colleagues as well and thank you for taking time out of what we know is a very busy working week for you people. Thank you for your submission. You have been at enough parliamentary committees to know the rules from here on. I invite you if you feel so inclined to make an opening statement and then we will ask some questions.

Mr Milroy—Thank you, Chair, and members of the committee. The Australian Crime Commission welcomes the opportunity to assist the committee with its inquiry. As you are aware the ACC is primarily a criminal intelligence and investigative agency with a mandate to counter federally relevant criminal activity. The ACC's response to the AOSD problem underpinned by the determination made by its board has been to establish strong collaboration arrangements with key stakeholders, including jurisdictional and Commonwealth partner agencies and industry groups, and to highlight the issue as a national priority for both the ACC and the broader law enforcement community.

You have our submission, Chair, and we have taken a keen interest in the submissions made by other parties and the evidence given at hearings that the committee has held so far. I and the officers of the commission who are present are happy to elaborate on the matters covered in our submission as well as answer any questions that the committee would like to put to us. Also in attendance today, for the committee's information, are the Director of Strategy and Governance, Lionel Newman; Debbie Wauchop from strategic policy; Marty Mickelson, who is the head of the AOSD determination; and Alastair McDougall, who is a legal officer on the AOSD determination team. The ACC has a strong work arrangement with the committee secretariat and we are happy to provide any further assistance that we can to the committee following this hearing through this established relationship.

CHAIR—Thank you very much and thank you for that last point, as well. As I said to someone else earlier today, it is probably appropriate that, if you do see things that you disagree with in a factual sense perhaps rather than an opinion, we would very much like to have you give us that information. I am going to ask the Deputy Chair, Mr Kerr, to start the questioning of the ACC.

Mr KERR—I thought probably a useful place to start is with the criminal intelligence database that you are building up and the profile of activity that is being recorded. The distinction has been suggested that a majority of arrests are still being made of persons who are peripherally involved users rather than high-level offenders, and I wondered whether you could add anything to the evidence that we heard from the AFP that essentially they focus, if not exclusively, almost all of their enforcement resources against high-level offenders. Why is the picture of arrests still predominantly on people arrested for relatively small use offences?

Mr Milroy—It is a bit difficult for us to comment as we are not a police service and the work that we are doing in the amphetamine and synthetic drugs area is a matter that was approved by the board back in May 2003, which was a very important point because that was one of the very first determinations. We also do the other work in the intelligence collection area that you mentioned earlier, which looks at our role in collecting intelligence that we actually currently hold on our database, which is intelligence that is fed into it from the various Commonwealth, state and territory jurisdictions and then the work that we do in relation to the various categories of crime, including drugs in our intelligence directorate that eventually lead into the NCIP, the National Criminal Intelligence Priority, setting. But as for us commenting on what the AFP does in terms of their targeting program and also the state and territory actions that lead to arrests, what I can say is that the intelligence that we have been gathering contributes quite significantly to the decision making that occurs in both the Commonwealth and state law enforcement arena. A lot of the intelligence that we have gathered in the last three years, and this is our fourth year, has led to at times people being arrested for using or possession of drugs. In relation to why there is, as you indicated in your opinion, some sort of imbalance in the percentage between users and those at the higher echelon of course is a matter that the law enforcement agencies in Australia would need to answer.

Mr KERR—Your reference on amphetamines is a reference in the context of serious and organised crime and the information and data that you supply is no doubt focused on high-end producers. You would not be actively in the field, would you, of producing information in relation to Mr and Mrs Smith in the suburban bedroom of a house in Smithfield?

Mr Milroy—No. I think where the point may have been lost is that when people who use illicit drugs or have drugs in their possession come into contact with law enforcement officers, of course there is a very good opportunity for those officers to collect intelligence as to the source of those drugs, and of course some of that intelligence would get fed back into our system as to where these drugs came from and that can subsequently lead you to the source and the supplier. We are interested in that sort of intelligence, but I think it is important that we look at the reason in the first place for the ACC to get involved in this particular area, and I specifically talk about the determination. In May 2003 the board, based on the ACC's submission, acknowledged that traditional law enforcement methods were not as effective in this particular area as a result of the growth of this market. That led to the determination being approved. We did look at the scope and threat and the cause, and we tried to look at reducing the impact and deliver informed and timely advice to drive an effective national response to AOSD by ourselves and all our partners. It was in that context that we got involved in what you might call this very broad-based approach of trying to understand the market and, by understanding the market, we took a view to think outside the square and we engaged very early with the pharmaceutical companies and the health departments in trying to understand the market. In that context it was very important to look at the statistics that were currently held by all police forces in relation to their arrests and charge

statistics, some of which appear on the illicit drug report, but it was in that context that we were interested in the actions of law enforcement at a state and territory level and in a national environment.

Mr KERR—You also had a reference in relation to motorcycle gangs.

Mr Milroy—That is correct.

Mr KERR—Can you explain the way in which those two references harmonise or overlap?

Mr Milroy—That is an interesting point. Not only are we doing the work that we normally do in the motorcycle area, intelligence operation, which I will get Kevin to cover shortly, but also there is the work that we have done over the three years in the amphetamine and synthetic drugs determination, which eventually was changed to the synthetic drugs 2 by the board in July 2005. That determination, because of this extensive knowledge that it gathered and the intelligence that it was able to gather in the broad marketplace, was able to feed into a lot of the work not only that the jurisdictions are doing in terms of targeting those involved in importations and distribution, but it also has fed into and overlapped with not only the work that we are doing in the outlaw motorcycle group area but also into the work that we have been doing in the high-risk crime group area, that is, the major organised crime groups that are involved in criminal activities in Australia. It has fed into that process and there have been a number of operations that have been run under that determination, there have been operations run under the firearms determination, and there have been operations run, as you say, in relation to outlaw motorcycle groups. So this great body of knowledge has actually not only contributed to what is going on with our partner agencies but it has fed a quite high percentage into a lot of the proactive operations that we have been running across those various determinations and also with our partners. It has also fed into the area of the groups that Mike Phelan referred to about the joint Asian crime group in New South Wales and the Viking Taskforce in South Australia. They are two standing task forces that we are members of which are proactively targeting middle- to high-level groups involved in drug importation and distribution. There is an overlap in a number of the works that we are currently doing and either Mr Kitson or Mr Outram can elaborate there fully, but I might ask Mr Kitson just to cover off on the overlaps into outlaw motorcycle groups.

Mr Kitson—The intelligence operation on outlaw motorcycle groups has a number of drivers. Amphetamines is one of the key ones, and outlaw motorcycle gangs have a strong profile in the domestic amphetamine market, in the distribution of them through their position in the security industry and their role in some sectors of the transport industry. That is primarily why we have taken such a strong look at them, because of their influence across some key sectors of Australian society and economy. The role that the ACC has played in this drive towards a better understanding of outlaw motorcycle gangs is to play a national coordination role. We have used the Australian criminal intelligence database, which I know this committee is familiar with, to establish a national system of coordinating data from all of the jurisdictions. Plainly, with so many of the Australian policing jurisdictions having substantial interests in the activities of outlaw motorcycle gangs and the overlaps into areas like amphetamines, it is important that we do not duplicate that understanding. A good deal of the work that we have done in the amphetamines area is about understanding the vulnerabilities, understanding the methodologies, whether it is about the manufacture or distribution. Hence some of the key areas of overlap are

about the people who are actually making it and moving it and how they are succeeding in doing that. From that we can see what the opportunities are for tighter regulation or law reform.

Mr KERR—That is underpinned by economic analysis, market identification, and you draw much of your strategic conclusions from that. I have every reason to join with you in being enthusiastic about preventing any group like motorcycle gangs or anyone else that could subvert ordinary civil authority and present a threat to orderly life in our community having a foothold greater than we can prevent, but we have heard some fairly damning information about the degree to which market analysis would suggest that all of this effort is at all cost effective. I wonder whether you could comment on that.

Mr Kitson—I would probably only have a limited capacity to comment on the extent to which we can look at the effectiveness of our work in an area like OMCGs, which is really to focus on that significant penetration and disruption of those things that are important to our society and to our economy, such as the transport sector. So we look at it not in terms of the direct impacts that we might make on OMCGs but to look at essentially limiting the opportunity for OMCGs and other criminal groups to exploit those same methodologies. In terms of the wider impact, I am not sure that I am well placed to comment on that.

Mr KERR—I am just trying to get this in my mind. You are using market analysis to identify points at which you might attack the weaknesses of, or close opportunities to, players in the illicit market; you are not measuring the overall effectiveness of law enforcement in terms of its impact on the market? You are using it for micro reasons rather than a macro analysis of the market?

Mr Kitson—Where we look at the effects and there is an impact, it is very much about guiding the most effective use of resources. I would not argue that we would make an effort to assess the impact of law enforcement nationally. Our lens is focused on organised crime and how they see it, rather than the other way around.

Mr KERR—Is there any credible economic analysis of the contested arguments about the effectiveness of law enforcement in the drug market that we can have confidence in?

Mr Kitson—Not that I have seen.

Mr Milroy—I might make comment and I think we might have mentioned previously that we are currently, as a result of requests from the IGC, looking at a performance and effectiveness framework for the work that the ACC does, and of course this does overlap into the work that we do with our various partners in a lot of these joint operations, so it has quite a broad approach. We have completed the benchmarking exercise, which is quite extensive global research, and we are fairly confident that we will probably have this completed towards the end of this year. Actually Lionel Newman is here today and he can comment more broadly as to what we are actually looking at in this framework. We are doing it in partnership with one of the board member agencies in a joint funding approach approved by the board and we have utilised a university to do the extensive research and look at how we can actually quantify some of the work that has been carried out in all these operational areas, as well as how to actually look at performance and effectiveness to do with intelligence. So we have taken it to cover all of the work that the ACC does, and this is really a first in law enforcement.

Mr KERR—You have the white paper, have you not? You have got a 'picture of criminality' exercise?

Mr Milroy—That is correct.

Mr KERR—It was going to be published.

Mr Milroy—Yes. What has occurred at this stage is that the 2006 picture of criminality, or an overview of organised crime in Australia, is being tabled at a board meeting on 7 June. We have indicated to the board what a public version of such a report would look like and we are hoping that the board will then seek that report for further consideration at the board meeting in September.

Mr KERR—The issue was raised earlier about whether this is like a hole in the sand, where you can take a little bit of sand out but the sea water rushes in and levels your work very quickly. The question that parliaments face is the degree to which we best apply these limited resources, and it would be useful if there was some attempt to—and I think the AFP has given this—give an assessment of its success in terms of market impact during what has been presented to us as a heroin drought, something that has been contested by others. It would be very interesting if you could make any contribution now or later towards pointing us to ways in which this question can be best addressed, because if greater and greater application of resources to a problem simply changes the market—does not change the amount of drugs in the community, but changes the market in that it knocks out less efficient distributors and pushes the economic return higher—that actually means that only the bad and nasty will gain control of the industry, so that putting in greater resources may in fact not be all that much of a plus. We have got to find some overarching view to see this.

At the moment I must say that it is all assertion and that is why I was asking Mr Kitson before whether the market analysis was actually being applied to the overall availability of drugs or what it is doing to the shape of the criminal enterprise as such. One of the questions that I asked, being provocative, in Queensland is that if we take out the low-end producers of precursors, which were colloquially called mums and dads cook-ups—I do not want a mum or dad like that—we still have a market demand and we substitute for those producers people who are pretty efficient: the Russian mafia or some other producers that are efficient at making this stuff overseas in places where our law enforcement does not penetrate as effectively. If they get control of distribution then maybe we have actually increased our threat. If we knock out the inefficient suppliers in the motorcycle gangs and substitute more ruthless people, we have got to work out where the cost benefits of this market operate, and I would hope that the ACC is the body that we could look to ultimately for some kind of pretty hard-headed assessment of whether we are moving in the correct direction or whether we need to assess, put more resources in or we stay where we are.

Mr Milroy—We could probably provide the committee, on notice if that is appropriate, the detail in relation to this performance and effectiveness framework because, picking up on your point, from the work that the ACC is doing with our partners the results of the performance and effectiveness framework applying to all of our work will eventually provide some of that information that you are talking about that can indicate clearly what this agency and our partners should be doing in the future, based on the data that comes out of such a process. We can, if you

wish, provide that to you on notice or Lionel, who is here at the present moment, can give you an overview of what the framework has currently been developed to do if that assists, but you may wish to have that on notice.

CHAIR—Who is going to be next?

Mr RICHARDSON—Thank you, Chair. The ACC since its inception has been working tremendously well with its partners. Thank you very much also for letting us see the other officers. My understanding of the work and dynamics is quite a good one, probably because of the extent of my former role as well, but that has caused me to think and ask: is the ACC proactive in relation to witness tampering and witness protection? Has there been any retaliation, and are you on top of your security measures for the protection of officers and their families in each state?

Mr Outram—Yes. I should first of all say, of course, that in South Australia there was that bombing incident, and you would be aware of that. In the last two years in fact we have re-evaluated and done a thorough risk assessment of the security at that office. We do that reasonably often, on an ongoing basis. We have a dedicated team of security personnel within our own ranks who constantly do that sort of work. If we become aware of a specific threat that emerges then, again, we will do an operational risk assessment. I cannot think of a recent example of where a particular threat has emerged in relation to a member of our staff. Certainly, issues arise from time to time in relation to witnesses, potential witnesses or informants. We have a set of policies and procedures that we implement in that case. In terms of witness protection, we do not have the capability in-house or the legal basis to provide a witness protection capability, but we do have agreements with the AFP and relationships with other providers of such facilities: the Victorian police, the South Australian police, the New South Wales police and so on. We can call on their resources very quickly. We are alive to those issues. Basically, we do a risk assessment very quickly if we become aware of any risk in relation to any informant, potential witness or member of staff.

CHAIR—Senator Ludwig?

Senator LUDWIG—There have been a number of reports, not only the household survey, which seems to indicate that there has been an explosion in AOSD or ATS, amphetamine type substances, for the last couple of years. From your perspective, is it a failure in law enforcement or in border control?

Mr Milroy—Is that based on the household surveys?

Senator LUDWIG—Yes.

Mr Milroy—I think we have a view that probably the data is a lot different from the sort of data that we use to assess trends, but I do not believe that it is a failure in law enforcement in relation to the issue of detecting importations or the distribution, based on their report, no.

Senator LUDWIG—Does that leave border protection?

Mr Milroy—In relation to importation, which is border protection.

Senator LUDWIG—Yes. So where do we point the finger? Whom should we ask as to why there has been a household survey that says that there has been an explosion in the use of AOSD or amphetamine type substances? Where should we look? What rock should we look under, then, to say, 'Clearly there has been an explosion in this type of use.' Do you dispute that?

Mr Milroy—No. I will call on Mr Kitson shortly but we, as you know, produced a listed drug data report which, we believe, is the most accurate data at the present moment based on the material that we have been able to obtain from all the law enforcement agencies and the forensic laboratories. Comparing that with the household survey, I think they are two different lots of statistics and I think the illicit drug data report is a more valuable report to take notice of.

Mr Outram—Can I just quickly answer? Can I just say that the determination has been looking at amphetamines. The approach it has taken has been very much to recognise that you cannot just point the finger in one place. That determination has worked very closely with industry and academia, looking for the causes, the problems, and to get various views from across the whole spectrum of people who have a stake in this as to why there might be a problem and how it can be fixed. That particular determination is focused, for example, on glassware manufacturers, the producers of legitimate precursor chemicals such as iodine, importers of legitimate chemicals and so on. There has been a lot of engagement across the board; there is an annual conference that is run primarily by the AGD, but that we have a big involvement with, and that all those interested industry groups are involved with. So there is a lot of discussion, in fact, the whole time with the determination, with academia and with others involved to try to find out what the root causes are. We recognise that you cannot just point the finger in one place and say: that is the problem, there is a failure there or a failure here.

Senator LUDWIG—But ultimately you have to if you are going to develop a strategy to fix it because otherwise all that you have is, I guess, the old analogy of a lot of smoke and mirrors but in fact no movement at the station. What we have got is a household survey that says there is seeming growth. Your reports say that there is no problem, that we should turn our attention elsewhere. We would not be doing this inquiry if we thought that, at least from this side. So can you confirm that there is a problem? We would not have an ATS strategy or a draft plan trying to be put into effect, would we, if we did not think that there was a problem.

Mr Milroy—That is right. I think you are quite right in relation to the work that we did in the very early stages of the determination, which was acknowledged by the board in May 2005, to actually develop this national action plan which identified a lot of areas of responsibility, a lot broader than just law enforcement. It addressed issues to do with health, education, research, academia and so on which indicates that there is a considerable amount of work that might need to be considered to be undertaken. Subsequently, that plan was picked up by the IGC on drugs and, I believe, is now under consideration by that body to look at some proactive action.

Senator LUDWIG—All right. So you agree, also, that there has been an explosion in AOSD or ATS type stimulants usage in Australia? Your data also suggests the same.

Mr Milroy—That is right. We indicate that it is increasing; that is correct.

Senator LUDWIG—So therefore, ultimately, we have to say, in terms of Customs, AFP and ACC, that you have got to identify at some point the problem and ways to address it.

Mr Milroy—Yes.

Senator LUDWIG—So, what have we identified as the problems? You say that it is not a failure at the border and not a failure of the law enforcement—so is it a failure in harm minimisation? Are we not spending enough money in that area? In other words, at some point we have got to stop blame-shifting and say: here is the problem, here is the action plan and here is the way we are going to implement it.

Mr Milroy—Well, that is right. I cannot comment on the current situation with the action plan. That is a matter for the Attorney-General's Department. But we have a drug problem in this particular area because there is a market. There are people out there who want to buy drugs. As a result of that, because of this market, there are criminals who realise that this is where to make money. This changes depending on whatever the illicit commodity might be. Work has been done in the last two or three years in terms of collecting intelligence—which was identified as a problem and where traditional law enforcement was not as effective—and the work that we have been doing with the industry has helped in identifying those who are the facilitators. There has been a lot of work which, as you acknowledge, has identified some law reform, there have been some products identified to be taken off the market, we have issues to do with pill presses and other issues. There has been a lot of proactive work undertaken not only by government but by law enforcement and various other industry groups. I believe that we, that is, law enforcement, understand that market as a result of the intelligence.

We now realise, picking up on Mike Phelan's comments that, because the majority—although we are seeing some clan labs in Australia at the present moment—of these precursors are coming from overseas, and as a result of the better intelligence we are now starting to take proactive action internationally at the appropriate staging points for these drugs coming to Australia to stop them coming across the border. That has been from a law enforcement point of view. I believe that that is the sort of attack that has to be continued. Criminals will, of course, take note of the successes and change their methodology and markets will change where there is a desire to buy or purchase illicit commodities. We have to keep monitoring it and change our approach, both law enforcement and those other agencies that this affects.

Senator LUDWIG—Mr Kerr may have been referring to it, but the draft plan that you mention in your submission on page 6, that is the one that has been going forward and is now with the AGD. Is that where it is at or has it been released?

Mr Milroy—It is with the IGC on drugs.

Senator LUDWIG—The intergovernmental committee on drugs, the IGCD.

Mr Milroy—That is correct.

Senator LUDWIG—When will they finalise that? Is there a time line?

Mr Milroy—We are not aware of that. The Attorney-General, maybe, ought to advise you.

Senator LUDWIG—Do you sit on the intergovernmental committee on drugs?

Mr Milroy—No.

Senator LUDWIG—Why not?

Mr Milroy—The minister attends that.

Senator LUDWIG—The minister? Does anyone from—

Mr Milroy—From the Attorney-General's Department, they do. They have been working closely on amphetamine and synthetic drugs with our determination people, looking at the law reform opportunities. They are fully across and briefed by our staff and strategic policy people on the AOSD issues.

Senator LUDWIG—Your draft plan covers eight main themes. They are law enforcement and border protection areas, or do they extend more broadly?

Mr Milroy—They cover the issues to do with law enforcement strategy as well as education, health, academia and so on. It covers a broad range of areas, as covered in page 6 of the submission.

Senator LUDWIG—You say it is market driven. Should we be looking at an economic solution? Have we spoken to an economist about it? What I am concerned about is that we seem to say that it is the market, whereas what I am trying to establish is: where is the problem? If it is not law enforcement, not border protection, not Health and Ageing in developing harm minimisation strategies, we cannot keep shifting the buck.

Mr Milroy—No.

Senator LUDWIG—It has got to stop with the minister at some point, but he should at least have some ground to say: this is the direction we need to pursue. As a committee member, I would not mind hearing from you what you think the direction is.

Mr Milroy—As I indicated, the work that we have been doing on the determination and in our intelligence directorate is fed into the board process. The board acknowledged that there was a need to have a national action plan, which we developed in consultation with a number of other stakeholders. The board saw a need to refer this upward so that those in authority in various areas would consider it, which is currently the situation. I cannot comment any further than that.

Senator LUDWIG—All right. Thank you, Chairman.

CHAIR—Mr Hayes?

Mr HAYES—The senator raised the issue, likening it to an economic model but, to some extent, for all we do to lock up those who are going to bring drugs into the country, to try and rehabilitate those who are victims of drugs, is it not the fact still that there is a market for drugs in this country and that, whilst people are prepared to pay money for illicit drugs, someone is always going to find a way to bring them in?

Mr Milroy—I think that really applies to any market where people want to buy an illegal commodity. If there is a market then of course there are people who are criminals who will say: this is a market that we can make money in, so we will find the ways to supply the market.

Mr HAYES—That is right.

Mr Milroy—It is no different whether it is firearms, DVDs, jewellery or counterfeit goods: there is a market being driven by consumers.

Mr HAYES—Have we done enough to try and dissolve the factors that lead to that market? Do we know what the factors are that lead to it, for instance?

Mr Milroy—No, I think we are not involved in going into that sort of research in terms of looking at why there is a market to that extent in terms of interviewing users, for example, as to why they buy drugs. I do not know if Mr Kitson has a comment in that regard with his interaction with academia.

Mr Kitson—I think one of the most compelling illustrations of why there is a market is in one of the submissions to the committee from Triple J. It contained a lot of web-based submissions which are from users explaining why they use it. It is a very sweeping description but, essentially, they like what it does to them. We might argue the case for the harms, and we are very strongly arguing that—that is why we are all here—but in the end we have got people out there who have decided for themselves that these are good things, therefore they create the demand for it. There is some very good and interesting stuff there.

Mr HAYES—I think that is right, but we are always going to have the cops out there trying to catch the suppliers, we are going to have the social workers out there picking up the pieces, but we have still got a market that is moving on. I think we have probably got to accept that that is some form of reality, and it is a question of what we do in how we address the build-up of that market. I am not sure that we have heard much of that, actually, in the course of this inquiry so far.

Mr Kitson—I think one of the great things about the ATS action plan that the IGCD is considering—it was initiated by the ACC and endorsed by the board, which took the action on it—is that it was a recognition that the ACC alone, and any other law enforcement agency operating in isolation, can make no real impact here, that it has to be a collegiate approach. It has to be an aggregation of all of the sectors that we have discussed here. It is not so much a question of blame-shifting but, perhaps, of everybody joining together to understand what it is that we can work to do in cooperation. I think I would dispute the assertion that there is blame-shifting here, but I think the ATS action plan very strongly represents a move towards breaking down whatever silos might be perceived to exist towards some form of cooperative approach that lends understanding to our agency, for example, from some of the drug research councils and from some of the social workers, from those who actually deal with the end users.

Mr HAYES—Yes. I suppose, from our perspective, that actually takes you into the area of how you reduce demand. Supply will always be a factor; it is going to respond to demand. Can I just move on to another area. You have mentioned on a number of occasions motorcycle gangs. I know that they seem to be very resistant to any form of cooperation, whether through the

exercise of coercive powers or otherwise. Can you just explain the significance of the outlaw motorcycle groups? I know that we define them as outlaw motorcycle groups. It does not seem that we are locking up too many of the suppliers from these outlawed motorcycle groups, other than for violence and firearm offences as opposed to their involvement in drug manufacture and supply.

Mr Milroy—I will get Mr Kitson to give you a broad answer on that. There is the work that we have been doing such as Task Force Schumacher, which is completed, also some other work that we have been doing on the high-risk crime area in Northern Territory and South Australia, and a lot of work that we are doing in Queensland has led to the disruption of a number of outlaw motorcycle group chapters. A number of members of outlaw motorcycle groups have been charged. I think one of the problems has been that, when people are actually charged, they do not go to court as a member of an outlaw motorcycle group, they go as Mr So-and-so. But we can probably provide you with some data, if you wish, on notice, on the arrests and charges over the last three years and which of these individuals have been members of or associated with outlaw motorcycle groups. We can provide you that data. That led to the board's better understanding of the outlaw motorcycle group market, if you want to call it that, in Australia and that led to this intelligence operation and a greater level of coordination across Australia. There have been quite a number, not only called before our hearings and subsequently charged for failing to cooperate, in a number of states who have been arrested and charged and a number of groups disrupted for their drug distribution activities, other than those issues of violence and firearms that you referred to that we commonly hear referred to in the newspapers.

Mr HAYES—But they are not proscribed organisations, are they? Whilst they might be outlawed, it is not prohibited to be a member of those organisations?

Mr Kitson—There is a debate within law enforcement about whether the nomenclature is accurate and reasonable. However, it is one that is in common usage, outlaw motorcycle gangs, to make a distinction from those which are plainly legitimate and which are there only for social interaction. I think it is also important, then, to understand that where we talk about OMCGs we are talking, in many cases, about individuals who have associations with OMCGs. Some people are office holders, some are ordinary members, some may simply be associates, but what we see, what intelligence and information from our determination shows us, is significant exploitation by those individuals of the networks that are provided by their association with those groups. Their networks are, as we have described in many of our products, fluid, entrepreneurial and flexible. Some longstanding notions of hierarchical structures in organised crime, I think, simply do not apply here. So we have a series of shifting alliances of convenience that allow people to move their commodities at whatever stage of the production cycle they might be at. What we see is a strong representation of people with outlaw motorcycle gang associations or connections in that process. I would not wish to characterise OMCGs as being the predominant force in amphetamines and other synthetic drugs, but there are significant representations.

Mr HAYES—I notice that there has been only recently by law enforcement agencies in, I think, two states some use of the fortification laws reasonably successfully against motorcycle gangs.

Mr Milroy—That is correct. We have just recently provided to the board—it is in the board papers for the meeting on 7 June—a very comprehensive profile on outlaw motorcycle group

activities in Australia. I think that this new intelligence operation where we are assisting in the coordination of law enforcement's response in the jurisdictions using the intelligence is starting to become quite effective. We are seeing a lot of police forces having dedicated teams attacking outlaw motorcycle group activities. We are contributing to their decision making with our intelligence and we are continuing to enhance this as the operation progresses.

Mr HAYES—From the ACC's perspective, how could we do a better job in drug interdiction? Is it simply a matter of resources?

Mr Milroy—As a result of the intelligence that we have been collecting and analysing and the partnership with our partners, in terms of the contribution that they have been making to the intelligence database of the ACC and our holdings, our knowledge is starting to increase significantly and, as a result of this intelligence going back to the jurisdictions, we are now seeing the successes in the front line increasing regularly. I think you will see that continue to increase. One of the advantages of this intelligence not only going to state and territory organisations but also to those involved in border protection, and also the work that we are doing across our determinations, is that you are seeing probably a more effective response due to the value of that intelligence. We are now starting to see a better utilisation of resources, there is better coordination, we see joint management groups set up now which the ACC is a part of, so that there is decision making being made which involves state and Commonwealth agencies in each jurisdiction in Australia. We are seeing joint task forces established that are now working very, very efficiently all starting now to take notice of the value of the intelligence and the knowledge that we have in certain areas. I think that that is the way to progress. If you do not have the knowledge and understanding of a marketplace or of a criminal group, you will not be successful. You have a better way of actually allocating your resources to the problem area. As we have seen, probably, in some of the overseas work and some of the work that we are doing with some of our partners, the intelligence is leading us to a faster resolution with less resources and more focused on the areas of vulnerability. From a law enforcement point of view, intelligence is the only way to go. It is not about extra resources. If you have got resources you have to be able to deploy them. You have the ability to deploy them efficiently only if you have got enough knowledge to know where to send them. Flooding the streets is not the answer, unless you are actually targeting the problem on sound intelligence.

Mr HAYES—I appreciate that. I do think that the ACC is in a reasonably unique position to be able to actually make that observation over and above various state, territory and Commonwealth police forces. But if we are applying a reasonably concerted effort in terms of drug interdiction, and you are satisfied with the approach we are taking now in terms of strategy—I am sure, at the far end of the scale, we are probably not doing it the best way but we are certainly out there picking the pieces up of people who are victims of drug abuse—does that mean that we as a committee should be really focusing our attention on how we actually dampen down the market, reducing demand; is that an area we should be actually recommending putting money into? That is attitudinal.

Mr Milroy—Yes. Again, this is moving into areas that I am not qualified to talk in as an educator, a health expert or an expert in relation to why people use drugs. But I think that this holistic approach or this broad-based approach, based on a good understanding of what the problem is and applying the resources, whether they be law enforcement or non-law enforcement resources, to the problem is the appropriate way to attack it.

Mr HAYES—Thank you, Chair.

CHAIR—Senator Ferris?

Senator FERRIS—Mr Kitson, it is a couple of years ago now that I went to a briefing that you gave on the role of motorcycle gangs and the transport of amphetamines through the transport industry. I assumed from that that 'transport industry' meant not only trucking but also waterfront and aviation. Given that we have now increased security surveillance both at our waterfront and in the airports, with security checks and so on, do you have a comment to make on the role that the trucking industry is still playing in the transport of drugs and whether you think that the same sorts of security briefs and checks should be made on that industry?

Mr Kitson—I think perhaps the best way to respond to that is to note that the determination that we have for crime in the transport sector covers airports, maritime and related land transport sectors. It is an area that we will come to focus a lot of our energies on in the course of the next six to 12 months because we still have the recognition, as we did a couple of years ago, of the importance of the land transport sector in the movement of drugs, whether it is small or larger trucks. I think the point about criminal flexibility is that whatever moves can be used to transport, and that if there is a potential for them to exploit their networks, their systems of contacts, they will do it.

Senator FERRIS—Have you got a comment to make on any changes in the maritime and airport security arrangements, and what effect they may have had on the transport of drugs?

Mr Kitson—I think that there are some displacement effects, yes. Perhaps it is a little early to judge or to give an authoritative view on the extent of it, but I think it is one of the truisms. I think it was mentioned earlier in the sessions that we were sitting in on that, wherever you take some action, there is likely to be a displacement effect. I think the tightening of some of the major ports has probably seen a shift to some other locations and methodologies. I would prefer to discuss that in camera, if you want to go into more detail on that.

Mr Milroy—Work in terms of examining certain locations around the country will be completed probably in July. There is a paper going to the board on 7 June. Some of the areas that you have referred to will be the subject of further work. Maybe the next time we brief the committee we can bring you up to date on one or two of the new areas, new determinations, and the progress that we have been making.

Senator FERRIS—That would be useful, thanks.

CHAIR—Your submission referred to an increase in the public acceptability of regular use of amphetamine-type substances. What did you mean by 'public acceptability' and, further, is it possible to prohibit a drug that is socially accepted? Perhaps I should say not 'impossible', but is it more difficult to prohibit drugs when they are seen by the wider public to be okay?

Mr Milroy—I will ask Mr Kitson to comment on the first point.

Mr Kitson—The issue about acceptability draws on some of the social research in the household drugs survey. One of the questions it asks is about the acceptability, the rate at which

the discussions take place between children and parents and the extent to which people think it is acceptable. That is the reflection in our submission. Your second question, Senator, you would need to repeat for me, I am sorry.

CHAIR—Is it difficult to prohibit drugs when they are seen to be acceptable to the wider public? I am not sure that this is in the area that the ACC would normally be involved in; perhaps it is not a fair question to you.

Mr Milroy—It is a policy question.

CHAIR—Yes. But I was just wondering, as an enforcement agency, is it hard to enforce things? I mean, it is a bit like the prohibition days in America that tried to ban alcohol, yet it was so widely accepted that it just became impossible. Do you see the ATS situation getting to that level in Australia in the immediate future?

Mr Kitson—Again, I think essentially at the root here is a policy question that I am not in a position to respond to. But I think that there are some significant differences between amphetamines and issues such as alcohol and public availability. I suppose you come to issues of prohibition. It is inevitable that greater acceptability creates a different set of circumstances but, ultimately, I think that that is one for the policy makers rather than law enforcement.

CHAIR—We have received some evidence that ecstasy is better than getting sloshed on rum at night. Some of the young people think that that is the case.

Mr Kitson—Again, I think the submissions to this committee through the Triple J forum are quite compelling in giving an insight to user perspectives on it. Those are certainly some of the issues confronting us all who are trying to deal with the harmful effects of the substances that these people are taking.

CHAIR—It is repeating the question, but does that worry you as an intelligence and almost, you would say, forecasting agency that, as this does become more acceptable, it is going to become harder and harder to get people involved in the fight against it?

Mr Milroy—I think for us to speculate on the issue about drugs or drug usage—I think the bottom line is that the use of illicit drugs is a criminal offence and we are a law enforcement agency that is there to pursue these people who are involved in the importation and distribution of illicit substances. I do not think that we are in a position to form opinions in areas like that.

CHAIR—Do you do work on where the ATS industry will be five years down the track? Do you try to predict what issues you are going to have to confront in the next five years?

Mr Milroy—Yes, we have an over-the-horizon responsibility and only recently we have actually finished a short visit to one or two Asian countries looking at new and emerging trends, and also the shape of organised crime as to what will affect Australia in the future. There are a number of areas that Mr Kitson might comment on in relation to the emerging issues that we are looking for. That is one of the important roles that the ACC plays. I think it was picked up by the PJC in the period during the review that we have a responsibility to try to look at new and emerging trends and identify areas that we should start working on now, not later. A number of

the projects that we are currently putting to the board at its meeting on 7 June are actually drawing on areas that we believe potentially could be a problem in the future. Mr Kitson might like to comment a bit further on that.

Mr Kitson—The committee will be aware of the scheduling of pseudoephedrine. It was referred to earlier today. Part of the role of intelligence and the role of the determination, particularly in its use of coercive powers, is to explore the ways in which those who are manufacturing, importing or distributing amphetamines and other synthetic drugs will adapt. What will they do in response if we cut off their supply here: will they try to fill the gap by greater levels of importation or will they change methodologies? There are signs of PTP production increasing, which we understand to be a more difficult methodology, but it is one that is available to them. We look very closely at the markets in New Zealand and, indeed, in Europe to see what sort of synthetic drugs are being used there to see how close they are to being legitimate or otherwise and therefore to project where those trends might or might not impact on Australia. We might reasonably assume that there is a time-shift element, that we might be two to three years downstream of some shifts in other jurisdictions. But that is not always valid. Certain drug types we have seen in popular use in the States and in the UK have simply never featured strongly in the Australian market. In the amphetamine market there is a tendency, I think, to follow the trend. But our role is to look for the indicators and warnings which will show where there is a shift in the kind of drug being used or the production methodology. Our examinations and the coercive powers have been extremely effective in looking at the ways in which people look to produce and to get around the latest restriction imposed on them by law enforcement or regulatory responses.

CHAIR—There is a suggestion that as you are more successful in stopping the diversion of precursor drugs, the backyard operators will go out of the business they are in now and that that will either increase the importance of the professional organised criminal activities or, alternatively, the backyard operators will go into the manufacture of drugs that are much more harmful because they can get the ingredients a bit more easily. Do you have any thoughts on that? Are you doing work on either of those?

Mr Kitson—The work we do on it essentially goes back to the profit motive for organised crime. Regardless of the scale of production, it is ultimately profit that drives that production. Even if there is a squeeze of some of the smaller labs, particularly those using pseudoephedrine if pseudoephedrine becomes more difficult, I do not know that we can assume comfortably that they will disappear from the landscape. I think many of them will look to find different methods of producing it, methods that do not involve the use of pseudoephedrine. To come back to that motive, it is about profit, about the dollar. It is not because they want to produce the tablet per se; they want the dollar that goes with the profit.

Senator LUDWIG—How long has the draft been with the intergovernmental committee?

Mr Milroy—I cannot give you the AOSD action plan, which was later changed to be referred to as the ATS action plan. I can actually clarify for the committee that issue with these terms. It went to the intergovernmental committee on drugs meeting on 20 and 21 September 2005. I believe that the matter was a subject of recent discussion at the last IGC on drugs in the last, I think it was, three or four weeks. I can just qualify one point, that the intergovernmental committee on drugs is official. We provide input through AGD, Customs, and the AFP and the

IGCD reports to the Ministerial Council on Drugs Strategy, of which the minister, of course, is a member. I just thought I would qualify that.

Senator LUDWIG—You would expect to see a lot quicker action than what you have got. You have had a draft plan that has been available since September last year. The market, to use your term, seems to change rapidly. You would expect to see some outcome by now, wouldn't you?

Mr Milroy—Again, I think probably the Attorney-General's Department would be able to advise you, but there are a number of other issues. The action plan addresses issues following the consultation that relates to other bodies, not just law enforcement. I believe that there has been consultation taking place. As to what action has or has not taken place, I think the Attorney-General's Department representative on the IGC would be able to provide you with that advice.

Mr KERR—That is what you call a hospital pass.

Senator LUDWIG—I will.

CHAIR—All right. Again, we thank you for your considerable assistance to the committee in relation to this matter. Thank you for rearranging your schedule today to come a little earlier so the majority of the committee could be here. I follow up Mr Richardson's thanks to you earlier for facilitating the committee's visit to some of your offices around the country. That has been very useful, so thanks very much for that.

Mr Milroy—It is a pleasure, Chairman. If it is possible, I can clarify the issue about the difference between the terms ATS and AOSD but if you wish that to be provided to the committee in writing, we can do so.

CHAIR—You can probably do it now if it is convenient.

Mr Milroy—Okay, and I have a second matter as well. The term 'amphetamine' is used as an umbrella term for a class of drugs as well as one specific compound. At an international level the term 'amphetamine-type stimulants' is abbreviated as ATS, but not all the synthetic drugs labelled amphetamines are purely stimulants—for example, ecstasy. Within Australian law enforcement, the term 'amphetamine-type substances', also abbreviated ATS, has also received an accepted use. The scope of ACC special intelligence operations is on amphetamines and other synthetic drugs encompassing ATS and the following broader group of illegal drugs to ensure that the ACC is able to focus on the markets and trafficking in these synthetic drugs as a whole, that is, amphetamines, methamphetamines and crystal methamphetamine, MDMA, ecstasy, GHB, fantasy and yaba, also known as yabba. That might explain it for the committee. Also, there was a comment in relation to a decline in the quality of data that was raised by the Queensland Alcohol and Drug Research and Education Centre. Some of the information they claim is flawed. We have a submission that we will provide to the committee in answer to those comments.

CHAIR—That would be good. All right.

Mr KERR—Can I make a suggestion? The briefing papers the secretariat provided are really good. I am wondering whether, at your discretion, you could ask the secretariat to identify the ones that have not been answered or asked and to send them to the submittees as questions on notice?

CHAIR—We will certainly do that.

Mr KERR—The same with the AFP.

CHAIR—And also the department, I think. All right. Thank you very much. I declare this committee adjourned.

Committee adjourned at 4.11 pm