POLICE INTEGRITY COMMISSION

OPERATION ABELIA

RESEARCH AND INVESTIGATIONS INTO
ILLEGAL DRUG USE BY SOME NSW POLICE OFFICERS

VOLUME 4: APPENDICES

SEPTEMBER 2005

OPERATION ABELIA
SEPTEMBER 2005

ISBN 1 74003 132 6 (Set)
1 74003 136 9 (Vol.1: Summary Report)
1 74003 133 4 (Vol.2)
1 74003 134 2 (Vol.3)
1 74003 137 7 (Vol.4: Appendices)

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APPENDIX 1: ROLE AND FUNCTIONS OF THE POLICE INTEGRITY COMMISSION

FUNCTIONS OF THE PIC RELEVANT TO THIS REPORT

The Police Integrity Commission (PIC) was established under the *Police Integrity Commission Act 1996* ('the Act') on the recommendation of the Royal Commission into the NSW Police Service. The principal functions of the PIC, set out in section 13 of the Act, are:

a. to prevent serious police misconduct and other police misconduct,

b. to detect or investigate, or manage other agencies in the detection or investigation of, serious police misconduct,

c. to detect or investigate, or oversee other agencies in the detection or investigation of, other police misconduct, as it thinks fit,

d. to receive and assess all matters not completed by the Police Royal Commission, to treat any investigations or assessments of the Police Royal Commission as its own, to initiate or continue the investigation of any such matters where appropriate, and otherwise to deal with those matters under this Act, and to deal with records of the Police Royal Commission as provided by this Act.

Other functions of the PIC in regard to police activities and education programs are set out in section 14 of the Act.[1598] These include:

a. to undertake inquiries into or audits of any aspect of police activities for the purpose of ascertaining whether there is police misconduct or any circumstances that may be conducive to police misconduct,

b. in particular, to monitor the quality of the management of investigations conducted within NSW Police and to undertake audits of those investigations,

c. to make recommendations concerning police corruption education programs, police corruption prevention programs, and similar programs, conducted within NSW Police or by the Ombudsman or the Independent Commission Against Corruption for NSW Police, and,

d. to advise police and other authorities on ways in which police misconduct may be eliminated.

As far as practicable, the PIC is required to turn its attention principally to serious police misconduct (sub-section 13(2) of the Act).

1598 Further functions of the PIC are set out in section 14A (functions relating to the special audit of the reform process) and section 15 (functions relating to the collection of information and evidence) of the Act.

RECENT AMENDMENT TO THE PIC ACT 1996

The PIC Act was recently amended by the *ICAC Amendment Act 2005*, which commenced on 1 July 2005. The substance of the amendment is that the definition of 'police officer' is extended, for the purposes of the Act, so that a reference in the Act to a police officer now includes a reference to any member (whether or not a police officer) of NSW Police.

The effect of this amendment extends to the statutory functions of the PIC, as indicated in the section above. That is, the PIC's functions now apply not only to sworn officers of NSW Police, but also to all administrative and other unsworn or 'civilian' employees of NSW Police.

The scope and purpose of Operation Abelia were set in light of the PIC functions as defined prior to this amendment, and the research, investigation and report writing were substantially complete before the commencement of the amending Act. Operation Abelia has therefore confined itself to observations, findings and recommendations which relate to sworn officers of NSW Police. In this report, the terms 'police officer' and 'officer' refer exclusively to sworn officers of NSW Police.

Operation Abelia was commenced prior to this amendment, and the PIC's inquiries were all but complete prior to that Act coming into force. The focus of Operation Abelia is upon sworn officers of NSW Police only. In this report, 'police officer' and 'officer' refers to sworn officers of NSW Police only.

POLICE MISCONDUCT

'Police misconduct' and 'serious police misconduct' are not explicitly defined by the Act, but include the following (see sub-section 5(2)):

(a) police corruption

(b) the commission of a criminal offence by a police officer

(b1) misconduct in respect of which the Commissioner of Police may take action under Part 9 of the *Police Act 1990*

(c) corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988* involving a police officer

(d) any other matters about which a complaint can be made under the *Police Act 1990.*

There is no defined limit on the type of misconduct in respect of which disciplinary action may be taken by the Commissioner of Police under Part 9 of the Act. In addition to corrupt and/or criminal conduct, 'police misconduct' may therefore include minor disciplinary breaches, such as may be appropriately dealt with, for example, through training and development.

ACQUIRING INFORMATION

The PIC has a wide range of means at its disposal for acquiring information. In addition to research of material in the public domain and audits or inquiries into police activities, in matters where the PIC determines to carry out an investigation it has special powers to:

- require public officials and public authorities to produce statements of information (section 25)
- require any person (whether or not a public official or public authority) to produce documents or other things (section 26)
- enter public premises (section 29)
- obtain search warrants (section 45)
- obtain warrants under the *Telecommunications (Interception) Act 1979* (Cth)
- obtain warrants under the *Listening Devices Act 1984* (section 50 of the Act), and
- require persons to attend and give evidence or produce documents or other things before a hearing of the PIC, either in public or in private (section 38).

The PIC may conduct an investigation even though no particular police officer or other person has been implicated and even though no police misconduct is suspected (section 23(2)). Further, the PIC is not bound by the rules or practice of evidence, and can inform itself on any matter by means it considers appropriate (section 20(1)). Such means might include, for example, interviews, focus groups or private hearings with experts, police officers or others. These might be conducted for the purposes of gathering information which is relevant to NSW Police policies and procedures or other topics bearing on the prevention of police misconduct, circumstances conducive to police misconduct, or other matters related to the PIC's functions.

REPORTS TO PARLIAMENT

WHEN DOES THE PIC SUBMIT A REPORT TO PARLIAMENT?

The PIC may prepare a report to Parliament in relation to any matter that is or has been the subject of an investigation (sub-section 96(1)). The PIC may also make a special report on any administrative or general policy matter relating to the functions of the PIC (section 98). A report to Parliament must be provided to the Presiding Officer of each House of Parliament as soon as possible after the PIC has concluded its involvement in the matter, unless it is considered desirable, in the public interest, for the making of the report to be deferred (sub-sections 96(4) and (5)). Where the PIC has conducted a public hearing for the purpose of an investigation, it must prepare a report to Parliament on that matter (sub-section 96(2)).

WHAT IS INCLUDED IN A REPORT TO PARLIAMENT?

The contents and structure of a report to Parliament will vary according to whether it reports on an investigation, an audit, another type of inquiry or a combination of these. Generally, a report will first present the relevant information and/or evidence acquired. The PIC assesses this information to reach opinions on whether there is or has been police misconduct or any circumstances that may be conducive to police misconduct. On the basis of the PIC's assessments, the report may include a number of recommendations (sub-sections 16(1) and 97(1)). These may include recommendations as to whether consideration should or should not be given to the prosecution of persons (including police officers) for criminal or disciplinary[1599] offences and, in the case of police officers, other forms of disciplinary action (sub-section 16(1)(b), sub-section 97(2)). Opinions and recommendations regarding individuals are discussed further in the following section.

The PIC may also recommend other measures which it considers should be taken in relation to its opinions and assessments (sub-section 16(1)(c)). Such recommendations may relate, for example, to law reform or to changes in NSW Police policies and procedures which impact on the prevention or detection of misconduct or on circumstances which are conducive to misconduct.

OPINIONS AND RECOMMENDATIONS REGARDING INDIVIDUALS

Assessments and opinions about misconduct

The standard of proof applied by the PIC to the formation of an opinion as to whether a person has engaged in police misconduct or other misconduct is the balance of probabilities. Such an opinion will be reached having regard to the principles in *Briginshaw v Briginshaw* (1938) 60 CLR 336. That is, the more serious the matters under consideration, the more stringent will be the requisite degree of satisfaction.

The PIC may form opinions as to whether police misconduct or other misconduct has or may have occurred, is or may be occurring, is or may be about to occur, or is likely to occur (sub-section 16(1)(a)). Such opinions about police misconduct are not equivalent to findings (such as a court may make) about whether an offence has been committed (sub-section 16(3)). The PIC is not a court or tribunal and may not make a finding or form an opinion that a specified person is guilty of or has committed, is committing or is about to commit an offence (sub-section 16(2)(a)).

Recommendations to consider prosecution

If, in the PIC's opinion, the available evidence is sufficient to establish a prima facie case in respect of a criminal offence then it is generally the practice of the PIC to recommend that consideration be given to the prosecution of a person for a specified criminal offence. Such a recommendation will be made to the relevant prosecutorial authority, for example, the Office of the Director of Public Prosecutions. In deciding whether to make such a recommendation, the PIC generally does not have regard to

1599 While the Act refers to 'disciplinary offences', this definition no longer applies in practice to police officers. The power of the Commissioner of Police to prefer a departmental charge against a police officer for a disciplinary offence was repealed in 1999. Since that date, the powers and obligations of the PIC to recommend whether consideration should be given to the prosecution of an officer for a specified 'disciplinary offence' (sections 16(1)(b), 97(2)(b)) has no effective application.

discretionary considerations, such as whether there is a reasonable prospect of conviction.[1600] Such discretionary considerations are appropriately matters for the relevant prosecutorial authority.

Recommendations regarding action against 'Affected Persons' and others

The Act defines an 'affected person' as a person against whom, in the PIC's opinion, substantial allegations have been made in the course of, or in connection with, the investigation (sub-section 97(3)). Where the PIC reports to Parliament on an investigation involving affected persons, the report must include a statement as to whether or not the PIC is of the opinion that consideration should be given to prosecution of the person for a specified criminal or disciplinary offence and, if the person is a police officer, whether consideration should be given to:

- action against the person as a police officer on specified grounds (including action for the loss of the Commissioner's confidence under section 181D of the *Police Act 1990*) with a view to dismissing or otherwise terminating the services of the police officer (sub-section 97(2)(c))
- 'reviewable action' under section 173 of the *Police Act 1990* against the police officer (sub-section 97(2)(d)).

'Reviewable action' within the meaning of section 173 of the *Police Act 1990* refers to forms of disciplinary action that would ordinarily apply to more serious misconduct. These include:

- a reduction in a police officer's rank or grade
- a reduction in the police officer's seniority
- a deferral of the police officer's salary increment, and
- any other action (other than dismissal or the imposition of a fine) that the Commissioner of Police considers appropriate.

These types of action are reviewable, since, owing to their seriousness, a police officer may appeal the imposition of any of these penalties to the Industrial Relations Commission of New South Wales.

The PIC may also recommend that prosecution or (in the case of a police officer) any of the disciplinary actions above be considered in the case of a person who is not an 'affected person' (sub-section 97(4)).

For both 'affected persons' and any other persons, the PIC may also recommend the consideration of other disciplinary actions (sub-section 97(4)). Such actions may include 'non-reviewable action' within the meaning of section 173 of the *Police Act 1990*. Non-reviewable action would generally apply to less serious breaches of discipline. It includes:

1600 The only circumstance in which the PIC may, despite the existence of a prima facie case against a person, decide not to recommend that consideration be given to their prosecution is where it considers that to do so would be inconsistent with the functions of the PIC.

- coaching
- mentoring
- training and development
- increased professional, administrative or educational supervision
- counselling
- reprimand
- warning
- retraining
- personal development
- performance enhancement agreements
- non-disciplinary transfer
- change of shift (but only if the change results in no financial loss and is imposed for a limited period and is subject to review)
- restricted duties, and
- recording of adverse findings.

There is no avenue of appeal to the Industrial Relations Commission against the imposition of non-reviewable action.

APPENDIX 2: COMMANDER INTERVIEWS

INTRODUCTION

WHY WERE THESE INTERVIEWS CONDUCTED?

One aspect of the Operation Abelia research involved obtaining the perspectives of different groups who might be in a position to inform the PIC's understanding of the nature of the problem of illegal drug use by police and the effectiveness of NSW Police policies and procedures. The purpose of these interviews was to obtain:

- commanders' views on illegal drug use by officers
- information regarding their experiences with current policies and systems for the detection and prevention of drug use by officers, and
- their views regarding improvements that could be made to these policies and systems.

HOW WERE THESE INTERVIEWS CONDUCTED?

From June to August 2003, senior officers of the PIC interviewed a sample of local area commanders and specialist commanders in NSW Police. The officers interviewed, approximately one-quarter of all NSW Police commanders, were selected from across the State. The rationale for this was to:

- attempt to explore, as much as possible, the views of commanders working in different geographical locations and with different fields of responsibility; and
- enable the PIC to assess if certain issues or problems are seen as being localised or more general in nature.

In most cases face-to-face interviews were conducted. In a small number of cases, after an initial discussion of the issues, a copy of the questionnaire was left with the commander to be completed and returned to the PIC. Twenty-two commanders were approached. All agreed to participate. The response of one of the commanders who said that he had returned his completed questionnaire to the PIC was not received. Hence this Appendix collates the responses of 21 of the 105 local area and specialist commanders throughout NSW. This sample includes: seven commanders from local area commands within the Sydney metropolitan area, two commanders from larger metropolitan areas outside Sydney, nine commanders from rural NSW and three commanders of specialist units.

The PIC also interviewed five key informants, who were not commanders, for their views on drug use in NSW Police. Some were employees of NSW Police, while others were not. These persons were selected by the PIC for interview due to their first hand and current knowledge of policing and policing issues in NSW. As the views of these five key informants basically mirror those of the commanders they have not been discussed separately in this appendix.

STRUCTURE OF THIS APPENDIX

This appendix is divided into two sections. The first part deals with the commanders' perceptions of the problem of drug use in NSW Police. The second deals with their experiences and views of policies and procedures in relation to drug use in NSW Police.

SECTION 1 – PERCEPTIONS OF THE PROBLEM OF DRUG USE IN NSW POLICE

1.1 IS DRUG USE A PROBLEM FOR NSW POLICE? – COMMANDERS' INITIAL THOUGHTS

The first question of the survey was designed to elicit the commanders' immediate thoughts on whether they consider, and why they consider, prohibited drug use to be a problem for NSW Police.

All except one of the commanders interviewed said that they considered drug use to be a problem for NSW Police. The commander who did not consider there to be a problem with prohibited drug use was in charge of a specialist command. He commented that he had not experienced and did not know of a problem with drugs within this group.

When asked to elaborate on why drug use in NSW Police is a problem, most of the commanders interviewed expressed concern about younger officers and/or new recruits. Of the 21 commanders interviewed 13 (or 62%) specifically referred to younger officers in relation to the illegal drug problem as they viewed it. Almost half of the commanders interviewed (43%) commented about their concern on the increasing social acceptance of illegal drug use among young people in the community from which young officers are recruited.

The perceived proliferation and social acceptance of what are known as 'soft', 'recreational' or 'party' drugs were of particular concern.[1601] A couple of the commanders noted that young officers use these drugs as an alternative to alcohol, which commanders considered to be the drug of choice of their older colleagues, for example:

> Drugs described as recreational in nature (a misnomer), may have replaced alcohol, at least to an extent, as the substance of choice by many younger police.
>
> Younger police would see drugs as an alternative to alcohol.

In this respect, nine of the commanders interviewed (43%) were of the opinion that the use of these 'recreational' drugs is becoming the social norm and a social outlet of the younger generation, in much the same way as alcohol has been to older generations. These commanders were concerned with the susceptibility of young officers to conform to the social pressure of their peers and that this may be further compounded by the fact that these 'recreational' drugs are more readily available than harder drugs.

1601 These illegal drugs are described in Section 1.4 of this appendix.

The question of whether drug use was a problem for NSW Police also elicited comments on the perceived extent of any drug problem within NSW Police.

Several commanders considered the problem of recreational drug use among some younger officers to emanate from a wider acceptance of such drug use among young people in the general community, for example:

> recreational soft drug usage is part of their peers' culture.

However, many of the commanders interviewed shared a more moderate view that the problem was not necessarily widespread, but concentrated in particular pockets or locations. Section 1.2 of this appendix expands on this belief, however, the opinion of many of the commanders interviewed (particularly country commanders) was that the problem was more prevalent in Sydney, particularly inner Sydney areas. This was seen as arising as a result of an increased exposure to nightlife, availability of drugs and anonymity, with these environmental factors combining to make young Sydney officers more susceptible than young country officers who are more 'visible' and known in their communities.

The means by which the problem of drug use could be controlled within NSW Police was another issue concerning several of the commanders interviewed. Although this aspect of how current policy and procedures are working and how they can be improved will be discussed in Section 2 of this appendix, the initial thoughts of a third of the commanders interviewed (33%) was that more needed to be done prior to, or at the time of recruitment of officers. As one commander commented:

> ... checks are inadequate and there was no psychological testing done.

This commander went on to mention that:

> Classes are very large and they present problems for the future. There's a heavy emphasis on graduates. Acceptance of drug use in universities is high.

Several of the commanders interviewed (20%) were concerned that the position of a serving police officer should mean they are obliged not to use drugs at any time. One commander commented that in legal terms, it is:

> contrary to oath of office – this separates us from the public.

Another commented:

> Use of any prohibited drug by Police at any time is a problem. Irrespective of whether this is viewed as a recent phenomenon or one with some history, the fact is that Police should not be using prohibited drugs and expect to remain as serving Police.

Some commanders commented that the main problems with an officer's use of prohibited drugs centre on the erosion of public confidence and the problem of impairment whilst carrying out duties, which compromises both the safety of the public and fellow officers. One commander further commented on his concern that too many officers are being found positive to drug tests after critical incidents:

> All too frequently, particularly in Inner Metropolitan Region, police are being detected at critical incidents with illicit substances in their blood streams … this concerns me because officers must be at their peak intellectual and physical performance to deal with these very challenging complicated life threatening incidents.

1.2 PREVALENCE OF THE PROBLEM

As outlined in Section 1.1, most of the commanders interviewed considered that prohibited drug use was a problem for NSW Police. When putting this view into perspective, it is important to note that none of the commanders interviewed considered the prevalence of the problem to be extreme, i.e. involving many officers across many commands (see Table A2.1). Over half of the commanders interviewed (52%) considered that the problem involved only relatively few commands across the State. Although some of these commanders considered there were relatively few officers involved (33%), other commanders thought many officers might be involved (19%).

TABLE A2.1: HOW PREVALENT DO YOU THINK THE PROBLEM IS?

	No. of Commanders (N = 21)	% *
Many officers across many commands across the State?	0	0%
Relatively few officers scattered in many commands across the State	5	24%
Many officers in relatively few commands across the State	4	19%
Relatively few officers in relatively few commands across the State	7	33%
Don't know	3	14%
Not answered	2	9%
Total	21	100%

** Percentages may not add to 100% due to rounding.*

A majority of those who considered the problem involved officers in 'few commands' (i.e. a more localised problem) were the country commanders (6); this compares with a more general view held by metropolitan commanders who considered the problem to be one concerning 'relatively few officers' scattered in 'many commands' (3) or in a 'few commands' (2).

Two of the metropolitan commanders who considered the problem to be more widespread, i.e. 'scattered in many commands', clarified their opinion, for example:

> Statistically there must be officers in every LAC taking some form of drug.

This more generalised view of the problem contrasted with the more definitive comments of the majority of country commanders interviewed who considered the problem to involve younger officers, and to be localised to metropolitan Sydney mostly because of Sydney's size, nightlife, availability of drugs and anonymity. They further commented that they did not consider these factors to be a problem for the country

commands. One commander from a specialist group (who indicated he did not know the state-wide extent of the problem) nonetheless commented that he also thought the problem mostly involved younger officers in city/metropolitan areas.

Another commander further commented that an indication of the prevalence of drug use may also be among the:

> 'work avoiders' … prolific users of sick leave or FACS leave (particularly on the weekend).

1.3 TYPES OF OFFICERS MORE LIKELY TO USE DRUGS

When considering whether certain officers may be more susceptible to using drugs, the majority of commanders interviewed (81% - 17) considered that some types of officers are more likely to use prohibited drugs.

Consistent with the views expressed in previous questions, the type of officers considered most likely to use prohibited drugs were younger officers, with over half of the commanders interviewed directly mentioning the age of an officer as an issue. Further, the responses tended to focus on the personal or environmental characteristics of an officer rather than the rank or type of duties performed by the officer. For example, the type of officer who might use drugs was often described as:

> Young, single and into the nite club scene. Part of the 'scene' is recreational drug-taking.
>
> Younger officers are more likely to participate particularly if single/gay.
>
> … younger police in places like Manly, Darlinghurst and Kings Cross would be more likely to be experimenting.
>
> Young – under 25, single, city areas, night clubs, gay & lesbian officers.

Many of the commanders interviewed (72%) believed that the location of an officer also mattered, and of those, many were quite specific about the location, for example:

> Metropolitan Sydney and larger regional centres.
>
> The metro area of Sydney attracts persons who are a 'greater' risk – lifestyle choices of some persons attract them to certain areas.

Interestingly, only two of the commanders interviewed mentioned that duty type may be a factor in drug use:

> Younger officers across all duty types. Perhaps leaning more towards [general duties] and 12-hour shift workers. The long period of time between blocks of shifts after 12-hour shifts, this creates long breaks whereby drug use can be hidden.
>
> It [the Police Service] is less regimented, there are 12-hour shifts, there's a lot of down-time.

1.4 TYPES OF DRUGS THOUGHT TO BE A PROBLEM

When commanders were asked about the types of drugs they thought were a problem, almost two-thirds of the commanders interviewed (62%) considered some types of drugs were more of a problem than others. Of those who did not consider some types of drug to be more of a problem than others (38%), four considered that all types of drug were a problem, and the remainder (4) commented that they had little experience, were not sure or did not answer the question.

Three of those who considered that all drugs were a problem were concerned not only with Occupational Health and Safety, and the impaired ability to perform tasks, they were also concerned about:

> inevitable associations with people of the criminal element when engaged in procuring illegal materials.

They considered such associations inappropriate for officers. One of these commanders took the view that despite some drugs such as ecstasy, marijuana and cocaine being considered by some groups as more socially acceptable – prohibited drugs are just that, prohibited, and there should be no tolerance of officers taking any prohibited drug at any time.

The main types of prohibited drugs mentioned as a problem by 71% of the commanders interviewed were those often broadly termed as 'soft', 'lifestyle', 'recreational', 'designer' or 'party' drugs. The ranges of drugs referred to by commanders are: cannabis/ marijuana, hallucinogens, Ice/amphetamines, ecstasy and cocaine.

In terms of the perceived prevalence of these drugs, amphetamines were listed by 43% of the commanders interviewed; cannabis 38%; ecstasy 38%; with cocaine 19%, being considered the least prevalent of this group of recreational drugs. Only two of the commanders interviewed (10%) mentioned heroin, considered a hard drug, and these commanders considered its use to be considerably less prevalent than the 'recreational' type drugs mentioned above.

When comparing the types of prohibited drugs considered to be a problem among officers, there were some differences according to the commanders' location. Metropolitan commanders listed a wide variety of drugs that included: ecstasy, cannabis, cocaine, amphetamines and heroin. Conversely, country commanders generally listed cannabis first as the most prevalent drug, then amphetamines, and hallucinogens, as the types of prohibited drugs that were a problem. However, they did not list ecstasy, cocaine, or heroin at all, which suggests these types of prohibited drugs are seen as less of a problem by the country commanders interviewed, and seen as more of a problem for metropolitan commands.

Commanders said that one of the main reasons the so-called 'designer' drugs such as amphetamines, ecstasy and, to a lesser extent, cocaine are so popular among users was because they are quickly metabolised and for this reason are difficult to detect during testing. Almost 20% of the commanders interviewed (4) considered that users were aware of this, because as one commander mentioned:

> Officers 'know' that they can be tested for drugs when they turn up for work.

Two of these commanders mentioned that users know that detection can be avoided if they use these drugs at the beginning of a block of rest days. Another reason some commanders considered 'designer' drugs to be popular among users was because they were thought to be readily available. One-third of the commanders interviewed (33% - 7) referred to a certain social acceptability of these drugs, which created a problem when combined with peer pressure to use these drugs.

Cannabis was also considered to be readily available, socially accepted and generally thought to have fewer side-effects and be less addictive than harder drugs.

Steroids, although not illegal, were also mentioned by three of the commanders interviewed (14%) as cause for concern. One commander commented on the associated problems with steroid use among officers:

> Steroids are another big issue. I have strong suspicions some police who frequent gyms are abusing steroids to get muscle bulk.

This commander went on to say that he suspected an officer who had:

> …..suddenly bulked up and correspondingly became extremely aggressive was using steroids.

Similarly, alcohol, also not illegal, was considered by three of the commanders interviewed (14%) to be a problem for officers. Despite listing the prohibited drugs mentioned above as being a problem, one commander from a specialist group considered alcohol to be a:

> much greater problem than all the other drugs.

When considering any problem in relation to alcohol and steroids, it should be noted that some commanders are likely to have interpreted the question as only applying to prohibited drugs. This may explain why there are relatively few comments concerning the use of alcohol and steroids.

1.5 FIXING THE PROBLEM OF DRUG USE IN NSW POLICE

The question of how to fix the problem of drug use in NSW Police generated three types of suggestions:

i. more frequent drug testing, both targeted and random

ii. more screening, drug education and drug testing for recruits, and

iii. ongoing drug education throughout an officer's career.

When considering these three points, drug testing procedures seemed to be the most prominent issue for the commanders interviewed, with nearly all of these commanders (85%) commenting that improvements to existing procedures were urgently needed. More clear-cut procedures for the detection of drug use within NSW Police were

considered among commanders to be the key issue for controlling the problem of drug use. There was widespread concern among commanders that on many levels, current testing procedures were largely inadequate in terms of satisfactory detection of drug use. The commanders interviewed most frequently referred to the need for improvement to the current random and targeted testing procedures.

i. Concerns with drug testing procedures

The first area of concern regarding these tests was the frequency with which they were performed, a level that commanders considered to be inadequate. The need for more frequent testing, particularly random drug testing, was considered important by nearly all of the commanders who were interviewed. Two commanders referred to the more frequent testing undertaken in the alcohol program, which was considered by one to have 'changed habits of Police'. There was also the suggestion that these tests should be conducted without notice, or have the 'surprise element' in order to further increase their effectiveness. This was to overcome the view that when officers became aware of testing then absenteeism rose and they would effectively 'slip through the net'. This avoidance of detection by going 'off duty' also raised the suggestion by two commanders for a change in the drug policy to enable drug testing both on and off duty.

The targeted drug testing procedures that were current in mid-2003 were considered by some of the commanders interviewed (20% - 4) to hinder detection because of the stringent criteria, which had to be met before a test could be conducted. One commander commented that he and a small number of other commanders were frustrated that they:

> … couldn't seem to reach the threshold for a targeted test, which seemed to be set at a ridiculously high 'balance of probability level'.

With very few targeted tests being approved, this commander suggested that NSW Police needs to review its drugs policy to increase its focus on outcomes. Another commander believed that commanders should be given the autonomy to determine the need for targeted drug testing.

ii. Recruitment issues

A review of current recruitment practices was also considered by nearly half of the commanders interviewed (43% - 9) as being important in fixing the problem of drug use in NSW Police. Generally, these commanders believed that current recruitment practices were lacking in:

- Screening
- Education
- Drug testing of new recruits to the service.

Of these commanders, some commented further on the need to have some form of screening procedure in place to identify those inclined to use drugs before they join NSW Police. One reason given was a problem with the recruitment of large numbers of university graduates (who are perceived to be frequent drug users by 14% (3) of the commanders interviewed) and who are thought to be 'rushed through' without enough

checks or adequate drug education. One commander commented that he and some of his colleagues have observed this to be an issue:

> There are major problems in having university graduates as recruits – no respect – they are looking for a short career span. Young officers come to service with a set view of drug taking and have taken drugs before joining [the] service.

Another commander who expressed his lack of confidence in the current recruitment process suggested that:

> [We need] better recruitment of more appropriate people … some form of screening to identify people likely to use drugs … Look for people who are looking at Police as a long term career – rather than 'until something better comes along' (as I have heard some say).

Other commanders were concerned that the NSW Police College, too, fell short of adequate screening and drug education required for new officers:

> ... there should be far more importance placed on drug education at the Academy (where half the students use drugs).
>
> There is less focus on discipline within the organisation and personal discipline, particularly in the Academy.

In addition, 20% (4) of the commanders interviewed also supported drug testing throughout training and for new recruits, with one suggesting that testing, without notice, should be mandatory for recruits prior to and 3 months after joining NSW Police.

iii. Education

Education was also seen as an important strategy to fix the problem by 62% of the commanders interviewed. Some topics suggested by commanders for inclusion in education sessions are:

> … more reinforcement that drug use is not acceptable, regardless of whether [an officer] was on duty or not.
>
> Discipline and respectability should be drilled into police and more widely reinforced to deter a lot of police from doing the wrong thing.
>
> Constant reinforcement of acceptable standards. Education. Encourage others to inform on workmates who 'let them down' by engaging in illegal activities and leaving work mates vulnerable to both physical attack and at risk of compromise.
>
> … need for better education in the 19 to 21 year olds. He said they don't have a full understanding of the effects of drugs.

One commander also suggested that drug education should not be limited to the NSW Police College and new recruits but should also extend to mandatory lectures within commands throughout an officer's career.

1.6 HOW THE PIC CAN HELP

When asked how they thought the PIC could help, over a third of the commanders interviewed (38%) said they believed the PIC could assist by bringing the problem of drug use within NSW Police to notice through public hearings and exposure. This approach was favoured by those who believed that a more proactive and 'tough' approach is:

> a price we have to pay to deal with the problem.

Other commanders considered public shaming of officers in PIC hearings to be a useful approach, for example:

> public hearings as a shaming exercise.

> saw value in the PIC having some public hearings to shame and humiliate serious drug users and/or dealers.

Four commanders (20%) expressed interest in having a closer relationship with the PIC through joint investigations to deal with the problem of drug use. There was also a desire from other commanders for the PIC to be more visible to NSW Police. One suggested that the PIC:

> needs to come out of headquarters, and that there should be more field visits.

This commander felt it was important that the PIC should try to build rapport with local police and local police management to enable them to assist with developing strategies to deal with drug use. Another commented:

> the PIC needs to get out there and market itself a bit more and be more supportive.

He felt that more visibility by the PIC would give officers:

> more confidence to come forward and bring something to attention.

Three of the commanders interviewed (14%) felt it was important to gain further knowledge of the nature and extent of the problem of illegal drug use in NSW Police. They believed the PIC could help because it had the powers of inquiry to investigate and give them this information and therefore help to identify and resolve problems. Some other examples of the types of things the PIC could do were:

> They should be discussing integrity issues and case studies so that local police were more informed of what to look out for and how young police can manage risky relationships with peers.

Another commander also felt the PIC could have a role in educating commanders about:

> identifying a problem profile, the drugs taken and develop a matrix to assist this process.

Another area where two commanders thought the PIC could assist was to support changes to the drug policy:

> Recommendations to government to change legislation to increase powers for random drug testing and severe sanctions when an officer tests positive.
>
> Recommend Local Area Commanders to direct targeted testing without so much red tape.

1.7 EXTENT OF DAY-TO-DAY CONTACT WITH DRUG USERS/SUPPLIERS

As part of the exercise in determining the extent of the drug problem in NSW Police, commanders were asked whether the day-to-day contact their officers had with drug users and suppliers had increased, decreased or remained the same.

More than half of the commanders interviewed (57% - 12) believed that their officers' contact with drug users/suppliers has remained at about the same level, although almost one-third (29% - 6) believed that contact had increased. Only one commander believed contact had decreased. This inner-city commander commented:

> Very little contact in this command - what there is seems to be at the 'High End' of town – stock exchange, brokers, dealers (finance) etc. – difficult to target.

Nearly two-thirds of the commanders interviewed (62%) noted fairly regular contact with drug users/suppliers in their day-to-day work.

Interestingly, over half the commanders (7 of 13) who commented that they had 'high' levels of contact with drug users/suppliers in their commands believed that this contact had not changed over time. This finding was not peculiar to either country, metropolitan, or specialist commands.

SECTION 2 – EXPERIENCES AND VIEWS OF THE CURRENT NSW POLICE DRUG AND ALCOHOL POLICY

2.1 DRUG AND ALCOHOL POLICY

Prior to asking their opinions of specific aspects of the NSW Police Drug and Alcohol Policy, commanders were asked their opinion of the overall policy.

Nearly half of the commanders interviewed (48%) considered the current Drug and Alcohol Policy to be working fairly well, but considered there could be room for improvement. It was the view of only one commander (5%), being from a specialist command, that the policy worked well and he could not suggest any improvements, other than to comment that the policy needs to be continuously reinforced amongst officers. Conversely, 24% of the commanders interviewed believed that the current policy worked poorly and needed to be revised. Two commanders (9%) did not answer this question.

Alcohol

Four commanders commented that they thought the alcohol aspect of the policy was working well. This was mainly due, according to one commander, to the consistency of testing. This commander suggested:

> Random testing (for drugs) to be introduced as per the alcohol policy – with the consistency of that policy.

Despite a number of positive comments on the effectiveness of the alcohol aspects of the policy, one commander felt that although random breath testing had changed consumption habits, the policy had not necessarily changed the levels of alcohol use:

> … While RBT had changed habits and the timing of when alcohol is consumed, it had not affected the amount of alcohol the police drink.

Drugs

Most of the commanders interviewed expressed mixed thoughts on the drugs aspect of the policy. Two commanders expressed the view that the policy itself was adequate, but the implementation needed more attention. One of these commanders commented:

> [The] Policy is adequate. Its effectiveness is poor because it can be avoided, therefore it is not conducive to changing behaviour.

Other commanders suggested drug testing could be improved:

> only happens at critical incidents or targeted testing which requires volumes of evidence or proof. Does not include steroids.

> Drugs testing [is] not so good. He has never seen one take place, although he has requested it.

Another commander commented that there were a number of limitations:

> Resources were a problem and testing was few and far-between. People can take a risk. The testers are not around very often.

Suggested improvements

Although a range of suggestions were made to improve the current Drug and Alcohol Policy, the most commonly held view centred on the need for more frequent drug testing.

Two commanders also suggested that the Drug and Alcohol Policy should apply to recruits:

> Policy should be applied to recruits and not left till officer is posted to a LAC.

This view was extended by another commander who suggested that:

> The vetting procedure for recruits needs to be improved so that those recruits predisposed to drug use are weeded out before they become Police.

Some of the commanders interviewed also suggested that commanders should have a closer involvement in the process of drug testing, particularly targeted testing. One country commander claimed he and other commanders had been involved in the review of the old policy and among the recommendations was:

> … (to give) autonomy to LACs for targeted testing, a simpler process, a quicker process and a process that's much more accessible.

Another commander suggested that commanders be allowed to 'target test randomly' (that is, to target one or more officers amongst a larger group of randomly selected officers) to overcome the difficulty of obtaining targeted tests.

A further comment regarding drug testing and the need for LAC involvement was made by a commander discussing the alcohol testing procedures. He thought that the*:*

> confidentiality was a little excessive and that commanders needed to know what was going on.

As a final point, commanders' views differed about the appropriate approach to take with officers who test positive for drugs. One commander commented that a more punitive approach was required. In his opinion, the Drug and Alcohol Policy was not working because officers who returned a positive test would be referred to counselling and follow-up testing, and:

> They are not penalised in any form and suffer no real punishment, therefore, there is very little incentive to comply permanently if you are inclined to take the chance*.*

This type of view contrasts markedly with that of another commander who advocated a rehabilitative approach:

> There could be more marketing to encourage people to come forward to seek treatment without the risk of reprisal. Too many think that they will suffer reprisal.

2.2 DRUG AMNESTY PROVISION

Only two commanders said that they were aware of cases where the amnesty provision had been sought. In these two cases, one commented that the amnesty was sought in relation to alcohol only, and in the other case, the commander was told by the officer concerned. In the latter case, no further detail about the type of officer or drug use was given.

The majority of commanders (66% - 14) commented that they had no experience with the amnesty provision; were not familiar with the amnesty provision; or they had not received any feedback about how the amnesty provision was working. One

commander believed that the reason he did not receive any information concerning the amnesty provisions was because:

> My belief is that the drug amnesty provision is confidential, therefore, it is difficult to know how widely it is used and if it is effective.

Another commander expressed a similar view:

> Difficult to know. It's kept reasonably quiet.

Five of the commanders interviewed (24%) believed the amnesty was a good idea, and whilst they supported it, they did not believe it was working. As two commanders commented:

> Amnesty is a great idea. The execution has failed miserably.

> It is understood that the drug amnesty has attracted less than 20, therefore it has not worked well.

One commander had a negative view of the amnesty. His view was that:

> Police users of drugs should be charged.

This commander went on to say that drug use by officers should not be tolerated, and he did not agree with rehabilitation. Two other commanders who supported the amnesty took a slightly more lenient view, for example:

> … they should be given one chance and one chance only.

Another commented that he viewed the amnesty as a one-off thing, and if it is not taken up then:

> If you fail the (drug) test, you should then be gone.

Suggested improvements

Several commanders suggested that the amnesty needed to be marketed or better advertised to officers, and that this should be done on a regular basis to encourage participation, for example:

> There should be continual reinforcement if the amnesty is not taken up. There should be ongoing education that drug use is not acceptable.

> … thinks it's alright but doesn't know whether it's advertised appropriately … doesn't know enough about it.

> He thought that it could be clearly improved by it being marketed more.

Another commander expressed a tougher approach:

> Why would you if you didn't know about it and there was no pressure, real or perceived, to encourage you to take that step … we need to 'terrorise' people into believing there is a very real chance of detection.

Another commander suggested that outcomes should be publicised to encourage officers to come forward:

> I think it [amnesty provision] is a good idea, but there is no-one to hold up and show as a success story so others might follow.

Commanders also expressed a view that their lack of knowledge of the workings of the amnesty provision meant that they did not treat it as a priority. Several of the commanders interviewed believed through education, discussion and feedback, they could become better informed of the amnesty issues and outcomes. One commander felt that feedback was needed to:

> identify (the) number of officers who have had problems within the command.

2.3 RANDOM DRUG TESTING

Experience with random drug testing

Commanders were asked to comment on their experience with random drug testing in their current command or in other commands in which they had worked. Nearly half of the commanders interviewed (43% - 9) commented that they had had no experience, and over one-third of commanders interviewed (38% - 8) commented that they had had very minimal experience with random drug testing.

The remaining commanders (19% - 4) did not comment on the specific frequency of random testing they had experienced, however, two of this group did comment that they had experience with random drug testing in their commands. However, all of these commanders later commented on the need for more frequent testing, which would suggest they do not consider the current levels of random drug testing to be adequate.

Of those commanders who said they had minimal experience, the frequency of random drug testing was very low. Some of these commanders also commented on the timeframe of these tests, for example:

> … in 13 years he recalls only one [random drug test] being conducted.

> One test in three years.

> Over the last 6 years, random drug testing had occurred 2 to 3 times in his Local Area Command.

How well is random drug testing working?

Nearly two-thirds of commanders interviewed (62%) felt that random drug testing either wasn't working or was less effective than it could be because testing was too

infrequent. Several commanders commented that because of infrequent testing, it was not enough of a deterrent:

> It's not working. It is not seen in the workplace. There is no fear of being detected.
>
> It's too infrequent … only seen it done once … needs to occur more often to make the message stick … 'You will get caught'.
>
> Don't know if a deterrent, Cops take a punt on this because not enough is done.

While also believing that random drug testing should be more frequent, some commanders were nonetheless quite positive about the concept and process of random drug testing:

> He has had experience with random drug testing. He said it's a very formalised process and works well. He said awareness of the random drug testing process was quite high in the Police.
>
> I have been exposed to same within this and other commands. Has been subject to testing at all commands. A good concept.
>
> It seems to have effect but there should be more of it.

Three of the commanders interviewed (14%) commented that the random drug tests conducted in their commands all produced negative results. Although they did not elaborate on this point, one commander commented that there was insufficient drug in [the officer's] system to return a positive test result; and another of these commanders felt that more stringent testing was required.

Two commanders (9%) thought that officers were avoiding random drug tests by taking sick leave when they become aware of a random drug test, for example:

> … the sick leave/rostering system is used to get around them.
>
> He saw a potential to link random drug testing to sick leave. 'Do police go off on sick leave when random drug testing is occurring? If so, do they have a drug problem?

Four commanders (19%) commented that they did not know or were unsure if random drug testing was working, for example:

> Results are not publicised, therefore it is difficult to know whether random drug testing was working or not.

Suggested improvements

The most common suggestion by commanders to improve the effectiveness of random drug testing was to increase the frequency of testing. Three commanders suggested that it should be similar to the level or frequency of the current random alcohol testing procedure in NSW Police.

Importantly, increasing the frequency of random drug testing was not viewed only as a way of detecting drug use, but also as a way of deterring drug use among officers. For example, one commander suggested the same methodology as Random Breath Testing (RBT) as a way of making drug testing more 'visible' and changing attitudes among officers about drug use:

> RBT was a key catalyst in changing the community's attitudes to drink driving. I am not sure we have at this stage reaped the same benefits from Random Drug Testing.

More frequent testing was also considered by two commanders as a way of circumventing the problem of officers using the sick leave or rostering system to avoid being tested.

Another commander thought that testing should not only be more frequent, but further, it should be a condition of employment to be tested regularly, for example, once a month.

Alongside more frequent testing, one commander also thought it was important to conduct random drug testing at 'strategic' times, for example:

> the first shift after days off.

According to this commander, this was seen as a way to pick up on those officers using drugs that are more difficult to detect upon their return to work:

> [He commented about police] partying on days off and has been told that amphetamines dissipate from the body by the time that people return to work after several days off.

Along similar lines, one commander went further and suggested:

> Immediately give power to Police Force to allow for random and targeted tests off duty. This is very important as many police are avoiding detection by using drugs at the beginning of their days off so the drug is absent by the time they return.

Other commanders were more concerned with removing conditions that they felt may be conducive to drug use by officers. As suggested in previous sections of this report, two commanders thought that eliminating 12-hour shifts was important to decrease the susceptibility of officers to drug use, for example:

> Do away with 12-hour shifts. They are a major hassle. Young police have too much time on their hands, more free time to get into trouble.

One commander believed that there was no single solution that would be effective. Instead, he suggested that random drug testing should be integrated into a range of strategies to reduce drug use in NSW Police. Among his suggestions was to increase research on the topic of drug use, for example, research the demographics of drug-using officers to enable a better understanding of the problem. A further suggestion was to promote the random drug testing strategy in the police community to send the message that NSW Police are serious about catching drug users. This approach was also considered by another commander:

> Internally, publicise results, name individuals testing positive and take affirmative action by dismissing those individuals.

2.4 TARGETED DRUG TESTING[1602]

Commanders were asked to comment on whether they had had cause to request a targeted drug test in relation to one of their staff. Over half of the commanders interviewed (57% - 12) answered that they had requested a targeted test, and under half (43% - 9) answered that they had not requested a targeted test. Interestingly, a slightly higher proportion of the country commanders interviewed (6 of 9) requested these tests compared to metropolitan commanders (4 of 7).

Commanders were also asked whether the targeted drug tests they requested were conducted. Of the 12 commanders who said they had requested targeted drug tests, eight commanders answered that the test had been conducted, and four answered that the test had not been conducted.

There were various reasons given by commanders as to why the targeted drug tests they requested were not conducted. Two of these commanders stated that the officers involved resigned prior to the drug test being conducted, however, one of these commanders expressed satisfaction with the procedure up to that point:

> … the process [targeted drug testing procedure] worked well up to the point of resignation.

Two commanders commented that their requested drug tests were declined. One of these commanders requested a test for an officer he suspected was using steroids, but the test was declined by Healthy Lifestyles because steroids are not prohibited drugs. The second commander commented about the difficulty of getting approval for targeted tests, and that the test he requested was declined without explanation:

> Reasons unknown, but believed to have stalled at SCIA.

Commanders whose targeted drug tests were conducted expressed mixed feelings about certain aspects of the targeted drug testing procedure. One commander was satisfied with the procedure while another commander expressed satisfaction with the outcome of the targeted drug test, but had reservations about the process:

> Entirely satisfied with the result; although the urine sampling process is very degrading.

Two commanders (both metropolitan commanders), stated that the tests they had conducted were in fact random tests, which were 'manipulated' to target suspected officers. For example:

> I manipulated a random test to cover someone who I wanted targeted but couldn't achieve. Didn't get my 'man'.

> It [the targeted drug test] ended up being a random test. No further info.

1602 Since these interviews were conducted, the procedures and protocols for targeted drug testing have been amended to provide the local area commanders with a greater role in determining whether or not a targeted drug test is conducted.

A third commander (whose targeted drug test was declined) indicated one reason why this type of testing may be desirable:

> Targeted random tests get around the difficulty of getting approval for targeted tests.

Another aspect of targeted drug testing that concerned commanders was the negative response of some officers who had been subject to targeted drug testing. One of these commanders commented:

> When the officer was arrested he said, 'What we do on our own time is our own concern'.

A second commander commented that a targeted drug test conducted on one of his officers (who was suspected of using cannabis) was one of the most negative things he had ever experienced. This commander discussed the enormous damage to the targeted officer's morale as a result of being singled out for a targeted drug test:

> The emotion displayed by the officer was intense … Following completion of the test, the officer went off on sick report. Her position is that she believes she cannot supervise her team with everyone knowing that she had been the subject of a targeted test and the results being unknown.

The officer went on to express the view that a more randomised form of the targeted drug testing procedure (as mentioned above) would be less traumatic.

How well is the targeted drug testing policy working?

Commanders were also asked for their opinions on how well they considered the current targeted drug testing policy to be working. Only two of the commanders interviewed (9%) believed that the policy 'works well' and could not suggest improvements. Most commanders appeared to be divided in their opinion of the policy - 38% thought that the policy 'works poorly and needs to be revised', whereas 33% thought that the policy 'works fairly well, but there was room for improvement'. Almost a quarter of the commanders interviewed (24%) answered that that they did not know if the targeted drug testing policy was working because they had little experience with it.

When comparing between regions, the country commanders' results indicate a slightly higher level of satisfaction with the targeted drug testing policy than the metropolitan commanders.

One of the two commanders who considered the targeted drug testing policy to be working well (no improvements required) commented on his satisfactory experience with the process:

> Spoke to [name of officer] at SCIA. It just involved a phone call, and within days, Mr Jackel [Director of Health Services] from Healthy Lifestyles Directorate had arrived … the test was conducted.

In general, commanders felt that targeted drug tests should be more frequent (24% - 5), and response times relating to requests for targeted drug tests should be reduced (19% - 4).

Three of these commanders commented about their concerns that targeted drug tests were too infrequent, for example:

> I am led to believe that up until recently, during the past 12 to 18 months the Police Force had not conducted one targeted test despite numerous requests from LACs.
>
> He thought 1000 tests per year were not enough.
>
> It needs to be more proactive and more frequent.

Two commanders made suggestions to improve response times to requests for targeted drug tests, for example:

> Improved timeliness – promptness of tests being conducted relative to the information being gathered and submitted.
>
> It should be more timely. It should be within hours of the need being identified.

Almost one-third of the commanders interviewed (29% - 6) thought that poor timeliness of targeted drug tests was exacerbated by the volume of evidence LACs needed to provide, and the low frequency of drug testing related to the strict criteria LACs had to meet in order to conduct a targeted drug test on a suspected officer:

> Commanders should be able to request a targeted test with less information than currently required.
>
> … the LAC needs a fair amount of evidence in order to have a test conducted … it may be too hard to get one.
>
> Two targeted tests were asked for and knocked back.

To improve access to targeted drug tests, it was suggested that the current process be changed to enable LACs a closer involvement in the process of obtaining tests. The extent to which LACs should be involved was discussed by several commanders, with some suggesting a transfer of authority for targeted drug testing to LACs, for example:

> …should be at the LAC's discretion and that the testing should be done locally.
>
> Upon receiving advice from SCIA, the decision to test should ultimately rest with the LAC. After all, we will be the ones stuck with the problem!
>
> The LAC should have the authority to authorise targeted tests.
>
> [The Targeted Drug Testing policy] needs to be completely reviewed to make access for commanders easy.

Another approach suggested by several commanders (4) was to alter the current targeted drug testing policy and adopt a random testing approach. According to one of these commanders, targeted drug tests should be:

> submerged into random tests.

This commander suggested that this approach would overcome two inherent problems of targeted drug tests – the difficulty of proving the need for a test; and the negative experience of some officers targeted for drug tests.

The commander expressed frustration that the inappropriateness of the current drug testing procedure was a symptom of too little evaluation and monitoring of the targeted drug testing policy. He also believed that the current targeted drug testing policy did not match the current climate of drug use in NSW Police:

> … in recent years, substantial quantities of intelligence has been received linking drug use to a whole host of police deviance and yet the Police maintained the status quo and did not review operating procedures [i.e. drug policies] despite clear evidence the landscape in terms of policing deviance was changing rapidly.

Along these lines, another commander also suggested a 'randomised approach', which was more intelligence-based rather than the current structured process of targeted drug testing. This was considered in the context that:

> given the Policing environment, where you have a propensity for a one size fits all approach, he said it just doesn't work.

As a final point, two commanders said that commanders need more education about the targeted drug testing policy. One commander commented that he was unable to say how well the current policy was working, and believed that more education was required because in his opinion most commanders did not know enough about it.

2.5 WAYS THAT OFFICERS USING PROHIBITED DRUGS COULD AVOID DETECTION

Eighteen commanders (86%) who were asked that question believed that officers using illegal drugs could avoid detection. The three commanders who answered 'No' to this question did not elaborate further.

Fifteen of the commanders interviewed (71%) commented that the rostering system, particularly the 12-hour shift/roster, provided officers with the greatest opportunity to avoid detection of illegal drug use, for example:

> The 12-hour roster provides for an awful lot of social time.

> 12-hour roster is a 'joke' – officers appear to never be at work.

Commanders also commented that the length of the break between 12-hour shifts gave officers the opportunity to avoid detection if drugs were taken early in the break, for example:

> 12-hour shifts and multiple days off provide an opportunity for drugs to dissipate from the body.

> Large break between blocks of 12-hour shifts – that time frame enables Police to avoid detection if drugs are induced early in the break.

Commanders also commented that the type of drug used during breaks would compound the difficulty of detecting drug use when officers return to duty after long breaks. These commanders were concerned with the types of drugs that metabolise quickly, for example:

> Ecstasy and short term amphetamines users can avoid detection because their traces leave the system quickly.

> It is apparent that most recreational drugs are not detectable after 12-24 hours. By taking these drugs during the early part of the rest period, it will be out of the system by return to work.

Two commanders suspected that certain types of drugs were used by officers to 'mask' the effects of other drugs taken so they could avoid detection. The type of drugs thought to be used for this purpose were mentioned by one of these commanders:

> … also heard about camouflaging drug use with prescribed drugs or other medications which include pseudoephedrine.

One commander suggested that more sensitive tests were needed to overcome the problem of officers avoiding detection of drug use:

> The current test for cannabis was only good for 48 hours after use. This was because the test used was a relatively cheap test. We should be fair dinkum about this. We should be using the best quality tests in order to detect use for a longer period of time after ingestion. They need better tests.

Other types of leave were also mentioned by commanders as providing additional opportunities for officers to avoid detection. For example, a third of commanders (33% - 7) commented that sick leave was specifically used by some officers to avoid workplace drug testing. There were several reasons why commanders believe this type of leave is attractive to those officers trying to avoid detection:

1. sick leave can be taken immediately;
2. officers can take two full days of sick leave without a doctor's certificate;
3. officers cannot be tested for drugs when on sick leave.

One commander gave an example of the problem:

> [The officer] immediately reports off on sick report once aware testing personnel are within the workplace. Police on sick report cannot currently be directed to undergo testing.

Two commanders commented that FACS leave was a similar problem to sick leave where officers use it to avoid drug testing because it can be taken at short-notice. For example, one commander commented:

> FACS leave can be taken suddenly on hearing that testing is occurring. A typical example might be a phone call to leave on a family emergency or sick leave.

Two commanders commented on the difficulty LACs have in controlling the inappropriate use of this type of leave:

> FACS leave is a nightmare to manage and gives officers the opportunity to take leave when they'd been taking drugs.

> Amount of leave available (at short notice) at their own request with little recourse for Commander.

Two commanders made additional comments about the problem of officers being 'tipped off' about imminent drug testing in the workplace and how they will take leave to avoid detection:

> Take leave after being tipped off.

One commander suggested that an external entity should take over drug testing to avoid this problem:

> Be tipped off. There is a strong network in the Police. Word spreads quickly. Therefore an agency like PIC should do it.

2.6 RECALL TO DUTY FOR TARGETED DRUG TESTING

Most of the commanders interviewed (71%) believed that off-duty officers should be recalled to duty for targeted drug testing.

Among those who thought officers should be recalled for targeted drug testing, four commanders believed that the ability to recall off-duty officers for drug testing would overcome the problem of those officers who use 12-hour shift arrangements and other types of leave to avoid workplace drug testing:

> [Off-duty officers being recalled] would get over the 12-hour shift arrangement. You're not likely to get a positive test on day 4, however, with recall to duty, you will be able to on day 1 or 2.

> [Off-duty officers should be recalled] so that there is no way in which Police can avoid detection after using prohibited drugs by using 'off duty' status to engage in such activities.

When considering whether off-duty officers should be recalled for targeted drug testing, commanders held different views about an officer's rights to privacy and their role as a serving police officer. For example, only two commanders (both country commanders who did not think that officers should be recalled) referred to the importance of an officer's privacy:

> There are enough demands on officers already and their private time is very precious. This is a difficult question, but the privacy line must be drawn somewhere.

> If an officer was taking drugs while off-duty, then he would support a recall, although he made an exception for drug-taking in the privacy of one's own home. He was referring to cannabis.

Four commanders specifically commented that serving officers should be available for testing at any time:

> NSW Police should be able to test these officials at the optimal time of their usage.

> … it should be 24 hours a day, 7 days a week. On or off duty you should be available for a targeted test.

> PSA says that Duty Officers are available 24 hours a day.

> [Recall] Provisions should be a condition of employment.

The need to recall off-duty officers was also considered important in relation to the risks associated with impairment of officers when they return to duty:

> The issue [recall for targeted drug testing] relates to impairment and it has life and death ramifications for Police.

> Culture of violence in society. Police need to be able to deal with it – be alert. Deal with violent unexpected situations.

However, four commanders took a more moderate stance on this issue. They believed that there should be good evidence of suspected drug use by an officer before they are recalled for targeted drug testing:

> Not without good cause. Quality evidence should be available before it is contemplated. Certainly not randomly used.

As a final point, one commander who believed that off-duty officers should be recalled for targeted drug testing pointed out potential problems if this strategy were to be implemented:

> There are enormous industrial issues to be overcome if this was to take place. Also logistically it would be difficult in non-metro locations, as officers tend to leave the area when having long breaks between blocks of shifts.

2.7 MANDATORY DRUG TESTING FOLLOWING CRITICAL INCIDENTS

Two-thirds of the commanders interviewed (67% - 14) answered that they had experience with drug testing after critical incidents.

All except one of the commanders who had experience with drug testing after critical incidents commented that they were very satisfied with how it was working. Some of these commanders commented on their experience with critical incident drug testing:

> Back to station after the incident. Healthy Lifestyles were present and conducted tests efficiently.

> Officer shot dead suspect and testing helped show all involved were OK.
>
> Positive cannabis critical incident. Positive effect on rest of staff.
>
> The way it is done is very supportive. It was very timely.

Despite most of the country commanders who were interviewed commenting that they were generally satisfied with critical incident drug testing, over half commented (5 of 9) that one aspect of the process they were not satisfied with was the length of time they had to wait for a drug test following a critical incident in rural areas, for example:

> Breath testing was conducted immediately and Healthy Lifestyles tested for drugs within 8 to 9 hours. The 8 to 9 hours is probably too long.
>
> Testing team drove from Sydney to visit four Central West towns - did not finish tests until after midnight, sometimes in appalling conditions.

One of these two country commanders expressed concern about the need to make drug testing following critical incidents more timely:

> There is a welfare issue there for Police who were undergoing enormous stress after a critical incident. It is critical that these tests take place as soon as possible afterwards.

Suggested improvements

All of these country commanders (5) suggested that testing should be done locally to overcome this problem in rural commands, for example:

> He suggested accrediting locals to do urine samples. He also suggested delegating authority to the LAC to authorise testing. He noted that a nurse in a hospital could conduct the tests.
>
> Expand provisions to allow others to carry out testing, especially in rural areas.

Apart from the need for local testing in country commands, most of the other commanders who had experience with drug testing following critical incidents (43% - 9) believed the current process was working and had no particular suggestions for improvement, except for some general comments:

> There should be a wider definition of critical incidents.
>
> There is an issue of 'who' gets tested at a critical incident – how far do you go in the testing?

One metropolitan commander commented that the data collected from critical incident drug tests should be shared with other LACs to inform them about the extent of drug use among officers.

2.8 ADVICE AND ASSISTANCE AVAILABLE TO COMMANDERS

Commanders were asked if they had ever sought advice from Healthy Lifestyles or Employee Management in regard to an officer who was causing concern about possible prohibited drug use. Twelve commanders (57%) answered that they had sought such advice.

Commanders were also asked if the advice they sought from Healthy Lifestyles/ Employee Management was of assistance. Of the 12 commanders who had sought advice, nearly all (10) answered that the advice received did assist them. Nearly all of these commanders commented that they were very satisfied with the overall service and advice, for example:

> The advice was quite practical, very helpful and Healthy Lifestyles and Employee Management were helpful and responsive.
>
> We have worked closely with Healthy Lifestyles. The Director provides an excellent service and provides excellent advice.

Only two commanders (both of whom were satisfied with the advice received) made additional comments about areas where Healthy Lifestyles and Employee Management could not assist them:

> Does not assist with prescription drugs and steroids.
>
> My enquiries related to a civilian employee. Most of the systems in place relate to sworn officers and are not applicable with regard to testing obligations, etc. [Not geared for civilians].

Commanders were asked if they thought there is sufficient advice and assistance available to them when needed in relation to issues involved with possible prohibited drug use by officers. Sixteen of the commanders interviewed (76%) answered that they did think there was sufficient advice and assistance available.

Most of these commanders commented that they were generally satisfied with the availability and the quality of the advice when sought, for example:

> … only a matter of looking on the Intranet site or making a phone call.
>
> You can go either directly to the source or it was available over the Police Intranet.
>
> I have no doubts – Healthy Lifestyle's very efficient.

Suggested improvements

However, one issue raised by almost a third of the commanders interviewed (29% - 6) was that while the quality of the advice was very good, they were concerned that it was only available to them if they sought it out. They believed that a proactive approach should be adopted by Healthy Lifestyles, SCIA and other relevant bodies to provide them with information on the topic of drug use. This was considered important to enable them to be better prepared before problems arise, for example:

> There is assistance when you call for it but there isn't enough prior to an incident taking place.

> There is good material available, however the topic of drug use should be marketed more. It was only of use when there was a problem. It's not dealt with corporately nor on an ongoing basis. We haven't been proactive. Police should address the problem and not wait for the problem to be exposed.

> The information and intelligence within our organisation is pretty good, it's just that the local area commanders don't get access to it unless they seek it out.

One commander further believed that commanders should be informed and allowed to assist when one of their officers is known to be taking drugs:

> Sometimes we are the last to know if officers are taking drugs – oversight agencies should trust LACs to assist.

Three commanders discussed the type of information they would find useful to know prior to any problems with drug use arising among officers:

> Thought more information about symptoms, outward signs of drug use, behavioural changes, what to do and what to look for.

> Training/assistance required to assist in identification of drug use by officers.

> Up to date advice on ecstasy and any other new drugs'.

> More information on what is happening in other commands/trends, etc.

As a final point, one commander was concerned that the NSW Police approach to drug use among officers was too soft, for example:

> There is sufficient information in regard to alcohol use but not in regard to drug use … there is too much cuddling going on. These people don't accept accountability. It's someone else's problem.

2.9 TRAINING

Commanders were asked if they had ever received training from the NSW Police in terms of how to identify officers who might be affected by drugs. Only four of the commanders interviewed (19%) answered that they had received this type of training.

Of those who had received training from NSW Police, it appeared that the type of training was not formal in nature and quite limited, for example:

> Very basic.

> Although not training as such, Healthy Lifestyles apparently have visited management meetings and have described telltale signs to them. There could be more training.

Three commanders who answered that they had not received training by NSW Police commented that any training they had received on this topic was either limited, from external sources, or from on-the-job experience, for example:

> Initial training only.
>
> He has received some training elsewhere in university doing some post-graduate work which involves subjects relating to drugs.
>
> The only training he has is the experience he has received as a police officer of 35 years. Looking for tell-tale signs such as lack of motivation, mood swings and the like.

Only one of the four commanders who had received training commented that they regarded training on this topic as adequate, however, they did not specify the type of training received.

Commanders were also asked if they believed training of this nature would be beneficial. Nearly three-quarters (71% - 15) of the commanders interviewed said that this type of training would be beneficial. Most of these commanders commented on the need for more knowledge on this topic:

> He suspects he may have a problem officer and is not sure whether it's a problem or not and he'd like further information.
>
> We are out of touch with effects particular drugs have on people.
>
> He needs to know what's available on long-term effects of drugs, tell-tale signs.
>
> This would be very beneficial as most of us don't know how certain officers react to differing drugs.
>
> Would like a matrix developed to readily identify use.

Two commanders believed that this type of training was particularly important for senior police, for example:

> [Training is] essential for young commanders.
>
> Unit commanders, sergeants, team leaders need to be educated/trained.

Two of the six commanders who did not think this type of training would be beneficial commented on the reasons why they thought it would not be effective. One of these commanders expressed doubts about this type of training being adequate to properly identify drug use:

> I do not believe that training could be provided to the extent required to properly identify drug usage by staff. This brings with it issues regarding challenges industrially by the police involved as to whether the commander was suitably qualified to assess, or identify, that the police officer was using drugs which led to the detection subsequently taking place.

The other commander believed this type of training would not be effective in regard to detecting the types of 'recreational' stimulants he considered some officers to be using now:

> At the end of the day, I believe most police using illegal drugs are using stimulants at the beginning of their rest day periods, knowing the drug will be metabolised before returning to work. In terms of cannabis, it has such a long and detectable presence in the body after use that these officers would be vulnerable to detection from tests, but show no obvious signs.

2.10 OFFICER ATTITUDES ABOUT DRUG USE

Commanders were asked if they had encountered, or become aware of, attitudes amongst their officers about drug use by police, and further, what did they perceive to be the general officer attitude towards drug use by other police.

Nearly a third of the commanders interviewed (29% - 6) commented that their officers would not tolerate drug use at any time. Interestingly, most of the commanders who held this opinion were country commanders (4):

> Not tolerated anywhere.
>
> In this command and others in the Western Region, it is absolutely unacceptable.
>
> All officers are totally against it at any time.

In addition, two commanders noted that their officers had a negative attitude towards fellow officers whose performance would be affected by drug use:

> Most officers don't like non-performance by colleagues as a result of drug taking.
>
> He said [his officers] would not accept drug use by Police and he thought that they would refuse to work with them.

However, several of the commanders interviewed (19% - 4) - mostly metropolitan commanders (3) - considered attitudes to vary depending on the age or rank of the officer asked. There appeared to be an understanding that younger officers were more tolerant of drug use than older officers:

> Some younger police may have one particular view whilst older police may have a completely different view. Young – no problem; Old – yes. Also, views may vary dependent on rank or position. Commanders may be far less tolerant than new constables.
>
> You don't really know. Each generation of Policing would have a different view.

Only one commander (commander of a specialist group) commented about officers' attitudes towards the acceptability of drug use off duty, for example:

> Attitudes more relaxed – off duty. At work – 'clean'.

It was interesting to note that almost one-third of the commanders interviewed (29% - 6) commented that they had not discussed, or were generally unaware of specific attitudes among their officers about drug use prior to discussing their views.

Two commanders alluded to an absence of communication about attitudes to drug use between the upper and lower levels of officers:

> He was too senior to become aware of attitudes amongst the junior officers.

> Not accepted by my level (mgt) but junior officers don't talk about it openly.

2.11 SATISFACTION WITH QUALITY OF TRAINING OFFERED TO STAFF

Commanders were asked if they were satisfied with the quality of training offered to their staff about drugs and drug use. Over three-quarters of the commanders interviewed (76% - 16) answered that they were either not satisfied or that no training was provided. Only three commanders (14%) answered that they were satisfied with the quality of training offered. None of these commanders commented on the type of training or the reasons they were satisfied with the training offered to their staff.

Seven of the commanders interviewed (33%) specifically commented that they either had no training or were not aware of what training was offered. Only three commanders mentioned the type of training they thought to be available on this topic:

> I am unaware of the current levels of training provided to personnel within this command other than MCPE[1603] lectures which deal, predominantly, with legislation and police practice. Don't know what training is available and have never had any. Training only at Academy by Healthy Lifestyles.

> The only training is the [Drugs] Policy.

> He assumed that probationary constables should have had some training. He said there was a lecture at MCPE on drugs.

Suggested improvements

Most of the commanders interviewed agreed that more training was needed on this topic. Many of these commanders provided suggestions on the type of training/education they thought was needed, for example:

> They need to know more about the symptoms, the consequences, what to look for and the consequences of actions.

> He would like to know more about the results of studies, the long-term effects of drugs, impairment, the effects on performance and on the cognitive abilities, telltale signs for drug use.

> We should have further info given e.g. effects on health, lifestyle, etc. We haven't been given any info about what the general community think about Police wrongdoings.

[1603] Mandatory Continuing Police Education.

Three commanders provided suggestions on the extent of training required and where it should be implemented within the organisation:

> Complete reinforcement from bottom up – more focus at the college and continual reinforcement by Healthy Lifestyles as mandatory lectures not just when invited by the command.

> The content is good but it needs to be done more often and in an ongoing way. It should be one of the mandatory lectures.

> There is no training provided. Initial recruitment and training – these should be tested.

Two commanders provided suggestions about who should be targeted for training:

> Middle management – need education/training.

> Supervisors, Duty Officers and Commanders should be trained in what to look for and how to deal with it.

One commander suggested research be undertaken to provide more knowledge about the nature of the problem:

> Workplace assessment of officers at risk, case studies on those who have been detected.

2.12 EXPECTATIONS IF OFF-DUTY OFFICERS ARE OFFERED DRUGS SOCIALLY

Commanders were asked to comment on what they would expect an off-duty officer to do if they were offered drugs socially. All of the commanders interviewed (21) expected that the officer being offered drugs should take some form of action, although there was some variation among them about the degree of action they thought should be taken.

The minimum response expected by three commanders was that officers should decline the offer of drugs and leave the social situation. For example, one of these commanders commented:

> Refrain from any form of engagement or involvement in the use of [drugs]. Decline the drug and leave the function.

Some commanders thought that the type of action to be taken was dependent on the degree of seriousness of the situation, such as the type of drugs being offered or whether the person is either user or supplier, for example:

> In general, use of 'soft' drugs would result in the officer ignoring the issue. Use of hard core drugs would probably be reported.

> Depends on circumstances. Cannabis not so bad. More serious drugs – immediate report.

> Refuse the drug. Do nothing further at the time unless it is apparent the person is a major supplier. If so, contact local police and provide information.

In general, most of the commanders interviewed (86% - 18) expected the officer to either report the incident and/or make an arrest. Several of these commanders (24% - 5), however, were quite clear that the type of action to be taken was dependent upon whether or not the officer involved was affected by alcohol. If not affected by alcohol, then the officer would be expected to take direct action by either gathering intelligence on the incident, or making an arrest. If affected by alcohol, then they would be expected to take indirect action, which would involve a phone call to the station and reporting the incident to an on-duty officer for follow-up action.

Some commanders (24% - 5) discussed the situation where the person offering drugs is a friend or family member of the officer involved. Two commanders had an understanding of the dilemma this presents to the officer:

> I hope officers would show integrity and at least report the incident, but I recognise that in the case of family or close friends, a very difficult choice would be presented.

> It depends on who the people are. Are they close friends? What should you do – put them on notice? They should not partake and they should give notice that if it ever happens again that they would take action. Either way, you should produce an intelligence report.

Three commanders took a harder line and believed that they should be reported or arrested irrespective of the relationship with the person, for example:

> He expects them to report it even if it is a friend.

> Police should refuse the offer and they should lock them up, even if it was an acquaintance or someone they knew.

> Regardless of whether they were known to the police officer or not, he would expect them either to arrest them or to make a phone call to a station to an on-duty police officer if they'd been drinking.

One commander commented that an officer would be compelled to report these types of incidents because of their initial training on this topic, for example:

> They must report it. All new Probationary Constables are counselled in this regard on arrival.

Commanders were also asked if they would expect off-duty officers to report the incident to their supervisor when they next came on duty.

Only four commanders (19%) answered that they did not expect them to report the incident to their supervisor. However, this did not mean that these commanders believed that the officer should not take action. For example, three of the four commanders (metropolitan commanders) appeared to have interpreted the question from the viewpoint that while they expected their officers to act upon this type of

incident, the reality is that they do not actually believe they would take action, for example:

> They should report the matter but reality is that they would walk away.
>
> I would expect them to do something, but in reality they would probably do nothing depending on the seriousness of the situation.
>
> In reality, not really but depends on the individual.

The fourth commander of this group believed that these types of incidents should be reported immediately instead of waiting to report it to their supervisor when they are next on duty, for example:

> Common sense prevails here, there is an expectation of direct action – i.e. contact to be made to nearest Police station.

Commanders were also asked how frequently this type of reporting occurs. Over half of the commanders interviewed (57% - 12) answered that it had never happened, or that they did not know if it had happened (19% - 4). Only four commanders commented that it has occurred, although it was not very often, for example:

> Rarely. May be three or four times a year.
>
> Not often. But it does happen.
>
> Infrequently over a 2 to 3 year period that he's been a Local Area Commander.

One country commander explained why he thought reporting would be infrequent:

> Most police are known to druggies and are not likely to be approached. This is typical in country towns.

One metropolitan commander believed more needs to be known about this issue through officer surveys because he believes they are observing this behaviour quite often, for example:

> At some night clubs in the inner city, where we have detected off-duty police during raids, with little training they must have observed up to ten or more deals in a night!

2.13 EXPECTATIONS IF OFF-DUTY OFFICERS SEE OTHERS USING PROHIBITED DRUGS SOCIALLY

Following on from the previous question, commanders were asked what they would expect off-duty officers to do if they saw others using prohibited drugs socially. All commanders expected the officer to take some form of action, however, similar to the previous section, there were variations between commanders about the degree of action to be taken.

Three commanders expected the off-duty officer to leave the social situation because it would compromise their role as an officer, for example:

> He said it would depend on the relationship. He said if they were friends, then the police should make them aware that they are being compromised and the police should leave and not come back. They should remove themselves based on their own judgement.
>
> If it involves friends, then they should be told that they're putting the police officer in a compromising position and the police officer should leave.
>
> As I have done in the past when I was younger, leave the social setting. These are simply friends who don't appreciate they have compromised your position and can really no longer be seen as friends.

Most of the commanders interviewed (76% - 16) expected the off-duty officer to report the incident. Many of these commanders (52% - 11), took a hard line and expected the off-duty officer to report the incident without compromise, for example:

> Report it on COPS as event or intell report.
>
> Arrest and report.
>
> Take notes, descriptions, numbers, prepare an intelligence report at the least, advise the Crime Manager, CMU and Licensing Sergeant.

Two commanders commented that the course of action to be taken by the off-duty officer was dependent upon whether they were affected by alcohol:

> He would expect them to take action, i.e. to affect an arrest themselves, or if they'd been drinking, to contact the nearest police station, and he would expect that action to take place at the time.
>
> If they're intoxicated, report it and walk away. If not intoxicated, decide whether to take action or make a phone call to on-duty police.

Whilst four commanders (metropolitan commanders) commented that they had an expectation that the officer should take action, they also understood that in reality, they would probably not take action, for example:

> Lawful expectation – do something; realistic expectation – do nothing.
>
> The reality is they would probably do nothing – but my expectation is that a report would be made.
>
> Again – there is an expectation that they would take some form of action immediately, whether this would occur is a matter of some debate.

One of these commanders elaborated on the reasons why an off-duty officer may choose not to act upon an incident of prohibited drug use in a social setting:

> It would be naïve to expect that off-duty police would involve themselves in any form of action, however, this would be dependent upon the make up of

> the individual officer and the prevailing circumstances at the time, eg. Whether in the company of family members, isolated location, outnumbered, etc.

Three commanders thought that the type of action to be taken was dependent on the seriousness of the situation:

> Contact Local Police if major supply occurring. Otherwise submit intelligence report to local command for attention.
>
> Soft drugs probably ignore. Very difficult situation.
>
> He said that society is tolerant enough to take account of circumstances such as an involvement of family and friends. However, it depends on the severity of the drugs involved and the nature of the circumstances.

Commanders were also asked if they would expect their officers to report the incident to their supervisor when they next came on duty. Most of the commanders interviewed said that they did expect the off-duty officer to report the incident, and five commanders (mostly metropolitan commanders) did not expect them to report it. As mentioned above, they believed that it was unlikely that an off-duty officer would report the incident despite their expectations that they should.

One commander (country commander) chose not to answer this question because he said he expected the off-duty officer to instead use their commonsense as to whether they report the incident or not.

Commanders were also asked how frequently reporting of these incidents has occurred. Of the 16 commanders who answered this question, over half stated no incidents being reported (9), and five commented that it occurs very occasionally.

2.14 DISCUSSION OF DRUG USE BY POLICE WITHIN COMMAND

Almost two-thirds of the commanders interviewed (62% - 13) answered that drug use was discussed in their commands.

Some of the commanders who answered that they had discussions about drug use with officers in their commands made some additional comments regarding these discussions:

> Something that was discussed recently – there was a new presentation done by the Drug Testing Unit for team leaders.
>
> Have discussed – and told officers they won't get a second chance.
>
> I speak to each officer coming to the command.

Commanders were also asked whether drug use was discussed with new trainees. Again, almost two-thirds of the commanders interviewed (62% - 13) answered that it was discussed.

Some of these commanders made some additional comments regarding the content of discussions they have with new trainees in their commands:

> Alcohol discussed, not drugs.
>
> At briefings, the police are made aware that (Metropolitan LAC) is a high risk command and as such we have a higher rate of random drug testing.
>
> I meet all trainees and go through a code of conduct.

Two commanders also gave suggestions for educating trainees in their commands on this topic:

> He thought the same presentation (done by the Drug Testing Unit) should be made available to trainees. He also said that there was a need for local area commanders to be involved in the program if changes are made. He said it would send a message that 'The boss is fair dinkum'. He said, 'I have the necessary delegated authority. This is what I'm looking for in terms of symptoms of drug use. I don't accept this behaviour and these are my expectations'. He said that the LAC's should participate in the training package.
>
> The EDO[1604] includes drug use as part of her induction program and training and that's just associated with a particular environment there at [name of city] where there are substantial drug and alcohol problems in the community.

2.15 ADDITIONAL COMMENTS

Commanders were asked whether there were any additional comments they would like to add regarding their thoughts about drug use in NSW Police. Some commanders used this opportunity to express their belief that illegal drug use was a problem that needs further attention from NSW Police, for example:

> Corporately we have gravely underestimated this issue. Current policy, the nature and scope of activity and procedures requires a complete overhaul. No Police Force in the world has a clear understanding of the full nature and scope of this issue. There is an opportunity to build on the scant research and experiences available to develop world's best practice. If we don't address this problem quickly we will be heading for another Royal Commission in about seven years. Frankly I would prefer to spend 5 million of public money now in preference to 100 million on another Royal Commission and the pain of a lot of grief a few years down the track.
>
> It was naive to accept that it doesn't happen [drug use among officers]. There's a lot of pressure through social relationships to conform. There's been a change in culture. Police are a reflection of the community from which they recruit.
>
> It is a problem which needs to be addressed within the Police Service. More aggressive testing measures should be introduced with immediate dismissal and NO appeal rights for this type of offence.

[1604] Education and Development Officer.

Some of the commanders' comments reflected their different attitudes to the best ways of dealing with illegal use of drugs by officers, for example:

> He'd like to see the health issue reinforced. He said it was better dealt with this way than by the law. Drug use will be more prevalent where you have anonymity. He said if you are selling or encouraging other police to get involved in drug use, then he had no sympathy for them, and this applies to each of his comments above where he's discussed the health issue. He said in this case it wouldn't be a management issue but a legal issue.

> Zero tolerance policy should be adopted. 1 strike and out!

Some examples of other comments made by commanders are as follows:

> There also needed to be some expansion of the policy to include prescription drugs. If people don't come forward and tell them about prescription drug use, how will they know? He said he saw a need for clearance from a medical officer if intending to be on-duty while under medication.

> There was a need for an internal mechanism to continually reinforce and to monitor training and education in regard to drug use and the effectiveness of policies.

> This command is staffed by officers whose bread and butter is road safety and detecting drunk or drug effected drivers. It would be unacceptable for any officer to perform in this command who had a drug problem.

APPENDIX 3: PRIVATE RESEARCH HEARINGS

The PIC considered that the perspective of officers who have used illegal drugs was an important one to obtain to inform its understanding of both why some NSW Police officers use illegal drugs and the effectiveness of NSW Police policies aimed at minimising illegal drug use by officers. The holding of hearings in public or in private is one of the mechanisms available to the PIC to acquire information for its investigations (see ss.32-38 of the PIC Act). In addition to holding public hearings to examine the conduct of individual officers, the PIC conducted a series of private hearings with current and former sworn officers who had admitted using illegal drugs to gather information about the circumstances of their drug use and any suggestions they might be able to offer about what could have prevented their illegal drug use.

WHY WERE THESE HEARINGS CONDUCTED?

In order to devise effective strategies to prevent a particular form of misconduct it is important to understand the conditions that are conducive to the misconduct as well as the conditions that are most likely to deter the misconduct. Within the crime prevention literature it is argued that it is important to understand the dynamics and mechanics of the criminal activity to be able to tailor strategies to minimise that activity. Cornish and Clarke (1989) have suggested that information is needed both about why offenders select particular offences to commit and about their perceptions of the opportunities, costs and benefits.[1605] Cornish and Clarke are not the only ones to emphasise the importance of examining the offender's perspective. Gabor (1990) suggested that the offender's perception of the situation is important: if the offender does not consider the situation as conducive to offending, he/she may not commit the crime. Gabor suggested that situational crime prevention measures can be effective by changing the potential offender's perception of the circumstances and their perceptions of whether or not these circumstances are conducive to offending.[1606]

Recent research on illegal drug use within the community has also argued the importance of understanding the meaning and circumstances of the drug use from the perspectives of the drug users in order to develop effective policy.[1607] For example when discussing illegal drug use by young Australians Duff has argued:

> effective drugs policy must be grounded in careful analysis of the *culture and meaning* of young people's drug use, if the range of harms sometimes associated with this consumption is to be ameliorated. Moreover, this analysis must allow young people themselves to tell their stories, to contribute their own accounts of the culture and experience of drug use

1605 D. B. Cornish, & R. V. Clarke, Crime specialisation, crime displacement and rational choice theory. In H. Wegener, F. Lösel, & J. Haisch (Eds) *Criminal behavior and the justice system: Psychological perspectives*. New York: Springer-Verlag, 1989, p. 115.

1606 T. Gabor, Crime displacement and situational prevention: Toward the development of some principles. *Canadian Journal of Criminology, 1990, 32,* 41-73.

1607 C. Duff, Drugs and youth cultures: Is Australia experiencing the 'normalization' of adolescent drug use? *Journal of Youth Studies, 2003, 6(4),* 444-445; M. Keenan, The social context of drug use. In M. Hamilton, T. King. & A. Ritter (Eds) *Drug use in Australia: Preventing harm*. Melbourne: Oxford University Press, 2nd Edition, 2004, pp. 65, 72.

> such that harm reduction and early intervention strategies might be better informed and ultimately more effective.[1608]

The PIC private hearings were conducted to provide an opportunity for current and former police who had admitted illegal drug use to tell their own stories.

To effectively minimise illegal drug use by police it is important to understand what types of drugs are used in what circumstances, what are the antecedents to this drug use and what factors deter police drug use. The PIC has used private hearings with current and former NSW Police officers, who had admitted illegal drug use, to better understand:

- the type of illegal drug use that occurs and the circumstances under which it occurs
- the effectiveness of current NSW Police policies and procedures (such as random drug testing and amnesty) in seeking to minimise illegal drug use, and
- officers'/former officers' views of appropriate behaviour when they are faced with potentially difficult situations or decisions.

The purpose of the hearings was not to seek new admissions of criminal conduct. The purpose of these hearings was to gather contextual information to assist the PIC in formulating recommendations to improve practices within NSW Police.

HOW WERE THESE HEARINGS CONDUCTED?

The witnesses who were called to give evidence were identified by the PIC as officers or former officers who had already admitted using illegal drugs whilst a serving NSW Police officer. Where special circumstances existed, some officers were given the option of participating in a recorded interview.

Witnesses were asked questions on a standard set of topics, with some questions being tailored to individual officers' circumstances. These hearings and interviews were conducted in May, August and September 2004.

Witnesses were asked questions on the following topics:

- **Background in NSW Police** – including confirming age when joined NSW Police; length of service; reasons for joining NSW Police; whether working in NSW Police met their expectations; whether they thought the type of work they carried out put them at a higher risk of using illegal drugs than if they had done some other type of work
- **Drug use** – whether used any illicit drugs prior to joining NSW Police; kinds of drugs used; for those who used drugs prior to joining NSW Police whether they thought their former drug use would affect their chances of being recruited; whether used drugs while at the Police Academy/NSW Police College; how long after joining NSW Police they

1608 C. Duff, Drugs and youth cultures: Is Australia experiencing the 'normalization' of adolescent drug use? *Journal of Youth Studies, 2003, 6(4),* p. 445.

commenced/resumed their drug use; how often they used these drugs; the circumstances under which they used these drugs; whether they used while they were on duty, off duty or both; where they were and who they were with when they used illegal drugs; whether they were concerned about using illegal drugs in the company of others; whether they were worried that NSW Police might find out that they were using illegal drugs; whether they thought any NSW police officers were aware of their drug use; what strategies they used to avoid their drug use being detected by NSW Police; whether they thought they would still be using drugs if they had not been caught

- **Drug testing** – were they concerned about being drug tested; were they ever drug tested; did they know of any other officers who were drug tested by NSW Police; how long after ingestion they believed that different prohibited drugs can be detected by drug tests
- **Obtaining drugs** – how did they obtain their illegal drugs; did the person/people they obtained their drugs from know that they were a police officer; did this person ever ask them for any special 'favours' i.e. try to obtain information in relation to themselves, possible police investigations, etc; did they ever obtain drugs from another police officer
- **Amnesty** - were they aware that the NSW Police Drug and Alcohol Policy has an amnesty provision under which officers who use drugs can obtain assistance; how did they hear of it; how did they understand that this amnesty provision works; did they ever consider seeking the amnesty – if so what happened or if not, why not; what would the amnesty have to provide to encourage them to apply for it; do they think that the current amnesty provision will help some police officers to stop using drugs; did they ever discuss the amnesty with any of their colleagues; do they know anyone who had applied for amnesty; how do they think the amnesty provisions could be improved
- **Training and information** – do they remember being given any training or information about personal drug use while they were in NSW Police (either in their initial training or subsequently); do they remember being given any training or information about acceptable off-duty behaviour while they were in NSW Police (either in their initial training or subsequently); overall, were they satisfied with the training they received in these areas; was drug use by police something that was discussed in their current/last command
- **Appropriate behaviour –** what they considered was the appropriate way to deal with a number of different scenarios; whether they had ever actually faced the situation of a person using prohibited drugs in their presence and if so what they did; their opinion of whether there are some situations when it would be acceptable for a police officer to use prohibited drugs and other situations when it would not be; their opinion of whether it is acceptable for an officer to use some types of drugs but not others; what they consider to be the difference between a police officer and a civilian using prohibited drugs; whether they think that there is a conflict of interest for a police officer to use prohibited drugs
- **Disciplinary action** – what information they were given between coming to attention for illegal drug use and being served with a s.181D notice (or other outcome); whether they were offered any support while waiting for the outcome of the disciplinary process; whether they found this support

helpful; whether they continued carrying out policing duties after coming to notice for illegal drug use; how they think that the disciplinary process could be improved

- **What would have worked** – asking them to think back to identify what (if anything) NSW Police could have done to stop them using prohibited drugs; whether there is any assistance that NSW Police could have given that would have helped them stay away from using prohibited drugs; knowing what they know now, if they were still using prohibited drugs would they apply for the amnesty; consider the hypothetical situation – if they were Police Commissioner what would they do to minimise illegal drug use by police officers
- **Other** – whether there was anything else that they would like to add about the effectiveness of NSW Police policies in minimising illegal drug use by police; whether there was anything else that they would like to add about the circumstances that led to their illegal drug use that could help the PIC better understand why some police use illegal drugs; whether they consider that illegal drug use by police officers is a problem for NSW Police.

The information provided by these officers and former officers has been incorporated into the material on 'what the PIC has found out about illegal drug use by NSW Police officers' in Chapter 5 and the observations made about the effectiveness of various NSW Police policies, procedures and practices in Chapter 6.

APPENDIX 4: FOCUS GROUPS WITH OFFICERS AND STUDENTS

WHY WERE THESE FOCUS GROUPS CONDUCTED?

The purpose of the focus groups was to learn more about the perceptions of NSW Police officers concerning illegal drug use by officers and the NSW Police illegal drug use minimisation policies and practices.

Officers' opinions and knowledge about these subjects are important for a number of reasons. First, these perceptions form a part of the culture in which officers work. They therefore contribute to a working environment which is either tolerant or intolerant of illegal drug use. In addition, officers' perceptions provide some indication of the type and level of influence which NSW Police policies and procedures have had on attitudes towards illegal drug use by officers. Officers' knowledge and views are also useful in identifying specific areas of NSW Police policy that may be considered for development or review.

HOW WERE THESE FOCUS GROUPS CONDUCTED?

Seven focus groups were conducted between May and August 2004. The participants in six focus groups were officers. Of these focus groups, two were conducted in specialist commands, and four in local area commands. Of the local area commands, two were in the greater Sydney metropolitan area and two were in country locations.

One focus group was conducted with students of policing at the NSW Police College. The primary reason for conducting a focus group with students is that they represent future officers and have recently been exposed to NSW Police practices for recruitment and education. In cases where there is a significant point of contrast between the comments of students and those of officers, this has been noted. However, in other cases the views of students have been treated together with those of current officers.

The focus groups were conducted jointly by the PIC and the Police Association of NSW (PANSW). Five of the focus groups were organised and facilitated by the PANSW, while two were organised and facilitated by the PIC. PIC representatives attended all focus groups to observe, collect data and ask supplementary questions. All of the focus groups were attended by one or more representatives of PANSW[1609], apart from the focus group attended by students.[1610]

Discussion in the focus groups was initiated and directed by questions put to the group by the facilitator. Each focus group discussion lasted between one-and-a-half hours and two-and-a-half hours. A set of questions was developed in consultation between the PIC and the PANSW, covering the following areas:

1609 In most cases the representatives were staff of the PANSW. In one case, a NSW Police officer attended in his role as a PANSW delegate.

1610 Students at the NSW Police College are not employed by NSW Police and are not eligible for membership of the PANSW.

1. NSW Police policies on illegal drug use by officers
2. NSW Police practices for preventing, detecting and dealing with illegal drug use by officers
3. the scope, impact and causes of illegal drug use within NSW Police
4. attitudes to illegal drug use and values about appropriate behaviour.

In addition to questions from this list, supplementary or alternative questions were asked in some groups and some participants also initiated discussion of related topics.

There were 88[1611] focus group participants in total, comprising 20 female and 68 male officers. The focus groups ranged in size from 6 to 25 participants. Participating officers were aged between 20 and 54, ranked from probationary constable to inspector, and were working in a range of specialist and general duty types. The students who participated were drawn from the first and second sessions of the Diploma of Policing Practice. Officers at each location participated according to their availability to take part. The total number of NSW Police officers in June 2004 was 15 009[1612] while the total number of officers taking part in the focus groups, as noted above, was 88. The number of students enrolled in the Diploma of Policing Practice in late 2004 was 339[1613] while the focus group with students was attended by nine participants. Names were not collected and other means of identifying individuals from the comments made in the discussion, such as references to participants' rank or location, have been omitted.

It is not possible to know whether, or to what extent, the sampling method excluded officers, and/or students, who held views which were not represented by participants in the focus groups. It is also beyond the reach of the study to evaluate how closely comments made in the focus groups represent the views which participants might express in other contexts: all comments have been taken at face value. The PIC does not vouch for the accuracy of the information provided by participants. By quoting participants' comments in this appendix, the PIC does not express either endorsement or opposition of the views they represent.

Since focus groups are a source of data which supports qualitative analysis, rather than quantitative analysis, the patterns in this data should not be assumed to apply to all NSW Police officers. For example, if some focus group participants were aware of a particular policy while others were not, it is not possible to estimate, on the basis of this data, the proportion of NSW Police officers who knew about the policy. It is only possible to conclude with certainty that some officers were not aware of it. The primary contribution of the focus group data is what it reveals about some officers' views on a number of key topics relating to illegal drug use by officers.

1611 This number is approximate because in one focus group a number of participants arrived and departed during the discussion in response to operational work.

1612 NSW Police *Annual Report 2003-2004*. NSW Police, October 2004, p. 5

1613 As advised by the NSW Police College, October 2004. This figure includes 191 students located on campus and 148 students following the course by distance education.

MAJOR FINDINGS OF THE FOCUS GROUP STUDY

1. NSW POLICE POLICIES ON ILLEGAL DRUG USE BY OFFICERS

1.1 NSW Police Drug and Alcohol Policy

Focus group participants expressed different levels of familiarity with the NSW Police Drug and Alcohol Policy. However, the responses to the question, 'do you know the NSW Police Drug and Alcohol Policy?' suggest that the level of awareness of the policy was modest overall. In one focus group, the question was met with silence, while in another several participants nodded. In most groups only a small number of spoken comments were made confirming or denying awareness of the policy.[1614] One participant said, 'I know it well', and then indicated that it was part of his role to provide information on the policy.

Participants commented on the main messages of the NSW Police Drug and Alcohol Policy, both when asked whether they knew of the policy and when asked, 'what are the main messages of the Drug and Alcohol Policy?' The main messages which participants identified relate to:

- the prohibition of (certain kinds of) drug and alcohol use
- drug testing, and
- staff health and welfare.

Several participants said that the policy prohibits illegal drug use in all circumstances:

> No-one's allowed to take drugs anywhere in the world.[1615]

> No drugs in your system. // *At all?* // Panadol.[1616]

Some participants indicated an awareness that the policy distinguishes between illegal drug use and alcohol use, in relation to on-duty versus off-duty consumption or impairment:

> No drugs. No alcohol on duty.

> Oh-two [.02] alcohol whilst at work. No drugs in your system.

However, some officers appeared to be unaware of this distinction, or unclear about whether the prohibition applies to impairment on duty or all illegal drug use, for example:

1614 Note that this was the first question asked in all focus groups, and it might therefore be expected that participants were less ready to respond to this question than to later questions.

1615 All focus group examples in this appendix, and elsewhere in this report, are taken from notes which were made during the focus group discussion. In most cases, these are direct quotations, while in a few cases participants' comments were paraphrased.

1616 In the focus group examples, questions by the facilitator are shown in italics and comments by participants are shown in regular font. Where more than one speaker is quoted, a change of speakers is indicated by two forward slashes. Material which has been added to clarify the quotation is enclosed in square brackets

> Thou shalt not come to work pissed. // And drug affected.
>
> Don't come to work whilst affected. // On duty. The biggest message that's coming to us is, 'don't be affected by anything while on duty'.

The comments by some focus group participants suggested that they were not clear about some of the details of the Drug and Alcohol Policy which relate to drug testing, (see Section 2.2 below for further discussion of participants' knowledge of drug testing), for example:

> We don't have random testing at this stage that I'm aware of.
>
> You can be target tested, following a critical incident.

Participants in three of the seven groups indicated that the Drug and Alcohol Policy includes a health and welfare element:

> It's the health and welfare approach.
>
> There is a remedial structure in place, first time detection or if officers self-nominate.
>
> There's an amnesty on at the moment. They can go and say 'I've got a problem' and they'll help them with it.

1.2 NSW Police Code of Conduct and Ethics

Focus group participants were asked whether they recalled what the NSW Police Code of Conduct says about drugs and alcohol. The responses indicated a generally low level of familiarity with the details of the code among focus group participants. In most groups the responses were brief and few. In one group the comments were:

> Don't know. // No-one knows.

In the groups where participants indicated knowledge of the Code of Conduct, these suggested that the Code of Conduct is primarily concerned with broad issues of appropriate behaviour, and that, rather than receiving attention as a topic in its own right, illegal drug use is covered as one example of illegal behaviour, for example:

> It's about behaviour, how you're supposed to behave.
>
> [It says] not to engage in illegal activities.
>
> Does not say exactly about drugs.
>
> Serious misconduct or a criminal offence, you have to report it to your supervisor.

Some focus groups were asked supplementary questions about their opinion of the Code of Conduct and/or what role it plays in their working lives, and some participants spontaneously offered comments on this topic. Several comments indicate that

knowledge of the Code of Conduct is perceived to be an individual responsibility of officers, with little reinforcement from the organisation, for example:

> It's been touched on. Nothing in depth.
>
> We're told to have a look on the intranet and then sign it.
>
> Told to look at it. Live up to it.
>
> It's not gone into. It was left up to us to look it up.
>
> It was circulated by memo and signed when you read it.

The comments of some participants suggest that the Code of Conduct is seen as formally relevant on 'gate-keeping' occasions, such as when joining or progressing in the organisation, but not necessarily relevant beyond those occasions.

> I read it for interview.
>
> Memorised it at the Police College.
>
> Contractors and temporaries have to sign it as well, as part of their tick and flick.
>
> Once you've signed it once you don't have to revisit it. It's assumed that you are aware of the policy, Code of Conduct. It's one off. When the document gets revised, you might have to re-sign it.
>
> At the police academy I learnt about the Code of Conduct. From time to time it comes up, in a critical incident. Every course, they throw an ethics component at you. I don't have time to read it otherwise. I know it's there. Commonsense.

A number of comments suggested that the participants felt that there is little need for officers to have a detailed knowledge of the contents of the code:

> You all know it is there. It's pretty simple: don't do the wrong thing.
>
> What do we need to know? If the drugs are illegal, don't touch it.
>
> It is all relevant, [but] most of the stuff is what a decent police officer would be doing naturally, so it's not what most people would need to think about. It is a guideline for ethical decision making in the workplace. The average decent copper won't need to refer to it.

1.3 NSW Police Code of behaviour

There appeared to be very little awareness among focus group participants of the existence of the NSW Police Code of behaviour. When asked, 'are you aware of the

NSW Police Code of behaviour?' most participants were silent or indicated that they had not heard of the code.[1617]

Given this lack of awareness of the Code of behaviour, only some groups were asked what the differences are between the Code of behaviour and the Code of Conduct. The responses included silence and very general comments, for example:

> Much of a muchness - the way that you conduct yourself as a police officer.

> The Code of Conduct is broader. You're not supposed to bring the service into disrepute, chasing other people's wives, et cetera.

In most focus groups, as participants expressed little or no knowledge of the Code of behaviour, the facilitator did not ask what participants recalled of the contents of the Code of behaviour referring to the use of drugs and alcohol. Only one participant made the comment that:

> The Code of behaviour is very strict. No drugs, no alcohol on NSW Police premises, not affected by alcohol in uniform.

1.4 Policy relating to officers' conduct

In addition to referring individually to the Code of Conduct, the Drug and Alcohol Policy and the Code of behaviour, the discussion in some focus groups covered the general idea of NSW Police policies or codes which refer to officers' conduct. A perception among several participants was that it is difficult for officers to achieve or maintain a detailed knowledge of such policies, due to the number of policies, the volume of general information officers receive and their other work priorities:

> So we've got a code of conduct and a code of behaviour? Oh yeah, that makes sense, let's simplify it.

> They say to police, 'get out in the street, in your cars', when do they get time to read it?

> We get policy memos and say, 'what's this, more crap'. We don't have time to go through the specifics of every policy. We've got a general idea.

A number of other participants perceived such policies or codes are not useful:

> Most cops it wouldn't be relevant to, because they'd be ethical anyway. The ones that it would be relevant to would not be paying attention to that anyway.

Other participants, while more neutral or positive towards codes or policies about officers' conduct, felt that knowledge of such policies is not needed in normal day-to-day work, but would be relevant in specific or unusual circumstances:

1617 The Code of behaviour is set out in Division 2 of the *Police Regulation 2000*. See Chapter 6 of this report, Section 6.8.

> The thing is that everyone knows that there is this policy, and if you need to know, you can get it from the intranet.
>
> *Does the question of these codes come up?* // Only in planning, when you're doing business plans, CMF[1618], applying for jobs, PQAs.[1619] Not day-to-day, unless there's a particular incident.
>
> *Where do you learn about the Code of behaviour?* // At a critical incident.
>
> I think it's essential that we have a Code of Conduct written down. There's lip service paid by managers. You can't trust senior management in this organisation. They say one thing, they do another. There's a low trust level in this organisation. That's why we need things written down, so when senior management tries to screw you, you can say there's the policy. It saves our bacon.

2. NSW POLICE PRACTICES FOR PREVENTING, DETECTING AND DEALING WITH ILLEGAL DRUG USE BY OFFICERS

The focus group participants' knowledge and views were sought through a series of questions on NSW Police practices relating to illegal drug use by officers. The main areas discussed were the amnesty for illegal drugs, drug testing, recruitment, education at the NSW Police College, continuing training and the management of officers who have been detected using illegal drugs.

2.1 Amnesty

Some level of knowledge of the NSW Police amnesty on illegal drug use was indicated by participants in most of the focus groups. In only one group, the comments suggested that none of the participants knew about the amnesty: 'I haven't heard of it. // The amnesty for guns?' In the other groups, there were generally some participants who indicated at least a basic awareness, and in a few groups most participants appeared to have some knowledge of the amnesty, for example:

> There is a remedial structure in place, first time detection or if officers self-nominate.
>
> Heard of it. If you admit to drug use and accept drug counselling you won't get into trouble, you'll get treatment.
>
> If you ask for it they will provide assistance. If not, and you're caught, then it's good-bye.
>
> *Know anything about the amnesty currently running?* // [Nods from a few participants.] // It's a window of opportunity to admit it and take the consequences without losing your job.

When asked, 'is the amnesty a good initiative?' the majority of responses from participants were positive, with the level of endorsement varying from general approval to stronger comments such as 'Absolutely. // Essential'. More detail in response to this

1618 Command Management Framework, the NSW Police self-audit system for the management of risk within individual commands.

1619 Pre-Qualifying Assessments, exercises for assessing in-principle suitability for promotion to a specific rank.

question was provided by some participants, typically focussing on the reasons the amnesty is a good idea. The comments made suggest that the main reasons that participants approved of the amnesty were:

- that it encouraged officers using illegal drugs to come forward, for example:

  > *Would you keep the amnesty?* // I suppose yes. You can't just be punitive. People won't come forward on their own.
  >
  > If you put your hand up and say, 'I've got a problem', it should be okay.

- that it was in the interests of officers' welfare, for example:

  > If you have a legitimate problem you can get help.
  >
  > It's giving someone support to do the job.

- and that it demonstrated good faith on the part of NSW Police, for example:

  > It shows that NSW Police is also trying to help and not just coming in with a big stick.

There were also, however, some participants who expressed ambivalence or dissatisfaction with the concept of the amnesty. In common among these was the suggestion that illegal drug use by officers is not acceptable under any circumstances:

> I don't understand how illegal drugs can even be tolerated. I understand how prescription drugs - it could be a bit of a process. But something like purchasing heroin, that's illegal and that's that and we're police.
>
> *The culture is changing in policing. In the olden times, people went to alcohol, and now people are moving over to other drugs.* // So we're supposed to tolerate that now?
>
> Someone using drugs is engaging in illegal action. They need support but it is wrong for an officer to use.

In some focus groups, participants were asked why some officers might not access the amnesty. The reasons participants proposed included shame, ignorance, fear or a lack of motivation to stop using illegal drugs, for example:

> Don't want to admit it.
>
> Maybe they don't want to stop and believe they'll never be caught.
>
> You find a lot of kids who wouldn't know the amnesty existed, or who wouldn't trust it.

A further reason proposed was that officers would lack faith in the confidentiality of the amnesty. Participants' confidence in the confidentiality of the amnesty system was discussed in all but one focus group (i.e. the focus group where no participants indicated knowledge of the amnesty), and this topic appeared to be of interest and/or concern to several participants. Many comments indicate uncertainty or scepticism

about the confidentiality of the amnesty, and the potential effect which accessing the amnesty might have on officers' subsequent working life, for example:

> I think there's an inherent distrust of the top bench. 'No, no, nothing's going to happen to you, smirk, smirk'. Next thing you're washing cars in traffic, waiting for them to find someone else to sack you.
>
> *Do people trust the confidentiality of the amnesty?* // Police tend to be sceptics.
>
> I don't think the amnesty gives guarantees of confidentiality.
>
> *How confident would you be about the confidentiality of the amnesty?* // [Doubtful expressions by several participants.] // It would have to get back to the commander if you were on the amnesty.
>
> *One thing about [the amnesty] is that it's supposed to be confidential.* // [Laughter from several participants.]

In some cases, participants expressed concerns about confidentiality relating to circumstances outside the amnesty system:

> Everyone would know if you were on the amnesty if you were a country cop.
>
> You would probably have more people seeking amnesty if the documents weren't subpoenable. // *Is it a barrier to people accessing the amnesty?* // Most people wouldn't know, but I've seen it happen. More often lately.

Some discussion among participants indicated concern about a potential conflict between the need to offer confidentiality and the importance of responding to information provided by officers accessing the amnesty, for example:

> We should be using this as intel, if they come forward under the amnesty. // But are we going to discourage people coming forward? // We could make it a voluntary thing: 'If you want to provide intel, we will help you'. // Should we put it to them? If we wipe it under the carpet, we're downplaying the importance of it.

Several participants responded to the question, 'are there ways in which the amnesty could improve?' It appears from the comments that many participants did not have a detailed knowledge of the systems and processes in place for the amnesty, so that many of these statements refer to the conditions that would need to apply for the amnesty to be satisfactory, without reference to whether these were different from those which currently applied. As indicated above, confidentiality was an important concern. Other conditions for the amnesty which some participants indicated would be desirable include:

- good faith on the part of officers accessing the amnesty
- enforced compliance with the conditions of the amnesty – i.e. no further illegal drug use
- education/distribution of information regarding the amnesty and the purpose and principles behind it

- some mechanism for identifying why the individual officer has come to use illegal drugs
- different amnesty conditions, depending on the type and extent of the officer's drug use
- the ability to use information provided by officers on the amnesty as a source of intelligence (for example, about dealers of illegal drugs), and/or a source of information about patterns of illegal drug use in the organisation
- risk management of the duties or working conditions of officers who access the amnesty
- management of the amnesty process which is independent of NSW Police and oversight agencies
- a means for officers, who would not necessarily nominate themselves, to be referred to the amnesty (for example, referral by colleagues).

2.2 Drug testing: knowledge and awareness

All focus groups were asked about their knowledge of the drug testing procedures which were used by NSW Police at the time. While there were some participants in each focus group who knew that some type of drug testing was taking place, there were also some participants who indicated that they had little knowledge of drug testing, for example:

> People were tested early on, it's died off.
>
> I never knew that they had drug testing until a couple of weeks ago when I did a BAS [Breath Analysis Section] course.

Participants showed different levels of awareness of the three different types of drug testing which were in use by NSW Police (i.e. targeted, critical incident and random drug testing). In the case of targeted and critical incident testing, at least one participant in each focus group demonstrated an awareness that this form of drug testing was currently in force in NSW Police.

However, in one of the focus groups no participants demonstrated that they were aware that random drug testing was taking place. In two of the other focus groups, it was not clear whether more than one participant was aware of random drug testing. In five of the seven focus groups, a comment by one or more participants showed that they were not familiar with random testing; for example:

> *What about random testing?* // [Long silence.] // You can be requested to give it, but you can deny that request. Is that right?
>
> For drugs there's just targeted.
>
> We don't have random testing that I'm aware of.

Participants in some focus groups were asked what they knew of the processes involved in the different types of testing, and some participants also spontaneously offered comments on this subject.

With reference to critical incident testing, several participants indicated a general awareness of the circumstances under which a test will be performed, for example:

> Critical incident testing. If you're involved in a critical incident you get tested, shootings, deaths. // If you're identified as an involved officer. Any custody related matter. // Discharge of firearm.

With reference to targeted drug testing, participants' perceptions about the procedures for conducting a test varied, for example:

> Targeted testing, the fellow's identified by the community or a fellow worker, the commander makes a determination whether to test.

> The perception is there's no such thing as random, it's always targeted, but they take a sample to make it look random.

> It's like that, the criteria for targeted testing are really hard, a lot wouldn't get through.

A number of participants showed a general awareness (although not always accurate in every detail) of the procedures for obtaining samples for drug testing, for example:

> Healthy Lifestyles randomly bomb a unit with certain procedures, tamper proof seals, that sort of thing. Same process for drug and alcohol.

Some comments suggested that participants were aware that urine was collected for drug testing, although there was some uncertainty about whether other samples, such as blood, could also be used:

> It's just urine [testing], we don't have blood [testing] at this stage.

> Urine and blood can both be taken.

2.3 Drug testing: opinions and beliefs

Positive attitudes towards drug testing

The participants in most focus groups were asked explicitly whether in their opinion the current approach to drug testing by NSW Police was effective. Some participants also spontaneously offered comments on this topic. A few participants indicated simple support, for example, 'yes, good idea'; 'there's definitely a role [for drug testing]'. Several participants responded with more detailed comments on the reasons that they perceived the current drug testing approach to be either appropriate or inappropriate.

Where participants' comments indicated support for drug testing, their main reasons were that:

- drug testing contributes to community confidence in NSW Police, for example:

  > I certainly think there's a role [for drug testing]. We've gotta have confidence in the people we work with, and the community has to have confidence in our ability to detect and deal with it.

- drug testing represents no problem for officers who do not use illegal drugs, for example:

  > Why does there appear to be the softly softly approach? We all sign on the bottom line, we know what we're supposed to do. If we're doing the right thing, test us, we won't care.

- drug testing supports the law or NSW Police policy on drug use, for example:

  > *Is there a role for drug testing?* // There has to be. It's illegal. How are you going to back up a policy if you don't have anything to back it up?

- drug testing provides the information needed to manage officers who use illegal drugs and to protect their colleagues, for example:

  > We've got a right to know who's using drugs. Particularly supervisors, if someone's on the team, if you're working with them.

- drug testing acts as a deterrent to officers who might otherwise consider using illegal drugs, for example:

  > I think it also acts as a deterrent. They think, 'I could walk around a corner and get involved in a shooting and they're going to test me'.

- and drug testing responds to an existing problem, for example:

  > *Why [drug] test?* // Because there's a problem.

Negative attitudes towards drug testing

Some participants indicated a negative view of the current approach to drug testing by NSW Police. Their reasons included:

- the perceived lack of a demonstrated and/or sufficient problem, for example:

  > The more money you throw into testing coppers… if I look around this room, I just find it hard to think that anyone here would be involved in that sort of activity.

- the perceived negative impact on officers of testing procedures, for example:

  > *Do you think the approach to drug testing is effective?* // No. Being a victim of drug testing – and I made a written complaint about the process – I have a complaint about the mechanics of the drug testing. I was in a cubicle, there were people waiting outside, you were a prisoner and not explained your rights, what you could and couldn't do.

- the perceived insufficient extent of drug testing taking place at that time (in terms of the number of officers tested, the number of locations and/or the frequency), for example:

> Not many [drug tests have been done]. // If you're not going to do it properly you might as well not do it.

- the perceived ineffectiveness of testing, for example:

> Amphetamines (pot's like 3 months, isn't it?) are detectable 3-5 days after use, so testing is not going to accurately reflect who's using and who's not.

- and the perceived inappropriateness of removing officers on the basis of a positive drug test, for example:

> If they did test every officer, what would they do? Sack every cop who is using drugs? There's already a shortage of police officers.

Some participants expressed different attitudes towards different types of drug testing. In particular, a number of participants indicated more approval of targeted testing and less approval of random testing:

> Target tests are fine; you gotta have the information. By all means do the target but the randoms are pretty useless.

> How many random tests have resulted in positive results, I understand none, correct? Targeted about 22%. So you can see the random is completely ineffective.

Attitudes to drug testing of police compared to drug testing of other professions

In some of the focus groups, the issue of drug testing in high-risk professions was discussed. Some participants held the view that policing is either similar to other high-risk professions, where drug testing is accepted or desirable, or that policing is a special case for drug testing:

> People in private industry who don't drive at high speed or carry guns accept drug testing.

> They do testing on train drivers. // Yeah, train drivers, miners.

Some others, however, felt that it was unfair to single officers out for drug testing:

> Public servants should be tested as well. Why just pick on police all the time? Let's go to university lecturers at the academy.

Perceptions of the effectiveness of drug testing as a deterrent

Several participants considered that the current approach to drug testing was an effective deterrent to illegal drug use. Others expressed the view that, to be an effective deterrent, there should be more risk of being tested:

> The alcohol culture has changed, and this is probably due to the testing regime. If people knew that there was a chance of being tested it would make a difference.
>
> You can't educate someone who does not realise they have a problem. And the only way to do that is through testing. If testing is targeted, you're not going to get the right results. It has to be for the lot of us.
>
> *Is it a deterrent at the moment?* // I think so, if you don't know when and where. But if it's just a handful at each station it's not enough, it should be the whole thing.
>
> If you're gonna support random testing but conduct 500 tests per year, there's no point even bothering. The question was asked whether people in this room know about random testing, not many people put up their hands. If you're gonna run it, run it fair dinkum so people know it's out there – 'cause no-one knows.

Attitudes towards the cost-to-benefit ratio of drug testing

Several participants referred to the perceived ratio of the benefits to the costs of drug testing, in some cases indicating their concern that the cost of drug testing could be disproportionate to the size of the problem, or the likely benefits. Some participants commented on the need to know more about these factors when deciding future drug testing policy, for example:

> *Should there be more testing?* // Has a problem actually been identified?
>
> Watch out not to develop a sledgehammer to crack a walnut. There's 15,000 cops, let's say only 90% don't have a problem with drugs, it would be wasteful.
>
> I just question what you hope to achieve with all the money put into drug testing. // Because it's got 4 letters in it, d-r-u-g, people spend thousands of dollars on it. Otherwise on the statistics you'd say that this is not a good business practice.
>
> I'm saying, maintain whatever we've got, but why throw more and more into it if it's not a big problem. Do risk assessments like for OH&S [Occupational Health and Safety].

Attitudes towards testing procedures

Several participants commented on the impact of specific procedures on the officer being tested. A number of participants indicated the view that the current urine testing procedures were uncomfortable, embarrassing or demeaning, while a few people expressed an aversion to blood testing, for example:

> *What do you think of the method?* // Bloody inconvenient. They stood over me and I'd had a pee shortly before.
>
> [In this particular critical incident] the point at which the involved officer felt the worst, degraded, was having to urinate in front of a lot of people.

> I would prefer oral swab to needle tests.
>
> [Urine is] better than blood, I don't want them taking blood out of me.
>
> *What do you think of blood testing?* // I haven't got a problem with it. // I'd prefer it to having to piss in a bottle. // [Several participants.] Yes. // It's pretty demeaning.

Some participants expressed the view that drug testing should be managed in a more formal medical manner – particularly critical incident testing, which a number of participants said involved long delays and extra stress on officers at an already difficult time, for example:

> Why not take [critical incident testing] to the hospital?
>
> The process [of critical incident testing by NSW Police staff] is so demeaning and degrading the way it is now. 'We're here to clear your name'. What have we done wrong? // It should be done by a doctor.
>
> If they explained it, 'listen we're going to take you to hospital, take a sample', I would've said 'great'. But the waiting time of 12 hours [for a critical incident drug test], all that makes me anti[-testing].

Some participants also expressed the view that the method for selecting staff to take part in random drug testing was inadequate, for example:

> The day that they came here, they just selected people off the roster who were here to do the test. That's not reflective of the people who are out on the job. If it's going to be people taking drugs, it'll be the young people on the job and not the older people doing desk jobs.
>
> I would like to see a situation, as with alcohol testing, where everyone on a shift gets tested.

A number of participants perceived that targeted testing procedures could be applied inappropriately, and some commented on strategies for managing such a risk, for example:

> I'd have concerns with the method of identifying targets. I'd hate to think that I was targeted on the say so of someone. I know someone who was not a user and was targeted, and they went through hell.
>
> When the document [regarding a recommendation for targeted testing] gets to a certain point, it's just rubber stamped. I honestly don't believe that this organisation can adequately review the decisions of senior managers.
>
> *Who's going to make that call [to do a targeted drug test]?* // Region commander. // Region management team – not one sole person. Too much potential for abuse. // LAC team recommend it to the region commander.

The issue of protocols for drug testing was of interest to some participants, who felt that explicit procedures would be helpful, for example:

> Police are process workers; we follow processes. If there are procedures that say A, B, C, D, E, we've got to be drug tested, we'll follow it. That's just part of your life as a police officer.

> You've got to make it easy for the cops on the street. Give explicit instructions – 'it's an incident of X type, call out the appropriate people for testing procedures', et cetera.

Attitudes to off-duty drug testing

All focus groups, apart from the students, were asked for their opinions regarding the idea of recalling officers to duty for drug testing, or testing officers when off-duty. This subject was contentious, and was discussed at some length in several focus groups. A number of officers felt that the extended days off with the current shift system in NSW Police provided an increased risk of undetected illegal drug use, for example:

> [The current approach to drug testing] does not delve in deep enough. It would need to delve into officers' private lives, because that's when they are using drugs, i.e. when they are at home and off duty.

Several participants indicated support for the principle of off-duty drug testing:

> Yeah, let's do it [recall to duty for drug testing]. If you've got nothing to hide.

> The impact would be that people don't know when they're going to be tested. I'm sure that would make the druggies think twice about going to a rave party and then coming to work afterwards.

However, other participants expressed a negative view of the idea of off-duty drug testing for officers. A reason given by some was that off-duty testing would encroach on the privacy or well-being of the officer being tested, for example:

> Officers are just going to be scared. You'd say you're never going to be off duty, you can't sit at home and relax.

> How are you going to overcome the stress factor for him in front of all his mates after that? What if you approaching him when he's off duty and pissed, and tells you he's off duty, 'bugger off'?

A few participants suggested that off-duty testing would be inappropriate because officers using illegal drugs off duty would be less likely to be impaired when returning to work, and therefore pose less of a problem, for example:

> *Should we recall people to duty for targeted testing?* // People would argue that, if they're using on the first night of days off, and they're not affected when back at work, so where's the problem? // What are we hunting them for?

Participants mentioned a number of other issues relating to off-duty or recall-to-duty drug testing which they perceived would need to be addressed. These included:

- payment of officers who are recalled to duty or tested when off duty

- the risks involved in recalling to duty an officer who is drug impaired
- the potential for officers to evade off-duty testing
- the appropriate authority for conducting an off-duty drug test
- the standard of information which would justify an off-duty drug test, and
- the need for control or review mechanisms to reduce the risk that off-duty drug testing would be abused.

2.4 Recruitment and students at the police college

Participants in all focus groups expressed views on whether there is a connection between illegal drug use by officers and the approach to the selection and training of recruits. In these discussions, applicants were often not distinguished from students at the NSW Police College, or those who are at some other stage in the recruitment process.[1620]

Recruitment and screening of applicants

Some participants, including students, indicated the view that changes to the selection process would not be an appropriate means for minimising illegal drug use by officers, for example:

> *What about recruitment?* // You can't, it's open across the board. How can you possibly target that?
>
> *Do you think there is a relationship between recruitment and drug use?* // I don't think there is a relationship. The same type still joins the cops, only the training is different. [General agreement from the group.]
>
> You're always going to have people who use drugs. It's a cross-section of the community. Ten per cent who are going to come into the police force will be thieves, et cetera.

However, several participants did perceive a link between illegal drug use by officers and the current approach to the selection of applicants. Several participants were critical of the current system, for example:

> The screening of applicants is very ordinary.
>
> We've let people in who think it [illegal drug use] is normal.

Some participants expressed the view that particular demographic groups were high-risk for illegal drug use, and that current recruitment processes were increasing the chance of recruiting people in these demographic groups, for example:

1620 For a summary of the steps for the training and recruitment of new NSW Police officers, see Chapter 6 of this report, Section 6.9.

> Two of the most commonly known drug areas are the gay environment and student areas. What are the two biggest areas for recruiting? We're targeting gay magazines and the university environment.

A number of participants expressed the view that applicants should be more thoroughly screened. Some commented on the benefit of face-to-face interviews to get 'a good feel for who was right, who was wrong'. Another screening method which was mentioned several times was that of interviewing applicants' family and/or neighbours, for example:

> We lost the system where the sergeant used to knock on the doors, speak to the neighbours.
>
> What happened to interviewing both of your neighbours?
>
> Do we still do doorknock on the family's door? No. It's good to get a feel for whether people are suitable or not.

Education at the NSW Police College

While some participants were critical in general terms of the education provided at the NSW Police College, others perceived that relevant messages about illegal drug use are part of students' training, for example:

> They do tell you down there [at the Police College], if you are taking drugs you're in the wrong job, they tell you regularly.

In light of the interest which officer participants had shown in the use of actual examples in ongoing officer training about illegal drug use (see Section 2.5 below), the student participants were asked whether they felt case studies based on real examples would assist them in the relevant part of their course:

> Do you see value in having case studies as part of academy training [relevant to ethics]? // Definitely. [General support from focus group.] // The more that you are exposed to them, the more you can work out the decision you should make. // They're more practical.

Student culture

A number of participants commented critically on the contemporary culture of students at the NSW Police College, and suggested that this was relevant to the use of illegal drugs. Regular themes in participants' perceptions were that students now have less commitment to the idea of a policing career and are less respectful of authority and policing traditions, for example:

> They [students] should be fairly aware, you're going to be a cop, don't take drugs. // They've lost proud traditions, team-building, helping your mate. // It was not good to shift the college campus. It's a completely different mindset to 5-10 years ago. You notice when you're an FTO [Field Training Officer]; they don't listen to you.
>
> I taught at the Police College. I cannot believe the quality of the students – people who can't take orders. They're a different breed of person. They can't do what they're told. They have no respect for authority and for rank.

Drug testing of students

Participants in all focus groups, including students, supported the idea of pre-attestation drug testing for applicants and/or students. Some participants appeared to see drug testing as a form of screening, while others spoke of drug testing as a deterrent or educational measure for students, for example:

> Should be testing in application studies. It might deter people from coming into the job. // Should be criteria for employment: 'you can expect to be tested for drug and alcohol throughout'.
>
> It's a problem in itself that we can't drug test students. // If you want a clean police force, drug test on entry.
>
> It has to be an ongoing process, at the academy, they have to be drug tested. The probability of catching someone with random or targeted testing at the academy is highly unlikely, but it changes their perception.
>
> My position is that you are coming into an environment where you must be drug free. If you want to join the police, you must undergo drug testing.

2.5 Ongoing training

The topic of continuing education and training for officers was discussed at relative length in most focus groups. The majority of this discussion was initiated by participants.

The participants in each focus group were asked what training they had been offered on how to deal with suspected illegal drug use by a fellow officer, and whether they felt they had been adequately prepared. Some participants indicated that they had not had any training, apart from some relevant elements of the peer support training, or that they felt that they were not adequately prepared.

Opinion was divided concerning the desirability of providing more training to officers regarding illegal drug use. Some participants expressed the view that further training was unnecessary, would not be effective, or that resources would be better used for other priorities:

> *What training have you had on what to do if you suspect a fellow officer is using drugs?* // That's a commonsense thing. If someone needs training, you're in the wrong job.
>
> *Any particular kind of education or training useful for the drug use issue?* // No, no need. // It's commonsense. // We all know what we're supposed to do.
>
> *Are young officers prepared enough for situations where they see their friends [using drugs] at parties?* // You make your own judgement [in those situations].
>
> Money that's spent on education is better spent on streamlining the detection.

Other participants felt that more education or training for officers was needed, and/or that it should be a priority over other strategies for minimising illegal drug use by officers:

> Where's the education? That's what we should be looking at before we do the testing. How about a bit more education?

> If it's important, you gotta put the money into solving it, with education and peer pressure.

Several participants commented on ways in which they perceived that the current approach to training could be improved. One view was that training should be targeted to those most in need of it, or most likely to benefit:

> If there's a high risk area of some kind, there should be targeted information getting to those people, it should be regular and ongoing.

> Any form of operation, education, whatever you want to do, you have to target your audience. The audience, the drug users – if they still want to be a cop that's what you've got to show them.

Several participants also expressed views on some forms of training which they perceived as more effective. Among these was the use of actual examples of drug use in ongoing training for officers:

> We need to not be just punitive, we need case examples of what happens to the life of people taking drugs. That would turn people off. E.g. [name of former officer] came forward and said, 'this is why I did it, it was wrong'.

> Give the further education and training, case studies, make it real – not just, 'this is what might happen', but 'this is what's happened in someone's life'. How they screwed their life up.

Some participants suggested that messages which might be delivered in training are more effective when reinforced through relationships with peers or mentors:

> Peer pressure is very strong in being able to influence people's actions and thoughts.

> I don't believe that sitting people down talking in a lecture environment is going to work. People fog over and fall asleep. There needs to be a number of different mediums. Peer pressure works well. But you've got to get the message out there.

> You've got to give people an opportunity for mentoring. People get blasé – heard it before. It's useful to talk about it. Goes back to using examples from real life people.

Several participants expressed concern about the difficulty of achieving effective training, given the current level of resources and operational requirements:

> The EDOs [Education and Development Officers] need more education. I don't know where we get the time to do it.

> It concerns me that we don't get time to do any training. It's worse now than during the Wood Royal Commission. I'm cancelling training days now.

2.6 Management of officers who have been detected using illegal drugs

Participants in several groups raised issues relating to the management of officers who are detected using illegal drugs. Generally, participants gave their views on the way things should be, rather than discussing the current practices.

Some participants commented on the sanctions which should apply to an officer who has been detected using illegal drugs. Several of these supported a 'zero tolerance' approach, without referring to any specific penalties apart from dismissal:

> The sanctions aren't hard enough, people take a gamble.

> If they're caught – there's amnesty there, they can get under that zero tolerance – if they get caught, too bad. // I think for credibility, zero tolerance would be a good thing.

> *If you were the Commissioner of Police, what would you do?* // Have to be consistent and swift. If you do it you're out, don't dilly dally around with their rights, 'see ya, you're out'.

Some participants were concerned about inconsistency in the management of officers who are detected using illegal drugs:

> I knew people who were just over the line of what's passive smoke or whatever, they were stood down for years and years. And they are now back again.

> There is no consistency. Depending on who your commander is, if someone's got a personal gripe it's a perfect way to get people. Some people are thrown out, some people are looked after.

Other participants emphasised the importance of managing the health and welfare of officers who have either been detected or have admitted using illegal drugs, for example:

> There need to be [measures] in place to help that person [an officer who has used drugs], to identify where it came from and help that person overcome it so it doesn't adversely affect the person.

A number of participants expressed the view that the management of officers who are known to have used illegal drugs should include addressing any risks to the officer's welfare or their responsibilities which might be associated with previous or repeated illegal drug use, for example:

> They should be taken off active duty while being rehabilitated. // For an officer who has admitted drug use a decision should be taken as to whether or not they stay on duty. This decision should be based on the type of drugs and the circumstances of use. If heavy use, taken off duty.

> Are there any work restrictions placed on these people at all? There's a bit of an issue with the types of duties. Maybe something that needs to be

> brought in is some kind of work program, take the pressure off the system. They might get off the gear and then go back to work and be copping exactly the same pressures.
>
> [For someone who has admitted using illegal drugs there needs to be] continual testing for 12 months. They need to be followed up.

3. THE SCOPE, CAUSES AND IMPACT OF ILLEGAL DRUG USE WITHIN NSW POLICE

3.1 The perceived extent of illegal drug use by officers

In most focus groups, participants were asked what sorts of things would lead them to suspect that a fellow officer was using illegal drugs. Some participants commented on the physical effects of some types of drugs, which police experience would enable them to recognise. Others referred to knowledge of events which might impact on the officer's welfare, for example:

> *How would you know [if a fellow officer was using drugs]?* // Your pupils are dilated. // Acknowledging behavioural changes as well. Sometimes you wouldn't know. // Mood swings.
>
> *What are the sorts of things that would make you suspect that a fellow officer is using or dealing drugs?* // When they are not sleeping. // Very erratic mood swings, and if you know them well, how they're travelling, if something's depressed them. You'd have to know them really well and look at what's going on in their life. As a team you have to know each other.

Several participants, however, indicated that they would find it difficult to know whether a fellow officer was using illegal drugs. The reasons they gave were that some types of illegal drug use have few behavioural effects, that some behavioural effects are difficult to distinguish from personality traits, or that officers would be able to conceal their drug use or use illegal drugs whilst off duty.

A number of participants referred to cases in the past where it was not recognised that an officer was using illegal drugs, and expressed concern about this happening in the future:

> Another bloke I know was in highway patrol, and he was a heavy user of cannabis. How many years in the job, barred-up senior constable. Who wants to be working with him? I didn't know and I was one of his bloody supervisors. How do we recognise these people?
>
> We had a situation in the city where a bloke OD-ed [overdosed], but working with him you wouldn't pick it up. You'd think that someone would pick up that there was a problem there. That annoyed me. Find it hard to believe there were no signs.
>
> It's not until something happens down the track and you go click. How is someone expected to identify someone who's got a drug problem? I think that's a pretty big ask.

The participants in each focus group were asked whether they thought that illegal drug use is a problem in NSW Police. Several indicated that they did believe it to be a problem:

> If you say there's no problem you've got your head in the sand. // It's a small problem, could grow into a big problem.

> It only takes one, it brings us all down. We've been through the Royal Commission, now Abelia.

Several participants who stated that drug use is a problem indicated that the main reason for this is not the actual extent of illegal drug use in NSW Police, but the public perception through the media, for example:

> *Do you think drug use is a problem in NSW Police?* // If it is in the media, there's a perception that there's a problem. Some people you meet on the street say to you that all police are on drugs.

Some participants perceived that the problem of illegal drug use in NSW Police is proportional to the problem of illegal drug use in the wider community. Others indicated that they did not believe drug use to be a problem of significant size or impact in NSW Police, for example:

> *Do you think drug use is a problem in NSW Police?* // No. // If there is, it is very minute.

> None of my workmates takes drugs, and based on that I would have to say there's no evidence across NSW Police.

Beyond comments like those above, participants offered little or no assessment, either general or specific, of the actual level, frequency or nature of illegal drug use among NSW Police officers (with the possible exception of one ambiguous comment[1621]). This is perhaps not surprising. As some participants pointed out, individual officers are not generally in a position to observe trends across the organisation:

> It's very hard to know if there's a problem across the board. The people I work with, I don't think there is a problem.

Further, if officer participants had any knowledge about specific examples of illegal drug use by other officers, it might be expected that they would not readily discuss this in an open forum, particularly one attended by PIC representatives, regardless of whether it had been reported within NSW Police.

Focus group participants were also asked for their views on whether dealing with illegal drug use by officers should be a priority for NSW Police. Some participants said that it should be a priority, e.g. 'we don't want to wait until it is a problem, [we] need to prevent it'. Several other participants, however, expressed the view that dealing with illegal drug use by officers should not be a priority for NSW Police, on the basis of the perceived size of the problem and the costs involved:

1621 One participant spoke of the historical change from alcohol use to cannabis use to the 'widespread' use of 'eccies' [ecstasy], and a second speaker agreed with this perception. However, it is not clear from the context whether the intended reference was to officers, students at the NSW Police College or the general community.

> Why throw all this damn money chasing the small problem? Just let it run its course, and as something happens, deal with it as it happens. You can never ever get rid of it, you can never control it, it's always going to be a percentage there.

> Drug testing could be a waste of time and resources compared to the bigger issues we're facing.

A number of participants indicated their perception that, before determining whether dealing with illegal drug use should be a priority for NSW Police, it would be desirable to have more precise knowledge of the extent of illegal drug use by officers and the costs and benefits of any measures for minimising illegal drug use.

3.2 The perceived impact of illegal drug use by NSW Police officers

Focus group participants were asked about how illegal drug use by a fellow officer would impact on them or others. Several participants commented on the negative impacts of drug use on the health of the officer who uses illegal drugs, for example:

> There are long-term problems that are an issue. Speed and other things wreck their minds as well. Their decision-making processes will be affected.

Others referred to the emotional impact on colleagues who may be concerned for the officer's welfare or who may have felt they should have known:

> Knew a bloke in [place name], he was buzzing around. Got caught in a critical incident. Didn't think he would take drugs, thought it was his personality. He was always like that at work. Some people are like that, how do you tell? // *How did you feel?* // Not too good, because we could have been able to help if we had known. […] // Shows how it might be easy to hide. Make you feel foolish if you didn't know.

Several participants commented that illegal drug use by an officer would threaten the safety of their colleagues or the public, particularly in connection with firearms or driving, for example:

> I certainly wouldn't [want to] be working on something of a critical nature and the guy I'm with is on some drugs and shoots someone, driving.

> *What would be your concerns, working with someone drug affected?* // […] Driving situations - the more senior officer is the passenger. Personal safety is the main thing. I want to be safe for my own family life. That's the main issue.

Some participants believed that illegal drug use by an officer could negatively influence the behaviour of their colleagues, particularly junior officers, for example:

> If they're using drugs they're getting them from somewhere that's not above board. And are they going to lead someone else down the wrong path?

> *How does drug use by other officers affect you?* // […] Your integrity. // Absolutely. // Younger officers would be concerned, 'I better not report my boss because I'll get in trouble'. And that's how they get in trouble later.

A loss of colleagues' trust or respect was also mentioned by some participants as an impact of illegal drug use by an officer:

> I wouldn't rely on them [an officer who has used illegal drugs] – question their judgement.

> The trust factor: you can't trust them.

Participants also expressed the view that illegal drug use by an officer could undermine the reputation of their colleagues or the organisation as a whole, for example:

> It all comes down to perception. Because really we don't have a big problem with drugs as far as I'm concerned. But cops are meant to be incorruptible, and we carry a gun on our hip, and someone's been involved in a critical incident, someone was under the influence, that tarnishes us all.

> While I might not know that someone's using, other people in the community might know. So you're dealing with all sorts of issues, reputation issues.

The compromise of police work was also mentioned as a potential impact of illegal drug use by an officer, for example:

> How would you like to be in the brief with him? He comes in court and says, 'hang on, aren't you buying caps off him every second week?'

> I'd be more concerned if one of my detectives was in cahoots with crooks because of their habit. I'd be more concerned about the damage they can do to the organisation and their fellow workers.

3.3 Perceived causes of illegal drug use

The focus group participants were asked for their views on factors which would increase the likelihood of an officer using illegal drugs, or make it more likely for some officers to use illegal drugs than others. Stress was a factor which several participants perceived could lead to illegal drug use by officers:

> Stress is always there. How you cope with it is a number of different ways, some people drink, some take drugs.

> People may turn to drugs because of the environment that they end up in, lack of support, lack of ability to get out and take a break.

Some participants also suggested that exposure to illegal drugs through police work might increase the risk of officers using drugs:

> The extent to which drugs are accessible may influence whether or not an officer becomes a user.

> Police come into contact with a lot more drugs than any other profession. Police are just people and temptation strikes. Join the job at 19 years of age, not knowing anything, be exposed, become addicted because of the job. So the job could have caused them to become active in drugs.

Several participants identified weakened or failed relationships, both outside work and within the organisation, as a risk factor of illegal drug use by officers:

> *In your experience, are some officers more likely to take or deal illicit drugs than others?* // […] [Those who have been through] divorce and breakdown in relationships.

> *Is there anything which would make police more likely to use drugs?* // Lack of support from above. // Mistrust. […] // The 'I'm okay' syndrome, Robocop syndrome. // You don't tell your mates if you've got a problem. // The other things like divorce. […] // And not having networks outside the police. // Being married to police or like industries like corrective services, where the people have the same pressures and problems.

Participants in a number of focus groups mentioned the current shift and roster system as a risk factor in drug use by officers:

> The biggest problem is the six days off officers get with the 12-hour shifts. They use drugs on their first night away. It's the same as for weekend detention.

> 12 hour shifts: [there are] three days potentially where you can observe the person. There is less socialising after the shift than there used to be – [people are] too tired, go home. You don't get to know people. Four days off, doing whatever the person wants to do. The organisation is not well placed to know what people get up to in their social lives.

A number of focus group participants held the view that illegal drugs are more likely to be used by officers in certain demographic groups:

> *Are some people, officers, more likely to use drugs?* // […] Age - in my experience, younger ones. And possibly single. // The younger ones straight from school, you've got the social life. // What about geographical area? Eastern suburbs, city. // Gay culture.

Some participants also identified social pressure on officers, particularly young officers, as a factor which may increase the risk of illegal drug use:

> 18-19 year olds go and hang out with their same friends and that on the weekends. And that's where they're letting their friends slide with the drugs as well.

> And the probies [probationary constables] are so vulnerable. The cops who are the baddies are impressing on the young ones, 'oh we can get away with this'.

> I think ecstasy use is getting even more widespread in the 18-26 age bracket. In most groups at least some are using ecstasy. People see their mates from uni or whatever, there's gotta be so much pressure. I think it

> must be so hard for those younger police who just don't have the strength to say 'no'.

As the comments above demonstrate, participants identified a wide range of perceived causes or risk factors of illegal drug use by officers. Other factors named include pathways to addiction through medication and a lack of experienced mentors. This diversity of perceived causes was also reflected in participants' views on factors which might *reduce* the likelihood of illegal drug use by an officer:

> *Why do people who don't take drugs not take drugs? What do they have or know that makes them different?* // Self-esteem. // You make your own decisions. // We take legal drugs – cigarettes, caffeine. // It's an attitudinal thing. // Respect for your health. // I've seen the effect it has on people - I don't want to be like that. // Don't run in those circles.

3.4 High risk areas of deployment in NSW Police

Geographical areas

Focus group participants were asked for their views on whether some areas of deployment in NSW Police are more high risk for illegal drug use or dealing by officers. Participants in country locations referred to Sydney and 'the city' as higher risk than the country:

> In the city, you don't see another person you work with during your days off. // You can't escape your duty when you're off duty in the country.

Participants in both country and metropolitan areas identified specific suburbs of Sydney, such as the Eastern suburbs and Kings Cross. Other areas mentioned were the inner city areas generally, Surry Hills, Cabramatta, Balmain and the Western suburbs.

Specialist units and duty types

Participants referred to a large number of duty types and specialist units which were perceived to be high risk for illegal drug use by officers. Of these, participants considered some to be associated primarily with the abuse of steroids – that is, the Transit Police and the State Protection Group. (In the case of the other units or duty types, no drug type was specified.) Several participants named undercover work as high-risk for illegal drug use.[1622] Other work which participants perceived as high-risk included criminal investigations generally (and investigation of drugs, gangs or chemical operations more specifically), forensics, exhibits, highway patrol and others working alone or with little support, in plainclothes, with significant exposure to illegal drugs and/or high levels of stress.

Deployment to high-risk areas

Participants were also asked what factors they believed should be taken into account when deploying police to these areas, and what deployment strategies should be considered. Some participants said that the risk of illegal drug use by officers in high-

1622 In the case of undercover work, there was disagreement between some participants on whether the risk of drug use had fallen recently, given the perception that levels of supervision had increased.

risk areas could be reduced by providing officers with more training targeted to the risk, while others suggested that more supervision, support or mentoring would help.

Several participants also perceived that the risk for illegal drug use associated with deploying probationary constables in the city would be reduced if sufficient senior officers were available to support and mentor the juniors:

> Junior people are sent into the city, as people gravitate away from the city as they get older. So we send our most vulnerable people into the city to work. They want to go out, 12-hour shifts. Maybe more mature people should be got into the city.

> When you've got senior police, generally they're not into the dance scene, it's a calmer environment. Younger people, they're pumping around, they're bringing it back into work. The senior constables are reining them in.

Some participants expressed the view that the location of a junior officer's friends and family should be considered, when deploying the officer. Some participants indicated that it would increase the risk of illegal drug use if probationary constables were working in an area where they may be vulnerable to social pressure by their friends who use illegal drugs. However, others expressed the opposite point of view – that is, that the deployment of young officers in locations far from their family and friends would be likely to contribute to stress levels, and therefore increase the risk of drug use. Both students and officers commented on the importance of good peer relationships for reducing the risk of drug use by junior officers. The first quotation below is taken from the student focus group, while the second is from an officer:

> The relationship with your peers will be more important to dealing with stress than the organisation.

> *What influences them [junior officers] in the right direction?* // Us. The way we do our work.

4. ATTITUDES TO ILLEGAL DRUG USE AND VALUES ABOUT APPROPRIATE BEHAVIOUR

4.1 Attitudes towards illegal drug use by officers

Although the focus group participants were not asked explicitly whether they believed illegal drug use by officers to be a bad thing, most of the questions, answers and discussion in the focus groups implied disapproval of illegal drug use[1623] by officers. Some focus group participants indicated that they considered illegal drug use by officers to be categorically wrong, for example:

> I don't understand how illegal drugs can even be tolerated. I understand how prescription drugs it could be a bit of a process. But something like purchasing heroin, that's illegal and that's that and we're police.

> One puff of grass? – It's like robbing one bank.

1623 For the greater part of the focus group discussion, the use of illegal drugs and the abuse of legal drugs were not explicitly distinguished: most speakers used the word 'drugs' for both.

However, other participants expressed the view that, depending on the circumstances, illegal drug use by an officer might warrant some level of tolerance, for example:

> The line does get blurred. Some people say heroin no way, but cannabis - the whole community attitude, and the discussion of decriminalisation - sometimes got to turn a blind eye. You draw your own line in the sand.

> If [drug use is] very occasional - no one is 100% perfect all the time. I would not trust anyone who is 100% perfect.

> I don't think all drug users do have a problem. Maybe drug users who are smoking pot every day. People who are taking ecstasy once a month, that's a lifestyle choice. If Healthy Lifestyles are saying that all users have a problem, I don't agree that all drug users are addicted. I think it can be a lifestyle choice.

Some participants suggested that they would take into account the cause of illegal drug use by an officer, when deciding what level of tolerance or censure should attach to the drug use, for example:

> The people who just want to go out and have fun, there's no place for them, but if someone has 25 years' experience, wife dies, turns to something [drugs], there's where we need the amnesty.

> People take drugs for different reasons. You probably need to have a 'grey area' so they [officers] do not get booted out for using.

Other participants, however, expressed the view that the causes (even work-related causes) are not a reason to be tolerant of illegal drug use by officers:

> What if something work-wise, like post traumatic stress, had caused police to start down a path to use cannabis or something? // You still don't need to take illegal drugs.

> *What about high stress areas?* // That's a cop out. When I get stressed, I hop on my bike I don't take drugs.

4.2 Attitudes towards officers who use illegal drugs

All focus group participants were asked whether it would be possible for an officer to take (illegal) drugs occasionally or regularly and still be 'a good cop who does the job well'. There was no consensus emerging from the focus groups in response to this question. Some participants expressed the view that an officer who uses illegal drugs cannot be a good cop. However, other participants disagreed or were uncertain, and some suggested that an officer who uses, or has used, illegal drugs could still make a valuable contribution. Below are some examples of answers to the question, 'can a police officer take drugs occasionally (or regularly) and still be a good cop who does the job well?'

> Don't know. // Yep. // *Cop is off duty, uses ecstasy, cocaine, amphetamines - goes back to work, not affected. Are they able to do their job well?* // I say yes. // S'pose you'd have to ask the same question – whether a cop does an armed robbery off duty, can he come back and do his job well?

> Possibly. I'm worried about the whole ethical thing, the lost intel [intelligence information] because they won't report instances 'cause it'll interfere with their own activities. But it's possible that someone can do it once in a while and be a valuable member. I don't know, it's possible.
>
> *Is it possible for someone to use off duty and still do their job well?* // You can't answer that, it would have to be based on medical fact.
>
> It would only add to the problem [to sack officers for using illegal drugs]. We're losing cops left right and centre.

4.3 What is perceived to be at stake when officers use illegal drugs

In some focus groups, participants were asked which was the more important issue at stake when an officer uses illegal drugs: the (physical or cognitive) impairment which illegal drug use may cause, or the weakened integrity which illegal drug use may indicate and/or cause. Participants in all focus groups expressed a range of views on this topic. While there was no consensus, the responses indicate that participants consider that at least three important issues are at stake: impairment, integrity as a matter of principle (i.e. breaking the law or doing something which is wrong for police officers to do) and integrity as a matter of practice (i.e. compromising the actual work which police officers carry out).

Impairment

Several participants suggested that the impairment of an officer who uses illegal drugs is an important issue. Some indicated that illegal drug use is less of a concern where the impairment due to drug use is low or negligible, for example:

> People would argue that, if they're using on the first night of days off, and they're not affected when back at work, so where's the problem? // What are we hunting them for?

Others suggested that even a low risk of impairment was unacceptable, particularly in relation to the safety of fellow officers, for example:

> There are people in the city who are on methadone – doctors, lawyers, et cetera. They might be OK doing their work. But I don't want to work with a police officer who is on drugs.

Some participants' comments suggested that, if impairment is the main issue at stake, there is little difference between impairment caused by illegal drugs and impairment caused by alcohol, or even other factors such as stress:

> How many issues where we have made false arrests or killed people are drug related? I would think there'd be more mayhem from coppers being pissed than from drugs.
>
> Just generally someone who wants to take their anger out on someone is just as bad as someone who's taken an eccie the night before.

Integrity as a matter of principle: Illegal drug use is bad in itself, regardless of the impact

Some participants believed that the integrity of the officer who uses illegal drugs is a more important issue than impairment. However, different participants spoke about different types of integrity. For some, integrity appeared to be a matter of principle. Some of these participants expressed the view that the main issue with illegal drug use is that it is wrong because it breaches the law:

> Everyone knows that you can't do it. It's in the legislation. It's black and white.

While the law applies to both officers and the general public, for other participants the important principle was that illegal drug use is wrong for *officers* because they have chosen to work in law enforcement:

> But if you got someone who's [taking drugs as a lifestyle choice] they should make another lifestyle choice and find another job somewhere else. // I agree, it's more of a problem that it's conflicting with the job.

A few participants suggested that what is at stake, when an officer engages in illegal activity such as drug use, is the officer's right to stand alongside other police, against wrongdoers:

> I think you're either in their camp or our camp, no two ways about it.

Some participants indicated that the hypocrisy of illegal drug use was a sufficient reason to decide against using illegal drugs:

> But if you're going to take drugs, why are you doing this job anyway? How can we do our job if we are hypocrites?
>
> We arrest people who take drugs, we shouldn't do it.

A few participants, however, expressed the view that officers often do things, or even have to do things, which are similarly hypocritical in principle:

> Plenty of people speed on the road, but does that mean you can't give people speeding tickets? Each of us make that call somewhere or other. Swearing, we all do that at work, not to be encouraged but it happens, and you lock people up for it. There's always an element of hypocrisy in being a copper.

Integrity as a practical matter: Illegal drug use is bad because it can compromise police work

Several focus group participants, while also concerned about the issue of the integrity of an officer who uses illegal drugs, indicated that they were less interested in the principles involved, and more interested in the practical impact of this integrity – i.e. that illegal drug use might compromise the legitimacy of the officer's work or the work of their colleagues. Some participants indicated that illegal drug use represents a

conflict of interest, which could undermine policing work through improper association with drug dealers, for example:

> If they're using heroin, that would lead to problems. It's a heavy drug, you need to use some [criminal] people to get it.

> Some recreational drugs, there's a perfect possibility of making no mistakes at work. But the association due to buying drugs might come up again in your job, dealing with those people professionally.

Some participants suggested that such an association could put officers in a position where they can be coerced into protecting drug dealers, or might do so willingly:

> I reckon the biggest issue is not so much the drugs as the integrity of the system, what it can do to the organisation. I don't think that drugs are different from alcohol except legality, but the biggest thing is being in a position where they can assist baddies.

Other participants expressed the view that illegal drug use can compromise an officer's integrity by making her/him less inclined to act on drug-related crime, for example:

> If you're taking it, how can you lock someone up for the same thing? Would drug-using officers do it? You'd probably have more tolerance not to.

A number of focus group participants expressed the view that illegal drug use by an officer could also undermine the integrity of their colleagues or the organisation as a whole, either through corrupting influence or by undermining their reputation, for example:

> Younger officers would be concerned, 'I better not report my boss [for use of illegal drugs] because I'll get in trouble'. And that's how they get in trouble later.

> You've got to question their integrity there as well. If they're using drugs they're getting them from somewhere that's not above board. And are they going to lead someone else down the wrong path?

> Affects the integrity of the entire police as soon as one person's found to be using drugs on the job. There might be one person who's using but the entire group's tainted, like in Manly.

4.4 Off-duty behaviour

When asked for their views on the off-duty behaviour of officers, several participants indicated the view that the way that an officer behaves off duty is not necessarily a private matter. Some participants indicated that this is simply a condition of work as an officer:

> I'm a police officer twenty-four seven. My phone doesn't stop ringing. I have no time for police who want to take drugs.

> When you join this job you know there are obligations placed on you out of work as well. You see someone getting bashed for example, you can't just stand by, and you know that when you join up.
>
> Our private life is not our own anyway.

Another view which participants expressed was that off-duty behaviour impacts on the reputation of both the individual officer and the organisation as a whole. This view was represented particularly strongly in the focus groups in country locations, for example:

> In our line of work you have to be seen to be doing the right thing. This is a small town and people know you're a cop.
>
> It doesn't matter if you're on or off duty – the community does not differentiate whether you are on or off duty. // To get respect from the community, they need to see what you do on your time off. If they see you doing stupid things off duty – things that you have charged people for while you're on duty – then you're not going to be respected.
>
> Other professions have to behave a certain way off duty, like teachers. // Your actions reflect on the police, would affect the perception of NSW Police.

However, there were some participants who suggested that the way officers behave off duty should be a private matter, on the proviso, in some participants' view, that such behaviour is not illegal:

> What you do behind closed doors is your own business, but I am not saying that you should be using drugs.

4.5 Acting on the knowledge of illegal drug use by a fellow officer

The participants in all focus groups were asked what they thought they would do in cases where they saw, or knew about, a fellow officer using illegal drugs. In most groups there was extended discussion of this topic. A few participants indicated uncertainty about the NSW Police policy in these circumstances, for example:

> What if someone suspects that another officer is using, has seen something? Do we have to go to Healthy Lifestyles, or who do we go to? // If you know for sure you're obliged to report it. // To who, but? // Senior officer.

Some participants indicated that the use of illegal drugs by a colleague is a betrayal of trust, and that they would not hesitate to report this behaviour, for example:

> If someone I knew was doing drugs I would put them in straight away. // The trust factor – you can't trust them.
>
> *What do you think you would do if while off duty you see other police officers using illicit drugs?* // Bust them. // Yep that's right. // They're shitting on everyone else.

> If anyone comes to me with that [offering illegal drugs] or compromising my investigation, first I'd be extracting my revenge and then going to the boss. // You would not cop it.

However, other participants said that they would respond by offering help to their colleague, such as, '[you'd] try to help in the peer situation, help your mate'. Some suggested that the decision would be a difficult one, due to a perceived conflict between the pressure to act on the knowledge of improper behaviour by a colleague and the pressure to act in their colleague's best interests, for example:

> *Official line [on responding to illegal drug use by an officer] is what?* // Tell the boss. // *Is that easy, realistic?* // Not easy. Realistic. // One of the hardest things, integrity decision to do. It's happening more and more. Should have a chance to tell your friends, have a chance to do something about it.

In some cases, participants disagreed about whether it would be most appropriate to report illegal drug use by a fellow officer or to talk to them first or take some other course of action, for example:

> Speak to him first, see what he's using, why he's using, if he knows what he's doing is wrong. // Would you do that? // I would. // You're putting yourself in a position that if you knew and you've done nothing later - you've really gotta take it through the chain of command. // You're not giving your mate a chance if you're doing that.

Several participants indicated that if they had to decide how to respond to illegal drug use by a colleague they would consider the circumstances of the individual case. One participant, for example, commented, 'you would have to be in that situation before you would know how you would react'. One of the factors which some participants said should be considered in the decision was the type of drug and the extent of use, for example:

> *What do you think you would do if while off duty you see other police officers using illicit drugs?* // […] Depends what type of drug. If they are having a cone [marijuana], it's not as bad as using heroin. // Depends how much and how frequently.

Another circumstance which participants suggested they would consider when deciding how to respond to illegal drug use by a colleague is the potential impact on their colleague if the behaviour was reported, for example:

> *What do you do if you think someone is using drugs?* // Don't want to get someone sacked. // What if you're wrong. It goes on someone's file. // *Does the system make it wrong?* // Depends what's going to happen to them – rehab or something else, getting sacked. You'd have less concerns if they're not going to lose their job out of a targeted test.

A number of participants said that they would be more ready to report a colleague if they were selling or supplying illegal drugs, rather than just using them, for example:

> You say to someone who's using, 'get some help, if you don't get some help I'll do something'. But the others [selling or supplying illegal drugs] you do something.

> *What do you think you would do if while off duty you are offered illicit drugs by another police officer?* // Would report them. They are trying to get other people involved. // Much more serious issue – from personal use to dealing.

A number of participants indicated that some officers would be concerned about possible repercussions to themselves if they reported illegal drug use by a colleague, and that this might discourage them from reporting illegal drug use, for example:

> A lot of police would be afraid to come forward if they thought that a police colleague was using drugs.

> Need to consider the impact – if it is a senior officer offering drugs, your career would be down the drain.

4.6 Sources of guidance for officers' decisions about illegal drug use

While participants were not explicitly asked about this issue, some of their comments in the focus groups shed light on what forms of guidance they might draw on when making a decision about whether to use illegal drugs, or a decision about how to respond to illegal drug use by a fellow officer.

Some participants referred to the law as a source which would provide definitive guidance to officers' decisions regarding illegal drug use, for example:

> *Are there some drugs you think a police officer should never take?* // Illegal ones.

> *What would you do if you were out somewhere and you saw someone, another officer, taking drugs?* // Same as if you saw someone cheating on a wife or husband: it's a matter for yourself. // No: one's a criminal act, one's bad judgment.

Other participants indicated that they would look to NSW Police policy to guide their decisions, particularly about how to respond to illegal drug use by a colleague, for example:

> I don't know what to do if you detected drug use amongst your colleagues. We have not been trained in it.

> We're obliged to report it [illegal drug use by a colleague]. Ultimately it's your own decision, but the policy says to report it.

Some participants indicated an awareness that different sources of guidance for officers' decisions may send different messages, such as the perceived difference between the law and social attitudes towards cannabis. As another example, some student participants expressed the perception that the training they receive at the NSW Police College was not necessarily consistent with police culture, and that they expected, following experience of policing work, to rely more on police culture and their peers for guidance:

> There seems to be a zero tolerance attitude [to illegal drug use] at the Police College: [we've been encouraged to] dob them in. // It's not necessarily zero tolerance in the field as a police officer.

> Police College is best practice. You get out on the street and then work out what you should do.

> You are more accountable to your peers than to the organisation.

A number of participants expressed the view that an officer should ultimately be guided by their personal moral principles when making a decision about illegal drug use, for example:

> Drugs are a big moral question for us all; it's where you draw your standard.

There was also the view among some participants that, having chosen policing as a career, officers would have appropriate personal moral principles to guide their decisions and would not need other sources of guidance, for example:

> By you joining the job, you've got a certain moral standard anyway.

> In terms of ethics, you start to turn off because it's drilled into you so much at the academy. But when you do something right or wrong you know you're doing it. We become a police officer because we want to do right by others, well I do. You don't need to be told by someone else what's right and wrong.

4.7 Standards for police behaviour relative to those for the general community

A number of participants commented that social acceptance of the use of some types of illegal drugs is increasing or that the standards applied to illegal drug use in the general community are changing, and suggested that this was likely to impact on officers' attitudes to illegal drug use, for example:

> Society has moved that way from cannabis to party drugs. Isn't the police department aware – we've got people recruited now who are used to that environment. It used to be going out and getting a gutful of alcohol, now your friends and peers are popping pills.

All focus group participants were asked, 'should we have a different attitude to drug use by police than for the rest of the community?' Some participants expressed their view that officers should be held to similar standards as others, or that it is unfair to single out police officers for higher standards:

> Why are we sacking people if the organisation is representative of society? Because there wouldn't be many other organisations who would sack people for minor recreational drug use.

> We're unfairly put on a pedestal.

However, other participants indicated that officers are, or should be, held to higher standards than those for the general community:

> We've got guidelines that govern us to stand by different standards to the rest of the community.
>
> We should set the standard for the community and how it operates.

4.8 Illegal drug use in the context of police culture[1624]

A number of focus group participants expressed the perception that changes in police culture were relevant to illegal drug use by officers. Several participants expressed the view that some younger officers are now less committed to the profession of policing than formerly. Some suggested that this could lead to more behaviour which is inappropriate for police officers, including illegal drug use, for example:

> Old school police joined as a career – keep your nose clean, after 30-40 years you'd be a commissioned officer. People now do it for 7-8 years, might try something different.
>
> But would people care if they were out of the police force? It was a career for us, but the young people, there's nothing keeping them in, if they get sick of the job. // *What do the young people think?* // Yeah, there was one person I know was caught up [using illegal drugs], she was nonplussed, now she's in another job with better money.

A number of participants referred to the role of alcohol in police culture. Some perceived that the use of alcohol by officers has declined and that illegal drug use might have increased accordingly, for example:

> You look at the social aspect, you go to a Christmas party, a lot of police sit there, don't drink alcohol. Five or six years ago you would think that was strange. Now if they're not drinking you think, 'are they using drugs?'

Some participants indicated a positive attitude towards the use of alcohol by officers, particularly the group bonding and the emotional support which has traditionally been associated with the social use of alcohol in police culture. A few participants expressed views on whether illegal drugs would have the potential to play the same role in police culture:

> Years ago when we didn't have the 12 hour shifts, we used to finish on Thursday morning and the crew would go off to the pub for an hour, talk about what happened, have a laugh, let off before you go home. That was a positive in terms of being part of the mob.
>
> Alcohol is a social drug, letting out all your fears and issues with someone. You're not going to let it out – well maybe over a joint you would, but not over ecstasy. We're talking about stimulants, go for a massive dance, that's not my idea of stress release.

1624 The definition of 'police culture' used here follows Chan (1999) in adapting Sackmann's (1991) definition of organisational culture. That is, police culture means the shared organised knowledge which is held by the members of the group to which an individual belongs as a police officer. J. Chan, 'Police Culture', in David Dixon, ed., *A Culture of Corruption*, Hawkins Press, Sydney, 1999, pp. 98-137.

KEY IMPLICATIONS OF FOCUS GROUP FINDINGS

1. NSW POLICE POLICIES ON ILLEGAL DRUG USE BY OFFICERS

Overall, there appeared to be a moderate to low level of awareness among the focus group participants of the NSW Police policies which refer to illegal drug use by officers. While participants were generally aware that some prohibitions apply to drug use by officers, it is of concern that some officers were not clear that NSW Police policy prohibits illegal drug use under all circumstances. Under such circumstances, there is a risk that officers may act according to the belief that illegal drug use is more acceptable off duty, or when it results in no impairment on duty.

A perception among several participants was that officers should only be familiar with the broad general principles of policies relating to officers' conduct, and not the finer details. Reasons for this include the perception that the finer details (or even the whole policies) are of little use, and that it is difficult for officers to familiarise themselves with these details, given the other priorities competing for their time and attention. This implies that officers may be unprepared for a situation which is covered by details of the policy and may therefore act in ignorance of the relevant NSW Police policy.

2. NSW POLICE PRACTICES FOR PREVENTING, DETECTING AND DEALING WITH ILLEGAL DRUG USE BY OFFICERS

2.1 Drug testing

While participants were generally aware that drug testing was currently taking place, there appeared to be a lower level of awareness of random drug testing than of targeted testing or mandatory drug testing following a critical incident. In addition, some participants believed that the current random drug testing program was ineffective on the grounds that it was too limited in frequency, the number of locations, the number of officers tested, the method of choosing officers to be tested or that officers were tested only on duty. Random drug testing will less effectively deter officers from illegal drug use if they perceive that they are unlikely to be tested, and it will certainly not deter officers who are unaware that random drug testing exists.

The focus groups indicated strong support for drug testing overall, and participants' criticism focussed on particular features of the current approach to drug testing rather than the general principle. All the participants who expressed a view on drug testing for students at the NSW Police College supported its introduction. Alongside a number of concerns, there was also support for the idea of recall-to-duty or off-duty drug testing.

Participants suggested that clear procedures for drug testing would increase the effectiveness of drug testing and officers' confidence in the process. There was also some concern in the focus groups that targeted drug testing procedures might be abused, and some participants expressed the view that some measures were needed to prevent officers being targeted inappropriately.

2.2 Prevention of illegal drug use (other than drug testing)

There were some differences in the focus groups between officers' and students' perceptions about NSW Police recruitment practices. While several officers held the view that recruitment practices were an important strategy for minimising illegal drug use by officers, this view did not appear to be shared by the student participants. Several officer participants were critical of NSW Police practices for screening applicants, and were in favour of more face-to-face interviewing of applicants, as well as their neighbours and/or family. A number of participants perceived that there is a higher risk of illegal drug use in some demographic groups, and that this should be considered in recruitment or screening.

There was little discussion in the focus groups about ways in which student training at the NSW Police College could minimise illegal drug use by officers. Although there were mixed attitudes towards ongoing training for officers, there was support for increased training, particularly on the subject of how to respond to illegal drug use by a fellow officer. However, several participants raised the concern that there is a lack of time for officers to undertake training. Several participants expressed the view that it would be effective to use communication between colleagues or supervisors (including 'peer pressure' or 'mentoring') to spread, or reinforce, messages about illegal drug use.

2.3 Management of officers who are known to have used illegal drugs

Participants were generally in favour of the amnesty to enable officers to seek help for problems with illegal drugs. There was, however, widespread uncertainty regarding the confidentiality of the amnesty and this was seen as a major reason that officers would not access the program.

There was support in the focus groups for 'zero tolerance' of officers who are detected using illegal drugs. In several cases participants suggested that severe penalties following *detected* illegal drug use would be appropriate so long as there is an amnesty for *admitted* illegal drug use. There were some concerns about the consistency or transparency of such penalties. Some participants suggested that if officers who have been detected using illegal drugs are treated inconsistently it can have a demoralising effect on other officers and undermine their trust in the organisation.

3. THE SCOPE, IMPACT AND CAUSES OF ILLEGAL DRUG USE WITHIN NSW POLICE

3.1 The perceived extent and impact of illegal drug use by officers

Focus group participants felt that illegal drug use by officers could have serious consequences, including threatening the safety of colleagues and the public, undermining the health of the officer using illegal drugs, compromising police work and undermining the integrity and reputation of colleagues and the organisation.

However, there was not a consensus among participants about whether illegal drug use by officers is a significant problem in NSW Police. Several participants expressed the view that minimising illegal drug use should only be a priority if it is shown that the risks associated with the problem are worth the necessary resources. There may be a risk that some officers would have a negative attitude towards new strategies for

minimising illegal drug use, unless the rationale for introducing the strategies is made clear.

3.2 Perceived causes of illegal drug use

Among the perceived causes or risk factors of illegal drug use by officers, stress was mentioned by several participants. Some participants referred to poor or failed relationships, both within and outside NSW Police, as a potential source of stress. Participants also spoke about good relationships as a resource for coping with stress. Several participants expressed the view that the quality of relationships with colleagues, supervisors or mentors impacts on the risk of officers using illegal drugs and on the ability of officers to be aware of whether a fellow officer might be using illegal drugs.

4. ATTITUDES TO ILLEGAL DRUG USE AND VALUES ABOUT APPROPRIATE BEHAVIOUR

4.1 Attitudes to illegal drug use

While the general attitude in the focus groups towards illegal drug use by officers was disapproval, for some participants there was a greater or lesser degree of tolerance, depending on circumstances such as the type of drug and frequency of use. There was uncertainty and disagreement in the focus groups about whether an officer could use illegal drugs occasionally or regularly and still make a valuable professional contribution – that is, whether such an officer could be 'a good cop who does the job well'.

4.2 The main issues of concern

While some participants saw the main issue of concern with illegal drug use by officers to be primarily a matter of the physical or cognitive impairment of the officer using the drug, others saw it as matter of principle (i.e. something which is wrong because it is illegal, or which is wrong because it is inconsistent with the principles behind being a police officer). For several other participants, the main issue of concern is the impact which illegal drug use can have on policing work – that is, the potential for illegal drug use by officers to compromise police investigations, intelligence, briefs of evidence or the integrity or reputation of colleagues and the organisation.

4.3 Appropriate responses to illegal drug use by a fellow officer

There was interest across the focus groups in the question of how to act on the knowledge that a fellow officer may be using illegal drugs. Some participants expressed uncertainty about the appropriate action to take, and others indicated concern that the need to report illegal drug use was in conflict with the need to act in the interests of their colleagues. A number of participants, both students and officers, said that they did not feel adequately trained or prepared to deal with, or detect, suspected illegal drug use by a colleague. This suggests the risk that there might be considerable variation in how officers would respond if faced with the situation where they suspected that a colleague was using illegal drugs.

4.4 Guidance for officers' decisions about illegal drug use

Focus group participants identified several sources to which they would look to guide their decisions about whether to use illegal drugs, or about how to respond to illegal drug use by a fellow officer. These sources of guidance included the law, NSW Police policy, social attitudes, police culture and personal moral values. A number of participants were aware that different sources of guidance may provide inconsistent messages. Among these were some student participants, who perceived that NSW Police policy, as represented in their studies at the NSW Police College, was not necessarily consistent with police culture on the street, and that the culture of their peers would provide the more appropriate guide for their behaviour. It is a matter for significant concern that some students appear to be preparing to join NSW Police with the expectation that official policy on illegal drug use should not necessarily be supported by actual police practice. In addition, junior officers who perceive that the actions of their colleagues are a better guide than organisational policy may be more vulnerable to improper influence or corruption.

APPENDIX 5: CASE STUDY ANALYSIS

Case studies of individual NSW Police officers found to have used illegal drugs were developed from information contained in PIC and NSW Police holdings.

1. WHY WERE THE CASE STUDIES DEVELOPED?

The purpose of the case studies was to examine potential patterns in the characteristics of officers detected using illegal drugs and in the circumstances under which they used such drugs. The case studies were developed to assist the PIC in achieving its objective of understanding the nature of illegal drug use by officers. It was intended that analysis of the case studies would assist the PIC to:

- confirm or dispel some assumptions that are made about the kinds of officers who engage in illegal drug use and the nature of their illegal drug use; and
- make recommendations about NSW Police policies and procedures to minimise and detect such drug use.

2. HOW WERE THE CASE STUDIES DEVELOPED?

All completed PIC investigations and NSW Police internal investigations conducted after the Royal Commission were considered as potential sources of information.[1625] Since the case studies focus on individual officers, a number of case studies could arise out of one investigation.

The format of the case studies was standardised, with a number of key questions to be answered in relation to each officer. A template was designed to ensure the information collected in relation to each officer was recorded in a consistent fashion. However, provision was made for additional information to be included concerning the nature of an officer's illegal drug use if that information was not covered by one of the key questions in the template.

Information for the case studies was obtained from a range of sources, including the PIC's own internal databases and transcripts of evidence produced during public and private hearings. NSW Police information holdings were also consulted, including databases that hold records of complaints made about individual officers. Where necessary, specific requests were made to the PIC Liaison Unit of NSW Police for files relating to officers of interest.

2.1 CRITERIA FOR INCLUSION IN CASE STUDY ANALYSIS

A set of four criteria was formulated, to ensure each of the case studies met a determined threshold for inclusion. The criteria were designed to ensure that each case study represented an individual officer who had engaged in the use of illegal drugs

1625 That is, any investigations conducted since the Royal Commission into the NSW Police Service concluded and the PIC became fully operational in January 1997.

during his/her career as a sworn NSW Police officer. Each of the four criteria listed below needed to be met for a case study to be included in the analysis:

1. the case study must relate to the use of illegal drugs by the officer
2. there must be some evidence or reliable information of illegal drug use by the officer in the post-Royal Commission era
3. the subject officer must have been a sworn officer at the time they were detected using illegal drugs. Alternatively, there must be evidence or reliable information that the officer used illegal drugs whilst a sworn officer, and
4. the case study is to be based on one or more of the following:
    i. an admission of illegal drug use by the officer (either to the PIC, NSW Police or some other agency, such as the NSW Crime Commission)
    ii. a positive drug test above the Australian or NSW Police standards (officers with trace or inconclusive results were excluded)
    iii. a formal assessment that the officer has engaged in illegal drug use (such as an assessment contained in a Report to Parliament following the completion of a PIC investigation)
    iv. an adverse or sustained finding for illegal drug use made by NSW Police in relation to the officer following the completion of an internal investigation, or
    v. strong intelligence (including assessments of telephone intercept and listening device product) that the officer has used illegal drugs.

Following independent assessments conducted by two PIC staff members, using the above criteria, case studies were either included in or excluded from the final pool of case studies. Particular care was taken where a case study was based on intelligence (see criterion 4v above), with a number of elements being considered, to ensure the veracity of the information.

Where any doubt existed over the suitability of a case study to be included, the assessors erred on the side of caution and excluded it. This meant that a number of officers were excluded, even where the PIC held the opinion that it was very likely that the officer had engaged in illegal drug use.

2.2 CASE STUDY SAMPLE

The final sample of officers comprises 63 male and 18 female officers (81 officers in total). The sample of officers does not represent every NSW Police officer who has engaged in illegal drug use in the post-Royal Commission era. While every effort was made to identify as many officers as possible, it is recognised that there are likely to be a number of officers who meet the case study criteria and are not represented in this sample. For example, it is known that some NSW Police officers have come to attention for illegal drug use since the case study sample was finalised and the data analysis contained in this appendix was conducted. Indeed, it must be recognised that

no sample could ever be fully representative of all officers who have used illegal drugs, given that such drug use is generally a hidden activity and is difficult to detect.

It should also be noted that the PIC has no way of knowing if the officers included in the case study sample differ in any significant way from officers who engage in illegal drug use and are not detected. For example, it could be that officers who are detected using illegal drugs take more risks in the way they go about their drug taking. Given that the PIC does not have the opportunity or benefit of questioning those officers who have not been detected, the observations made in this appendix can only be based on those officers who have been detected or have voluntarily made admissions regarding their illegal drug use.

2.3 INFORMATION RECORDED IN CASE STUDIES

As outlined above, the information recorded in the case studies was obtained from a number of sources. Every effort was made to obtain a complete set of information for each of the officers. However, this was not possible in every case.

In some cases, the officer resigned from NSW Police without being departmentally or criminally interviewed. As a result, the officer was never questioned about the extent of her/his illegal drug use, why they started using illegal drugs, how they obtained their drugs, etc. In other cases, the officers were interviewed by NSW Police or gave evidence in a PIC hearing. However, given that many of these interviews or hearings were conducted prior to Operation Abelia being launched and the case study template being determined, not every question in the template was contemplated or asked at the time.

Where possible, the PIC has made efforts to fill the gaps in the information sourced from its own holdings and the information obtained from NSW Police. A number of serving and former NSW Police officers were summonsed to appear before the PIC and answered questions relating to their illegal drug use during a segment of private hearings conducted under the scope of Operation Abelia. Some officers, where special circumstances existed, were given the option of participating in a recorded interview.

The officers who gave evidence in private hearings and those who were interviewed were required to answer questions that included the case study questions. In addition, these officers were asked questions aimed at assisting the PIC achieve a broader understanding of a number of issues relating to Operation Abelia, including the effectiveness of the NSW Police drug testing regime and the amnesty provision.[1626]

Where gaps remain in the information obtained in relation to a subject officer's illegal drug use, this has been appropriately recorded in the case study database.[1627] Hence, any missing data has been accounted for in the calculation of statistics.

1626 Refer to Appendix 3 for information about the types of questions asked in these private research hearings.

1627 The information contained in the case studies was transferred into a database for the purpose of aiding analysis.

3. WHAT OBSERVATIONS WERE MADE FROM THE CASE STUDY ANALYSIS?

The information contained in the case study database was analysed to assist in identifying any patterns that exist in the types of officers detected using illegal drugs and the circumstances under which they have used illegal drugs, as well as to challenge some assumptions that may exist about officers who use such drugs. The findings are presented below as responses to a series of questions that aim to shed some light on specific issues surrounding the nature of illegal drug use by some officers.

It should be noted that individuals included in the case study sample will be referred to as 'officers' throughout this appendix. While almost all of the officers within the case study sample are now former officers, each officer has been identified as having used illegal drugs whilst serving with NSW Police. In some of the examples used throughout this appendix, the officers had either resigned, been removed or had otherwise separated from NSW Police at the time they gave evidence to the PIC.

3.1 IS ILLEGAL DRUG USE CONFINED TO A PARTICULAR AGE GROUP?

From the sample of case study officers, it does not appear that illegal drug use is confined to a specific age group. Table A5.1 shows the distribution of the officer's age at the time of detection or admission of drug use. The age range is 20 to 46 years for males and 22 to 35 years for females. Two-thirds (66%) of officers in the sample were aged between 26 and 35 years of age. The median age for officers included in this analysis for whom age at detection or admission is known is 30 years.

Almost two-thirds (62%) of commanders surveyed by the PIC considered drug use by younger officers to be the main problem for NSW Police, with references being made to officers who are 'young', 'single' and 'under 25'.[1628] The case study sample suggests that any view of the problem that restricts itself solely to drug use by younger officers will be too narrow in scope, and the net needs to be cast wider when NSW Police is developing policies and procedures aimed at detecting and minimising illegal drug use by officers.

TABLE A5.1: DISTRIBUTION OF OFFICER'S AGE AT TIME OF DETECTION OR ADMISSION

Age Range (years)	Male (n=63)		Female (n=18)		Total (n=81)	
	No.	%*	No.	%*	No.	%*
20 and under	2	3	0	0	2	2
21 - 25	7	11	6	33	13	16
26 - 30	24	38	5	28	29	36
31 - 35	18	29	6	33	24	30
36 - 40	8	13	0	0	8	10
41 - 45	2	3	0	0	2	2
46 - 50	1	2	0	0	1	1
Unknown	1	2	1	6	2	2

** Percentages may not necessarily add to 100% due to rounding.*

1628 For information about the interviews held with NSW Police commanders, refer to Appendix 2.

3.2 HOW LONG AFTER JOINING NSW POLICE ARE SOME OFFICERS DETECTED USING ILLEGAL DRUGS?

As seen in Table A5.2, the largest number of officers came to attention for illegal drug use when they had been serving with NSW Police for between one to five years (28%). However, this group was closely followed by officers in the 6 to 10 years service category (25%) and the 11 to 15 years service category (22%). The range in length of service prior to detection for male officers is from less than one year through to 26 years of service, while the range for female officers is from one year through to 14 years of service. For all those officers where length of service at time of detection or admission could be calculated, the median length of service is eight years.

TABLE A5.2: NUMBER OF YEARS SERVICE IN NSW POLICE AT TIME OF DETECTION OR ADMISSION

No. of years service	Male (n=63)		Female (n=18)		Total (n=81)	
	No.	%*	No.	%*	No.	%*
Less than 1	3	5	0	0	3	4
1 - 5	14	22	9	50	23	28
6 - 10	16	25	4	22	20	25
11 - 15	16	25	2	11	18	22
16 - 20	3	5	0	0	3	4
Over 20	2	3	0	0	2	2
Unknown	9	14	3	17	12	15

** Percentages may not necessarily add to 100% due to rounding.*

It is acknowledged that some officers within the case study sample were likely to have been using illegal drugs for some time before coming to attention for their drug use. However, the available information is inadequate to make any meaningful observations regarding how long after joining NSW Police some officers actually begin to use illegal drugs. It was therefore considered more practical to consider how long each officer was serving with NSW Police before coming to attention, as this was measurable for the majority of officers in the case study sample.

The data from the case study sample that has been presented in Table A5.2 suggests that the problem of drug use by officers is not confined to officers with limited experience. Those officers with six years or more experience came to attention at a higher rate than those with five years or less experience. This supports the earlier observation that NSW Police must cast a wide net when developing policies and procedures to prevent and detect illegal drug use by officers.

3.3 IS DRUG USE CONFINED TO OFFICERS OF A PARTICULAR RANK?

As discussed in Section 3.2 above, the case study sample suggests that illegal drug use is not confined to officers with any specific length of service. Further support for this observation can be derived from the data in Table A5.3, which shows that illegal drug use is not confined to junior officers with limited seniority and experience.

TABLE A5.3: DISTRIBUTION OF RANKS AT TIME OF DETECTION OR ADMISSION

Rank	Male (n=63)		Female (n=18)		Total (n=81)	
	No.	%*	No.	%*	No.	%*
Sgt	4	6	0	0	4	5
Snr Cst	37	59	5	28	42	52
Cst	13	21	12	67	25	31
Prb Cst	8	13	0	0	8	10
Unknown	1	2	1	6	2	2

** Percentages may not necessarily add to 100% due to rounding.*

The most common rank at the time of detection or admission is senior constable (52%). Most of the officers at this rank had over five years experience with NSW Police and several had progressed from general duties into specialised areas of policing (e.g. criminal investigations and protective services). When considering the data in Table A5.3, it may at first appear striking that over half of the officers in the sample were ranked senior constable when they came to attention for illegal drug use. However, officers ranked senior constable make up the largest group within NSW Police.[1629]

While just 10% of the case study sample were probationary constables when detected using illegal drugs and an even smaller number had attained the rank of sergeant (5%), these numbers do show that minimisation and detection strategies need to be aimed at officers of all ranks.

3.4 IS THE PROBLEM CONFINED TO ONE GEOGRAPHICAL AREA OR IS IT MORE WIDESPREAD?

In addition to age being considered a factor in the likelihood that an officer will engage in illegal drug use, many of the commanders (72%) interviewed believed that the work location of an officer is also an influential factor. Many of the commanders were quite specific about the location, suggesting that officers working in large metropolitan areas with the associated 'nightlife' would be more likely to use drugs.[1630] One commander specifically mentioned Manly, Darlinghurst and Kings Cross as being areas where younger officers would be more likely to experiment with illegal drugs.

In considering the work location of officers in the case study sample, the local area commands in which they worked at the time of detection or admission were divided according to the 'type' of location rather than specific geographical areas or regions (see Table A5.4 below). This decision was based on the fact that NSW Police local area commands are grouped into five geographical regions, two of which include large metropolitan areas within commuting distance of Sydney as well as small country towns. For example, it was not considered useful to include officers stationed in the Newcastle area with those stationed in a country town such as Kyogle.

1629 From statistics obtained from the Computerised Operational Policing System (COPS) in August 2004, 43% of NSW Police officers were ranked senior constable at that time.

1630 'Nightlife' was also described as 'nightclubs', 'dance parties' and 'nightclub scene'.

TABLE A5.4: DISTRIBUTION OF OFFICERS BY LOCATION AT TIME OF DETECTION OR ADMISSION

Locations	Male (n=63)		Female (n=18)		Total (n=81)	
	No.	%*	No.	%*	No.	%*
Sydney Metropolitan LACs	35	56	13	72	48	59
Other Metropolitan LACs*	3	5	0	0	3	4
Country LACs	8	13	0	0	8	10
Specialist Commands	8	13	2	11	10	12
Unknown	9	14	3	17	12	15

** Percentages may not necessarily add to 100% due to rounding. Also note that, for the purpose of the statistical breakdown in Table A5.4, 'Other Metropolitan LACs' outside of Sydney are defined as Newcastle, Wollongong and their surrounding districts.*

In the case study sample, the majority of officers (59%) were working in the Sydney metropolitan area when they were detected or admitted to drug use. This is not surprising, given that the majority of NSW Police officers work in the Sydney metropolitan area. A small percentage (4%) were located in metropolitan areas outside of Sydney (e.g. Newcastle, Wollongong).

While the location of a number of officers at time of detection or admission is unknown (15%), the remainder of the case study sample is made up of those officers from country areas (10%) and specialist commands (12%).[1631]

It is interesting to note that all of the officers located in country areas came to attention for cannabis use alone. In contrast, officers in metropolitan areas and specialist commands used a variety of illegal drugs (such as cannabis, ecstasy, cocaine and speed), with some officers using more than one drug.

The categories and figures in Table A5.4 do not seek to reflect any statistical breakdowns carried out by NSW Police to determine work location demographics for the entire police officer population. Comparable figures to those in Table A5.4 for the entire NSW Police population are therefore not readily available and no attempt has been made to determine whether officers working in any particular type of location are over-represented in the case study sample or otherwise.

It is clear that illegal drug use by officers is not confined to officers working in metropolitan areas. While officers in the city and officers in the country may engage in different types of illegal drug use, with officers in the city possibly using a wider variety of illegal drugs, the analysis of the case study sample in relation to work location suggests that any NSW Police response to the problem of illegal drug use by officers needs to be comprehensive and wide-reaching.

3.5 WHAT KINDS OF DUTIES ARE CARRIED OUT BY SOME POLICE WHO USE ILLEGAL DRUGS?

Officers in the sample were involved in a wide range of duties when their illegal drug use was detected or they admitted to illegal drug use (see Table A5.5). It is not surprising that the majority of officers were engaged in general duties (63%), given that this is the most common duty type across the NSW Police workforce.

1631 Examples of 'Specialist Commands' include Crime Agencies and the Counter-Terrorist Coordination Command.

TABLE A5.5: DUTY TYPE AT TIME OF DETECTION OR ADMISSION

Duty type	Male (n=63)		Female (n=18)		Total (n=81)	
	No.	%*	No.	%*	No.	%*
General Duty	39	62	12	67	51	63
Criminal Investigation	6	10	2	11	8	10
Specialist Duties**	5	8	0	0	5	6
Ancillary	4	6	0	0	4	5
Transit	2	3	1	6	3	4
General Investigation	3	5	0	0	3	4
Highway Patrol	2	3	0	0	2	2
Anti-theft	1	2	0	0	1	1
Domestic Violence Liaison	1	2	0	0	1	1
Prosecuting	0	0	1	6	1	1
Water Police	0	0	1	6	1	1
Unknown	0	0	1	6	1	1

** Percentages may not necessarily add to 100% due to rounding.*
*** No further information is available as to the type of duties carried out by those officers in the 'Specialist Duties' category.*

3.6 DOES ILLEGAL DRUG USE START BEFORE BECOMING AN OFFICER?

Information regarding the use of illegal drugs prior to recruitment is not available for the majority of the officers in the case study sample (58%). Where information is available, almost three times as many officers (25) admitted to using one or more illegal drugs before becoming police officers as those who denied prior illegal drug use (9).

For those officers who admitted to using illegal drugs prior to their recruitment, the level of drug use varied widely. For example:

- Officer P1 stated in a PIC hearing that the extent of his illegal drug use prior to joining NSW Police was smoking 'a little bit of pot' as a teenager. He indicated that he did not really enjoy smoking cannabis and thus his use of the drug was limited.[1632]
- Officer G2 admitted in an interview with PIC investigators that he used cannabis frequently prior to his recruitment, smoking the drug on a 'daily basis'.[1633] In an earlier interview with PIC investigators, Officer G2 admitted that in addition to smoking a lot of cannabis he had also occasionally used speed, cocaine and ecstasy prior to joining NSW Police, as well as using steroids for a number of years.[1634]

Interestingly, it was Officer P1 who later came to attention for extensive use of a number of drugs throughout his policing career (including speed, cocaine and ecstasy), while Officer G2 was identified for just one incident of ecstasy use. These examples, along with others in the case study sample, show that the types of illegal drugs used by some officers prior to joining NSW Police does not necessarily reflect the types of drugs they choose to use after becoming an officer.

1632 Operation Abelia, PIC Transcript, Private hearing, ANP, 11 May 2004, p. 9.
1633 Operation Abelia, PIC Transcript of Record of Interview, 7 May 2004, p. 5.
1634 PIC, Transcript of Record of Interview, 27 March 2003, pp. 20, 48.

The value of thoroughly canvassing the issue of prior illegal drug use in relation to every police applicant is highlighted by cases where officers have continued using illegal drugs throughout their initial police training or have resumed their illegal drug use shortly after attestation and commencing their duties. For example:

- Officer S2 admitted in a PIC hearing that he began smoking cannabis as a teenager and continued smoking the drug right throughout his training at the academy and his policing career. While he sought some assistance more than 15 years into his career, he admitted that he relapsed eight months later and resumed smoking cannabis at a rate of 10 to 20 cones a day.[1635]
- Officer C2 admitted in a PIC hearing that he had been a recreational drug user prior to joining NSW Police. Although he denies having used drugs whilst at the training academy, he admitted that he resumed his recreational drug use within a few weeks of attestation and beginning duties as a probationary constable.[1636]

While it is recognised that illegal drug use prior to recruitment may not determine later illegal drug use by an officer, the fact that some officers use illegal drugs prior to joining NSW Police means that it is an issue that should be considered when determining recruitment policy and applicant screening procedures.

3.7 WHAT TYPES OF DRUGS DO SOME OFFICERS USE?

Almost two-thirds of the case study sample consists of officers who were identified for using just one type of illegal drug. This is not to say that all of these officers confined their illegal drug use to just one type of drug, but rather that they were only detected or admitted to using one type of illegal drug. Not surprisingly, a number of officers were detected or admitted using more than one illegal drug – or what can be described as 'polydrug' use.

Table A5.6 shows the distribution of drug type used by all of the officers in the case study sample, regardless of the number of illegal drugs they used. Overall, the most common drug used was cannabis (56%), followed by ecstasy (46%) and then cocaine (33%).

The proportion of officers engaged in using cannabis, cocaine and ecstasy is quite similar for both males and females. The largest difference between male and female officers is for those officers who used amphetamines, with 22% of males using the drug compared to 50% of female officers. It is also notable that almost a quarter of the female officers used ketamine (22%), or 'special K' as it is known, whereas no male officer came to notice for use of this drug. This difference, however, may be explained by the fact that the four female officers who used this drug all socialised within the same social circles.

1635 Operation Abelia, PIC Transcript, Private hearing, ANK, 10 May 2004, pp. 7-9.

1636 Operation Abelia, PIC Transcript, Private hearing, ANL, 10 May 2004, pp. 7-8.

TABLE A5.6: DISTRIBUTION OF DRUG TYPE USED BY OFFICERS

Drug Type	Male (n=63)		Female (n=18)		Total (n=81)	
	No.	%*	No.	%*	No.	%*
Cannabis	36	57	9	50	45	56
Ecstasy	29	46	8	44	37	46
Cocaine	21	33	6	33	27	33
Amphetamine**	14	22	9	50	23	28
Ketamine	0	0	4	22	4	5
Steroids	4	6	0	0	4	5
Heroin	3	5	0	0	3	4

* It should be noted that some officers used more than one type of drug. The frequencies for each drug type have been divided by the number of officers (81 officers – 63 male; 18 female) to determine the percentage of officers who engaged in each type of drug use.
** Amphetamine category includes speed and ice.

Among the one-third of case study officers who were identified as polydrug users, almost three-quarters (72%) were identified as having used three or more drug types. Given the various combinations in which drugs were used by officers who engaged in polydrug use, it was considered most useful to present the types of drugs used by each officer in a format that allows different drug combinations to be easily identified (see Table A5.7).

TABLE A5.7: ILLEGAL DRUGS USED BY OFFICERS ENGAGED IN POLYDRUG USE

Officer	Drugs Used						
Code	Cannabis	Ecstasy	Cocaine	Amphet*	Ketamine	Steroids	Heroin
N1	x		x	x			
P1	x	x	x	x			
T1		x	x	x			
V1	x	x	x	x			
Z1	x	x	x				
A2		x		x			
B2	x	x	x			x	
C2		x	x	x			
F2		x	x			x	
K2		x	x				
P2	x	x	x	x			
T2		x				x	
Y2	x	x					
Z2	x		x	x			
A3	x		x	x			
F3	x	x	x				
G3	x	x				x	
J3		x	x	x	x		
L3		x	x				
M3	x	x	x	x	x		
P3	x	x	x				
T3		x	x				
X3	x	x		x			
Y3		x	x	x	x		
B4		x	x	x			

** Amphetamine use includes speed and ice.*

TABLE A5.7: ILLEGAL DRUGS USED BY OFFICERS ENGAGED IN POLYDRUG USE (CONT'D)

Officer Code	Drugs Used						
	Cannabis	Ecstasy	Cocaine	Amphet*	Ketamine	Steroids	Heroin
C4		x		x			
D4		x	x	x	x		
H4		x	x				x
G5		x		x			

** Amphetamine use includes speed and ice.*

Ecstasy was the drug most commonly used by those officers who engaged in polydrug use (90%) and was followed by cocaine (76%). Ecstasy and cocaine were also a common drug combination for the polydrug users, with two-thirds of these officers engaging in both ecstasy and cocaine use (66%).

Over half of the polydrug users in the case study sample engaged in amphetamine use (59%). As can be seen in Table A5.7, amphetamines were also quite commonly used in combination with ecstasy or cocaine. Amphetamines and ecstasy were used in combination by almost half of the polydrug users (48%), as were amphetamines and cocaine (45%).

One-third of the polydrug users used ecstasy, cocaine and amphetamines. While there was insufficient information to conduct an analysis of whether the officers would use all of these drugs at the same time, there is some anecdotal evidence that suggests at least some of the officers used more than one illegal drug at a time. For example:

- Officer Y3 admitted in a PIC hearing to using a number of 'party' drugs in the nightclub scene and stated that she would sometimes use more than one drug at a time. Officer Y3 confirmed that she would have, for example, taken ecstasy and ketamine during one night on some occasions.[1637]
- Officer V1 admitted in an interview with PIC investigators that he would take ecstasy and speed together and would sometimes experiment by taking additional substances such as cocaine and ice.[1638]

Each of the officers involved in steroid use was also identified as having used at least one type of prohibited drug. While steroids are restricted rather than prohibited substances, it is clear that none of the officers in the case study sample were using steroids that had been legally prescribed to them by a medical practitioner. In some cases, the officer's use of steroids appeared to be linked to their use of other illegal drugs in some way. For example:

- Officer F2 admitted in a PIC hearing that following a difficult relationship break-up he drank heavily and engaged in the use of ecstasy and cocaine. He claimed that after a while he wanted to get away from this lifestyle and so he took steroids to give him the 'oomph' he needed and to assist his weights training.[1639]

1637 Operation Abelia, PIC Transcript, 6 November 2003, p. 54-56.

1638 Operation Abelia, PIC Transcript of Record of Interview, 13 September 2004, p. 6.

1639 Operation Abelia, PIC Transcript, 9 February 2004, pp. 262-3.

- Officer G3 stated in a PIC hearing that he lost a lot of weight and suffered depression after being injured during a work-related incident. He claimed that he used steroids to help heal his injury and to build himself back up, also admitting that he used cannabis to help him sleep and ecstasy to make himself feel better.[1640]

The types of drugs used by officers in the case study sample may reflect the different ways in which these officers came to notice. For example, some officers were subjected to targeted or mandatory drug tests and they returned a positive result for illegal drugs. Other officers were detected via covert electronic surveillance, with evidence of their involvement in illegal drug use being captured via telephone intercept, listening device and/or video surveillance.

Different detection methods are more likely to identify users of a particular type of illegal drug than users of another type of illegal drug. For those officers within the case study sample who were detected via drug testing, 87% were identified as having used cannabis while only 20% were identified as having used ecstasy. For those officers within the case study sample who were detected via electronic surveillance, 76% were identified for ecstasy use while only 24% were identified for cannabis use.[1641]

It is known that cannabis can be detected in urine for a considerable period after being used by those who use the drug regularly. This may account for the higher rate of cannabis use amongst the group detected via drug testing. Other illegal drugs, such as ecstasy and cocaine, remain in the user's system for a relatively short period of time, which may account for fewer ecstasy users being detected among the group of officers who came to notice via drug testing.

While covert investigations involving electronic surveillance methods may be more effective at detecting users of certain illegal drugs, such investigations are far more time and labour intensive than drug testing. Given that electronic surveillance methods are generally reserved for major investigations, where the targets are suspected of being involved in other corrupt conduct, it is possible that officers who engage in the use of ecstasy and other drugs that are more difficult to detect via drug testing are under-represented among officers who come to attention for illegal drug use.

It is not possible to say whether one type of illegal drug is more likely to be used by officers, given that the case study sample does not include every NSW Police officer who has used drugs. However, it is clear that a range of illegal drugs are used amongst police who come to notice. This indicates that prevention and detection strategies must address different types of illegal drug use, as officers who engage in illegal drug use may potentially use as wide a variety of drugs as are available in the general community.

3.8 WHY DO SOME OFFICERS USE PROHIBITED DRUGS?

Perhaps one of the most important questions that needs answering is why some officers decide to engage in illegal drug use. Police officers are expected to act in

1640 Operation Abelia, PIC Transcript, Private hearing, ANR, 11 May 2004, pp. 8-10.

1641 It should be noted that some of these officers used more than one type of drug. Hence, percentages do not necessarily add to 100. The number of officers in each group who used a particular type of drug has been divided by the number of officers in that group (30 for positive drug test; 25 for electronic surveillance) to determine the percentage of officers within each group who used a particular type of drug.

accordance with the law at all times, whether on or off duty, and NSW Police officers are bound by a Code of Conduct and Ethics that expressly sets out this obligation. It is true that any person who engages in illegal drug use exposes himself or herself to the risk of being caught and charged with a criminal offence, however officers who come to notice for having used illegal drugs also face the probable loss of their livelihood and chosen career.

While it was not possible to establish the reason for each officer's illegal drug use, analysis of the case study sample showed that 'stress' was considered to be an influential factor by a considerable number of the officers who did given reasons for their illegal drug use (see Table A5.8). The most common forms of stress cited by the involved officers were:

- family or personal stress, including stress caused by death of a family member, the breakdown of a marriage or other significant relationship and difficulties coping with other personal issues, and
- work-related stress, including stress resulting from attendance at critical incidents, physical injuries sustained during workplace accidents, difficulties coping with workloads and conflict with supervisors or colleagues.

A number of other officers cited general stress, depression or anxiety to explain their drug use, but did not elaborate further as to what they meant by this.

TABLE A5.8: REASONS GIVEN BY OFFICERS TO EXPLAIN THEIR DRUG USE

Reason	Male (n=39)		Female (n=13)		Total (n=52)	
	No.	%*	No.	%*	No.	%*
Family/personal stress	12	31	9	69	21	40
Work-related stress	13	33	6	46	19	37
Stress/depression/anxiety	9	23	1	8	10	19
Socially/peer activity	7	18	3	23	10	19
Accidental/misadventure	7	18	1	8	8	15
Fun/enjoyable/lifestyle choice	5	13	2	15	7	13
Therapeutic**	4	10	1	8	5	10
Undercover/line of duty	1	3	1	8	2	4
Curiosity/experimentation	0	0	2	15	2	4
Isolation/alienation	1	3	1	8	2	4
Assist work performance	0	0	1	8	1	2
Lack of self-respect	0	0	1	8	1	2

** Reason for drug use is unknown for 29 officers (24 male; 5 female). It should be noted that some officers gave multiple reasons for their drug use. The frequencies for each reason have been divided by the number of officers for which information is known (52 officers – 38 male; 13 female), to determine the percentage of officers who provided each type of reason.*

*** Therapeutic reasons include officers using drugs to assist them in overcoming sleep disturbance, regaining their lost appetite and overcoming alcohol withdrawal.*

It is interesting that 15% of officers for whom data was available offered an explanation relating to accidental drug ingestion or misadventure of some kind. The eight officers offering this explanation all came to attention via targeted or mandatory drug tests. The officers' explanations of how this accidental ingestion or misadventure occurred depended on the type of drug that was found in their system:

- Officer A4 stated in a departmental interview that he may have passively inhaled cannabis smoke at a party.[1642]
- Officer Y1 claimed in a departmental interview that she unwittingly ingested cannabis in a chocolate chip biscuit at a party.[1643]
- Also in a departmental interview, Officer S3 explained the presence of amphetamine in his system by stating that he mistakenly took his wife's ADHD medication (which contains amphetamine) instead of cold and flu medication.[1644]
- When responding to a s.181D Notice issued by the Commissioner of Police, Officer B4 explained the presence of ecstasy and other illegal drugs in his system by stating that his drink must have been spiked at a party.[1645]

Of course, it is difficult to establish the veracity of such explanations and, in most cases, the true circumstances or reasons behind the officer's illegal drug use will never be determined.

Not surprisingly, a number of officers offered multiple reasons for their illegal drug use. A number of officers who cited family or personal stress as a reason for using illegal drugs also cited work-related stress as a contributing factor. Similarly, a number of officers citing family or personal stress also admitted that they enjoyed using drugs socially.

In the case of cannabis users, a number of officers claimed that a contributing factor to their use of cannabis was its supposed therapeutic value. For example:

- During a police interview, Officer X1 indicated that she smoked cannabis in an effort to counteract sleep disturbance.[1646]
- Officer Q3 stated in a PIC hearing that cannabis helped him to cope with alcohol withdrawals.[1647]
- Officer N2 indicated in a PIC hearing that he self-medicated with cannabis to ease stress and trauma brought on by a workplace incident and the death of a family member, also admitting that he had previously used cannabis when undergoing chemotherapy to regain his appetite and to deal with stress and anxiety.[1648]

In the case of so-called 'party' drugs, such as ecstasy, cocaine and speed, a number of officers admitted that they enjoyed using these drugs and it was part of their lifestyle. For example:

1642 NSW Police, Attachment to s.181D Notice, p. 3 (b/c 6347682). Please note that documents referenced by PIC barcodes (b/c) in this appendix are not available for public distribution.

1643 NSW Police, Transcript of Record of Interview, p. 11 (b/c 6637379).

1644 NSW Police, Investigator's Report, Integrity Testing Unit, pp. 2-3 (b/c 6316138 - b/c 6316139).

1645 Officer B4's Response to s.181D Notice, pp. 9-10 (b/c 6347520 - b/c 6347521).

1646 NSW Police, Transcript of Record of Interview, p. 6 (b/c 6364984).

1647 Operation Abelia, PIC Transcript, Private hearing, ANJ, 10 May 2004, p. 7.

1648 Operation Abelia, PIC Transcript, Private hearing, ANM, 10 May 2004, pp. 6, 7, 12, 19.

- During his evidence in a PIC hearing, Officer F2 claimed that the majority of his friends used recreational drugs and the only way he could avoid drug use would be to 'sit at home' and 'stare at walls' on a Saturday night.[1649]
- Officer Y3 admitted in a PIC hearing that she first used recreational drugs out of curiosity and continued because she enjoyed it.[1650]
- Officer C2 told PIC investigators during a recorded interview that he took drugs on a recreational basis, rather than drinking, when he went out to nightclubs in the city.[1651]

These officers admitted that recreational drug use was common amongst their friends and they admitted attending bars, nightclubs and/or dance parties where illegal drug use is common. A number of these officers claimed that personal stress and other factors influenced the level of their illegal drug use, but they also admitted that their desire to have fun and feel good played a significant role in their decision to use illegal drugs.

Just one officer claimed that she had used drugs to aid her performance on the job:

- In a recorded interview with NSW Police investigators, Officer L2 claimed that she used amphetamine to keep her awake and alert whilst carrying out her policing duties. She claimed that her use of amphetamine was prompted by other officers picking on her and her subsequent inability to concentrate on her police work.[1652]

The majority of the officers in the case study sample were 'caught', via drug testing or some other means, for using illegal drugs. That being the case, many of their reasons and explanations for using drugs were given at a time and under circumstances when they may have been attempting to salvage their career and hold onto their livelihood. The accuracy or otherwise of these reasons and explanations cannot be tested in any practical way and it must be kept in mind that an officer's perception of what led them to use drugs may also change over time.

It can be observed from the analysis conducted here that the reasons officers use illegal drugs are many and varied. While stress is commonly stated to be a factor, a number of officers admitted that it was curiosity or a desire to have fun that led them to use illegal drugs. Just as people within the general community turn to drugs for various reasons, so do police. It is therefore important to recognise that efforts to understand the nature of illegal drug use by officers cannot focus solely on precipitating factors that arise within the workplace. Events occurring within an officer's personal and social life also contribute to their decision to use illegal drugs.

1649 Operation Abelia, PIC Transcript, 9 February 2004, p. 257.

1650 Operation Abelia, PIC Transcript, 6 November 2003, pp. 21, 54, 60.

1651 PIC, Transcript of Record of Interview, 19 June 2002, pp. 7, 10.

1652 NSW Police, Synopsis of Electronic Record of Interview, p. 2 (b/c 6364869); NSW Police, Recommendation for consideration of Loss of Commissioner's Confidence, Integrity Testing Unit, p. 4 (b/c 6364875).

3.9 IN WHAT CONTEXT DO SOME OFFICERS USE DRUGS?

In examining the context of an officer's illegal drug use, the PIC sought to answer a number of questions. For each of the officers in the case study sample, the available information regarding their illegal drug use was used to answer a number of specific questions where possible. These questions pertained to when and where their illegal drug use took place, as well as with whom they chose to use illegal drugs.

3.9.1 Do officers use whilst on or off duty?

While no information was available for a significant proportion of the case study sample (36%), the majority of officers were identified for off-duty use only (62%).[1653] Only two officers admitted to using illegal drugs whilst both on duty and off duty. While these figures suggest the majority of officers in the case study sample did not use illegal drugs whilst on duty, it should be noted that the information relied upon to determine these statistics came mainly from the officer's own admissions.

It is possible that some officers may have chosen not to disclose any illegal drug use they engaged in whilst on duty, so as to avoid implicating themselves in what could be viewed as negligent behaviour. Even if the majority of officers use whilst off duty, it would be a mistake to assume that this means those officers are unaffected by drugs whilst on duty. This issue is examined further in the next section of this appendix.

3.9.2 Do some officers attend work after taking drugs?

In addition to considering whether an officer uses illegal drugs whilst on duty or off duty, it is important to consider the timing of any off-duty drug use. If an officer uses illegal drugs shortly before starting their shift, it is possible that they will be drug affected to some extent when they report for duty.

While information was not available for the entire case study sample, a number of officers did describe a nexus between their illegal drug use and their shift patterns.

Several officers stated that they would use illegal drugs at the beginning of their rest period, to allow what they deemed to be sufficient time between their illegal drug use and their return to work. While some of these officers may have been motivated by a desire to avoid having illegal drugs in their system if subjected to a drug test, some officers did state that they specifically considered the issue of impairment. For example:

- Officer C2 stated during a PIC hearing that it would be very irresponsible for an officer to be affected by drugs whilst carrying out policing duties and this influenced his decision to confine his drug use to the start of his rest period. Officer C2, who used party drugs in the nightclub scene, stated that he would generally have a few days off work at a time and he would never have used illegal drugs the night before starting a morning shift.[1654]

1653 This 62% was made up of officers whose admissions were restricted to off-duty use (52%) and those officers for whom intelligence strongly indicated that their illegal drug use was confined to off-duty use (10%).

1654 Operation Abelia, PIC Transcript, Private hearing, ANL, 10 May 2004, pp. 9, 12.

- During a PIC hearing, Officer G4 indicated that he confined his cannabis use to off-duty hours because it would be very hard to carry out the duties of a police officer whilst affected by cannabis. As specific examples, Officer G4 cited that it would be difficult to protect yourself during a physical altercation, to control a motor vehicle or to handle your firearm appropriately if affected by cannabis. Officer G4, who told the PIC that he smoked cannabis after his shift had ended, indicated that he had timed his drug use so as to allow a certain period before use and going back on duty. However, Officer G4 also admitted that, 'in hindsight', he may not have taken enough care in that regard.[1655]

In contrast to those officers who were wary of the timing of their illegal drug use, there were some officers who did not take any precautions to ensure they were unaffected by drugs whilst at work:

- Officer L2 admitted to NSW Police investigators that she would administer amphetamine just a couple of hours prior to starting her shift. Given her own statements that the effects of 'good' quality amphetamine last for up to four or five hours and 'bad' quality amphetamine lasts for about three hours, it is clear that this officer attended work whilst feeling the effects of the drug she had administered. Indeed, she purported to have taken the drug in order to keep her alert at work, so she would not make mistakes and draw criticism from her colleagues. Officer L2 was assigned to general duties in a busy inner-city area when she came to attention for her illegal drug use.[1656]
- Officer S2 indicated during a PIC hearing that he smoked cannabis in the mornings prior to going to work. While Officer S2 admitted to smoking 10 to 20 cones of cannabis per day and he acknowledged that he took no steps to leave an interval between his drug use and going on shift, he maintained the view that his cannabis use did not interfere with his work or inhibit his ability to perform his duties.[1657]
- Officer Q3 admitted engaging in two or three smoking sessions a day, smoking three to four cones at a time. He also admitted that he smoked cannabis in the mornings before going to work and he did not give a great deal of thought as to whether he was impaired whilst performing his duties. In hindsight, however, Officer Q3 recognised that using cannabis probably affected his level of 'alertness' whilst on the job.[1658]

While a number of officers claimed that they had never been affected by illegal drugs or impaired in their performance whilst on the job, these statements appeared to be based on their own subjective views. Exactly how these officers measured their level of impairment or at what point they deemed themselves fit to carry out their duties is not known. It is also unclear whether these officers considered the possible effects that may flow on from their drug use, such as the 'coming down' period that is associated with using stimulants, as constituting part of the period when they were 'affected' by drugs.

1655 Operation Abelia, PIC Transcript, Private hearing, ANW, 12 May 2004, pp. 10-11.

1656 NSW Police, Synopsis of Electronic Record of Interview, pp. 2-3 (b/c 6364869 – b/c 6364870).

1657 Operation Abelia, PIC Transcript, Private hearing, ANK, 10 May 2004, pp. 9, 19.

1658 NSW Police, Investigator's Report, p. 1 (b/c 9316076); Operation Abelia, PIC Transcript, Private hearing, ANJ, 10 May 2004, p. 11.

From the case study sample, it appears that some officers who engage in illegal drug use do make some effort to ensure that they do not use illegal drugs when they are due back on duty within a certain period of time. Other officers do not take such measures and seem to exercise wilful ignorance of the impact of their illegal drug use on their job performance.

An officer who takes no measures to avoid being affected by illegal drugs whilst at work poses obvious risks to themselves, their colleagues and potentially the wider community. Likewise, an officer who acts under the false assumption that he or she is no longer affected by drugs and is 'safe' to return to work may also pose a significant safety risk.

3.9.3 In what type of environment do some officers use drugs?

As discussed in Section 3.4 of this appendix, a number of local area and specialist commanders surveyed by the PIC expressed the view that officers involved in the city 'nightclub' scene may be more likely to use illegal drugs. The case study sample was analysed to determine the kinds of contexts in which the officers used illegal drugs.

TABLE A5.9: CONTEXTS IN WHICH OFFICERS' ILLEGAL DRUG USE TOOK PLACE

Context	Male (n=42)		Female (n=13)		Total (n=55)	
	No.	%*	No.	%*	No.	%*
Social (parties, pubs, etc.)	25	60	5	38	30	55
Nightclub/dance party scene	19	45	6	46	25	45
At home	16	38	6	46	22	40
Friend or family member's home	2	5	2	15	4	7
Gym/training context	3	7	0	0	3	5
Undercover	1	2	1	8	2	4
Hotel rooms	2	5	0	0	2	4
Strip clubs/brothels	1	2	0	0	1	2
Public Places (e.g. parks)	1	2	0	0	1	2

** Context of illegal drug use is unknown for 26 officers (21 male, 5 female). It should also be noted that some officers used drugs in more than one context. The frequencies for each context have been divided by the number of officers for which information is known (55 officers – 42 male; 13 female), to determine the percentage of officers who used drugs in that context.*

While it is not possible to establish the context in which each officer used illegal drugs, it is clear that a considerable proportion of officers used illegal drugs in social settings. Whether using drugs at parties and pubs (55%) or at nightclubs and dance parties (45%), it is most likely that these officers were using illegal drugs in the company of friends and other associates.

It was not uncommon for officers to say that they used illegal drugs at home (40%). Some of the officers in the case study sample said that they chose to use drugs at home in total isolation from others (13%). For example:

- Officer N2 claimed in a PIC hearing that he would sneak down to his back shed to smoke cannabis. He claimed to have kept his drug use hidden from everyone, including his wife.[1659]

A further 15% of officers were identified as having used illegal drugs at home, but they admitted that this drug use would occur in the company of their partners, flatmates or a select number of friends. For the remaining officers identified as having used drugs at home, no information existed as to whether or not they used illegal drugs in isolation or in the company of others.

A small number of officers were identified as having used illegal drugs in various other contexts and, for the most part, the environment in which they used illegal drugs depended upon the type of drug use they engaged in. For example:

- Officers F2 and G3 both frequented gyms and used steroids in a training context.
- Officer R1, a heroin user, would use the drug in public places such as parks.

Of course, some officers used illegal drugs in multiple contexts. Some officers used the same drug in different contexts, whereas other officers used one type of drug in one context and another type of drug in another context. For example:

- Officers R3 and G4, both cannabis users, admitted in PIC hearings that they smoked the drug at home by themselves and also at parties in the company of friends.[1660]
- Officer G3 indicated in a PIC hearing that he used steroids in a gym or physical training context. He admitted to using cannabis at home to help him sleep at night and also stated that he would occasionally use ecstasy when he went out with his civilian friends.[1661]

From the case study sample, it appears that officers use drugs in a variety of contexts. Some officers will use drugs in multiple contexts, whether they use one or more type of drug. While some officers do use illegal drugs whilst attending nightclubs, analysis of the case study sample suggests that the problem of illegal drug use by officers is not confined to those officers who attend nightclubs or other so-called 'high risk' venues. The case study analysis shows that officers also use illegal drugs in what might be considered more 'mainstream' environments, such as whilst socialising at parties or pubs with friends. Some even chose to use at home by themselves. It is therefore essential that prevention and detection strategies take into consideration that some officers may be tempted to use illegal drugs in a social setting with their peers, while others may choose to use in a more private setting.

1659 Operation Abelia, PIC Transcript, Private hearing, ANM, 10 May 2004, pp. 8-10.

1660 Operation Abelia, PIC Transcript, Private hearing, ANX, 13 May 2004, pp. 7-8; Operation Abelia, PIC Transcript, Private hearing, ANW, 12 May 2004, p.10

1661 Operation Abelia, PIC Transcript, Private hearing, ANR, 11 May 2004, pp. 9-11.

3.9.4 Do some officers use illegal drugs with other police?

The case study sample was examined to determine whether any of the officers engaged in illegal drug use with other police officers. While insufficient information was available to answer this question in relation to every officer included in the case study sample, over a quarter of the officers (27%) were identified as having used drugs with other officers.[1662]

Some officers admitted to using illegal drugs with officers they worked with. For example:

- Officer P1 admitted in a PIC hearing that he regularly used illegal drugs with his colleagues whilst working as an undercover operative on drug-related operations. He stated that this drug use generally occurred after-hours, during social get-togethers.[1663]
- Officer Z1 stated in a PIC hearing relating to Operation Saigon that he met Officer F3 at the police Academy and both later worked with Officer P3 whilst on secondment in the same area of NSW Police. Officer Z1 stated that he was friends with Officers P3 and F3 and they socialised with each other regularly on their days off. Officer Z1 admitted that they all frequented nightclubs and participated in the use of illegal drugs, including ecstasy and cocaine. Officer Z1 also admitted to using cocaine with three other officers whom he knew to varying degrees.[1664]

Other officers admitted to using illegal drugs with officers they did not work with, but with whom they socialised. For example:

- Officer J3 stated in a PIC hearing that she did not take drugs while socialising with officers from her own local area command and, to her knowledge, none of the officers with whom she worked were aware of her drug use. However, she did admit to using illegal drugs with Officers Y3 and D4, both of whom worked in different local area commands to herself. Officer J3 told NSW Police investigators that she was introduced to Officer Y3 at a nightclub and they became friends. She later met Officer D4 through Officer Y3, as they were flatmates. While stating that she maintained a closer friendship with Officer Y3, she considered both officers to be part of her core circle of friends. All three officers engaged in illegal drug use as part of the nightclub scene and Officer J3 admitted to the PIC that she had used cocaine with Officers Y3 and D4 at their home.[1665]

There were a number of officers among the case study sample who admitted to knowing of other officers who used illegal drugs, although they had not used illegal drugs together. For example:

1662 The remaining 73% of the sample was made up of officers for whom no intelligence existed re drug use with other police or for whom some intelligence existed but it was insufficient to draw a conclusion as to whether they had in fact used drugs with other police.

1663 Operation Abelia, PIC Transcript, Private hearing, ANP, 11 May 2004, p.12.

1664 Operation Saigon Phase 1, PIC Transcript, 17 February 1999, pp. 178-183, 187-190, 201.

1665 Operation Abelia, PIC Transcript, 6 November 2003, pp. 30, 36-38, 46-47; NSW Police, Transcript of Record of Interview, pp. 8, 18-19 (b/c 6333440, b/c 6333450 - b/c 6333451).

- Officer M2 stated in a PIC hearing that he knew of one other officer who used illegal drugs. The officer openly admitted his use of the drug 'speed' to Officer M2 during a casual conversation. Officer M2 stated that he did not work with the officer, but played police football with him.[1666]
- Officer G2 told PIC investigators during a recorded interview that he had seen a number of officers 'under the influence of drugs'. Officer G2 indicated that he was aware of the way people behave when they are under the influence of drugs, not only from his own involvement in illegal drug use, but due to having worked in a busy inner-city area where users of various drugs frequently come under police notice.[1667]

It should be noted that neither Officer M2 nor Officer G2 indicated that they took any steps to bring this illegal drug use by other officers to the attention of their supervisors, which is perhaps unsurprising given their own involvement in illegal drug use.

The case study sample analysis indicates that some officers will use drugs with other police. While some of these officers are colleagues, others meet outside of work through their friendship groups etc. Even where some officers deny using drugs with other police, they do not necessarily deny being aware of other officers who also engage in illegal drug use.

3.10 DO SOME OFFICERS USE STRATEGIES TO AVOID DETECTION?

As discussed in Section 3.9.2, some officers take steps to ensure they leave a certain period of time between their illegal drug use and returning to work. While some of these officers indicated that they were concerned about being affected by drugs whilst on duty, a number of officers also admitted that they took such precautions to avoid returning a positive reading if drug tested. For example:

- Officer J3 admitted in a PIC hearing that she would generally try to allow a sufficient period between taking illegal drugs and returning to work, to avoid returning a positive drug test. She also admitted that she 'went off sick' on more than one occasion after using drugs on her days off, usually giving the excuse that she had the flu or a virus. Officer J3 mainly engaged in the use of party drugs such as ecstasy, speed and cocaine.[1668]
- Officer F2 stated that he was aware of the risk of being drug tested and he would therefore generally restrict his illegal drug use to the beginning of his four-day rest period. Officer F2, who also used party drugs such as ecstasy and cocaine, said that he believed that there is a 'three to five' day window in which illegal drugs remain present in your system and after that you are pretty much clear of testing positive.[1669]

Apart from some officers timing their illegal drug use in an attempt to avoid returning a positive reading if drug tested, a number of officers employed other strategies to avoid

1666 Operation Abelia, PIC Transcript, Private hearing, ANV, 12 May 2004, p. 15.
1667 Operation Abelia, PIC Transcript of Record of Interview, 7 May 2004, p.11.
1668 Operation Abelia, PIC Transcript, 6 November 2003, pp. 39-40, 49.
1669 Operation Abelia, PIC Transcript, 9 February 2004, p. 276.

detection. Information obtained by the PIC suggests that at least one officer has attempted to hinder the actual drug testing process, by tampering with his urine sample:

- Officer R2 was subjected to a targeted drug test after he had been observed to be apparently under the influence of drugs whilst on duty. Officer R2 provided Healthy Lifestyles staff with a sample of urine but it did not register a reading on the temperature gauge on the collection container, leading the collection officer to believe the sample had been tampered with. Officer R2 was asked to provide another three samples, all of which failed to register on the temperature gauge. As a result, Officer R2 was asked to produce his next sample in the station's locker room (an area devoid of any water source), rather than in the toilet area where his previous samples had been produced. This fifth sample did register a reading on the temperature gauge and, upon testing, it proved to be positive for cannabis. Laboratory analysis of the samples revealed that the first set of samples provided by Officer R2 were found to have significantly low urinary creatinine levels, supporting the collection officer's suspicions that Officer R2 had been tampering with his samples by diluting the urine. As a result of the NSW Police investigation into this matter, adverse findings were made against Officer R2 for interference with a drug sample and for the use of cannabis.[1670]

There is also information to suggest that one officer has been able to avoid a drug test by leaving the station after the arrival of Healthy Lifestyles staff, as detailed below:

- Staff from the Healthy Lifestyles Branch attended a police station, shortly before 9:00 am, to conduct a targeted drug test of Officer C3. Information obtained during a NSW Police internal investigation indicates that Officer C3 attended the police station on two occasions on the morning he was to be tested, once at around 9:00 am and then shortly afterwards. The Custody Manager who had been responsible for assisting Healthy Lifestyles staff to set up for the testing was interviewed by SCIA and advised investigators that Officer C3 had entered the station at or around 9:00 am. According to the Custody Manager, Officer C3 stated that his child was unwell and he would need to take FACS leave. Officer C3 then left the station.[1671] However, at 9:06 am Officer C3 rang the Custody Manager, presumably from a nearby location. The Custody Manager asked Officer C3 to meet him at the back door of the station. Officer C3 expressed some concern, saying 'they might see me',[1672] but nonetheless agreed to the meeting. The Custody Manager later told SCIA investigators that the purpose of the meeting was to discuss the type of leave Officer C3 was going to take.[1673] This explanation appears to be unlikely in the circumstances and it is open to consider that Officer C3 may have learned that Healthy Lifestyles staff were waiting inside the station to drug test him and he consequently took steps to avoid them. Although Officer C3 was not drug tested, other information obtained during the SCIA investigation confirmed his

1670 NSW Police, Investigator's Report, Integrity Testing Unit, pp. 1-8 (b/c 6316111 - b/c 6316118); ICPMR Drug Testing Report, pp. 1-2 (b/c 6316126 - b/c 6316127).

1671 NSW Police, Transcript of Record of Interview, p.14 (b/c 6336621).

1672 NSW Police, Transcript of intercepted telephone call (b/c 6395268).

1673 NSW Police, Transcript of Record of Interview, pp. 14-15 (b/c 6336621- b/c 6336622).

involvement with illegal drugs.[1674] The information obtained by SCIA indicated that Officer C3 was using amphetamines and possibly other illegal drugs, although it is not possible to say whether he would have tested positive to any illegal drug(s) if he had been tested.

Yet another officer admitted that he had gone to a doctor and claimed that he had been 'drugged' in order to set up an excuse in case he was drug tested, as detailed below:

- Officer F2 admitted in a PIC hearing that he had been going out and using illegal drugs a bit too much and his visit to the doctor was part of an effort to have a cover story in case he was drug tested at work. Officer F2 admitted he had heard from someone that people had managed to get themselves out of trouble by claiming that their drink had been spiked or something similar when they tested positive to drugs. He didn't think he had heard this from another police officer, but rather from an ambulance officer.[1675]

A number of officers exercised extreme caution when discussing their illegal drug use over the telephone in case their calls were being intercepted. Some officers even went as far as to use coded language to identify drugs when speaking over the phone. For example:

- Officer X2, for example, engaged in a telephone conversation with her partner in which they discussed 'Charlie', 'Uncle Steve' and 'Aunty Esme'. Officer X2 later admitted during a recorded interview with NSW Police investigators that she had heard of these terms being used to describe the drugs cocaine, speed and ecstasy. Officer X2 denied that she and her partner were discussing illegal drugs in this instance. However, the context of the conversation made it clear that they indeed were discussing illegal drugs and Officer X2 subsequently admitted her involvement in illegal drug use during a second interview with NSW Police investigators three days later.[1676]
- Officer Z1 admitted during a PIC hearing relating to Operation Saigon that his use of the word 'woof' during an intercepted telephone conversation was a reference to obtaining some cocaine.[1677] Officer Z1 admitted that a reference to someone putting 'a pink rinse through his dog' in that same telephone conversation was a reference to pink ecstasy tablets.[1678]

Other officers have attempted to avoid detection by discarding or concealing physical evidence of their drug use. For example:

1674 NSW Police, Investigator's Report and Attachments, Special Crime & Internal Affairs (b/c 6336248 - b/c 6336657).

1675 Operation Abelia, PIC Transcript, 9 February 2004, p. 315.

1676 NSW Police, Transcript of intercepted telephone call (b/c 5555210); NSW Police, Transcript of Record of Interview (b/c 5555244 - b/c 5555245); NSW Police, Transcript of Record of Interview (b/c 5555248 - b/c 5555256).

1677 Operation Saigon, PIC Transcript, 17 February 1999, p. 174.

1678 Operation Saigon, PIC Transcript, 17 February 1999, pp. 176-7.

- Police pursued Officer G3 on foot when he alighted from his vehicle after being involved in two road rage incidents. The NSW Police investigation report noted that Officer G3 was seen to be discarding items as he ran from police, including steroid vials, empty syringe packets and a doctor's prescription pad.[1679]
- Officer M2 admitted that he deliberately concealed drugs from police when they came to conduct a search of his brother's house. Officer M2 stated that police came to conduct the search because they had received an anonymous tip-off that he had been using drugs. Due to Officer M2 concealing the drugs, the search did not reveal any evidence of his illegal drug use.[1680]

It is clear that some officers who use illegal drugs take active steps to avoid their drug use being detected. The methods used by some officers to avoid detection need to be taken into consideration when detection strategies are being developed and reviewed. A number of officers indicated that they timed their illegal drug use to decrease the likelihood of returning a positive reading if drug tested when they returned to work after their days off. This suggests that the development of strategies to detect off-duty drug use may be an effective deterrent to those officers who think they can structure their illegal drug use to avoid detection.

3.11 HOW DO SOME POLICE OBTAIN THEIR ILLEGAL DRUGS?

Information relating to how some officers obtain illegal drugs is available for almost two-thirds of the case study sample (64%).[1681] For those officers where information is available, steps have been taken to identify the 'source' of their drugs. That is, whether they obtained drugs from a friend, dealer, family member or otherwise. It is acknowledged that some of the officers in this sample obtained drugs from more than one type of source. In Table A5.10 below, the data relates to the type of source from which each officer said he or she most commonly obtained illegal drugs.

TABLE A5.10: TYPE OF SOURCE FROM WHICH ILLEGAL DRUGS WERE MOST COMMONLY OBTAINED

Source type	Male (n=63)		Female (n=18)		Total (n=81)	
	No.	%*	No.	%*	No.	%*
Friend	14	22	2	11	16	20
Friend/Dealer	10	16	4	22	14	17
Dealer	9	14	3	17	12	15
Acquaintance	3	5	0	0	3	4
Found by accident	1	2	2	11	3	4
Unknown person in nightclub	2	3	0	0	2	2
Family member	1	2	1	6	2	2
Unknown	23	37	6	33	29	36
Total	63	100	18	100	81	100

** Percentages may not necessarily add to 100% due to rounding.*

1679 NSW Police, Investigator's Report, pp. 1-3 (b/c 6316869 - b/c 6316871).

1680 Operation Abelia, PIC Transcript, Private hearing, ANV, 12 May 2004, p. 9.

1681 For the remainder of the sample, there is no information available or the available information is insufficient to rely upon for statistical purposes.

As shown in Table A5.10, friends were the most common source from which the officers in the sample obtained drugs for their personal use (20%). The 'friend' category covers instances where officers obtained drugs from friends in a social setting, either receiving the drugs as a gift or at cost price. This result appears to reflect the data in Section 3.9.3 of this appendix, which showed that officers in the case study sample most commonly used illegal drugs in social environments (for example, at parties, pubs and nightclubs) whilst socialising with friends.

The 'friend/dealer' category was included to account for cases where the involved officers routinely obtained illegal drugs from both friends and dealers. This source type accounts for 17% of the case study sample. In some of these cases, the officers actually maintained a friendship with persons involved in drug dealing. Where an officer purchased drugs from such persons, it was considered most appropriate to include these cases under the 'friend/dealer' category, rather than attempting to determine whether their relationship was primarily that of 'friend' or 'dealer'.

A considerable proportion of officers appear to have obtained illegal drugs from people with whom they had a close personal affiliation.[1682] It may be that these officers did not perceive the seriousness of their actions because they did not have to approach a stranger or someone they saw as a 'criminal' in order to engage in an illegal drug transaction. The officers may have been able to distance themselves from the illegality of their actions, due to the fact that they were obtaining drugs from a trusted friend or family member.

3.12 DO SOME OFFICERS WHO USE ILLEGAL DRUGS ENGAGE IN OTHER KINDS OF MISCONDUCT?

The case study sample was examined to determine whether any of the officers in the sample engaged in misconduct in addition to personal use of illegal drugs. Firstly, the sample was examined to determine whether any of the officers had been involved in drug supply. Secondly, the sample was examined to determine whether any of the officers had engaged in misconduct apart from illegal drug use or supply.

3.12.1 Drug supply

While insufficient information was available to answer this question in relation to every officer[1683], a number of officers were identified as having engaged in drug supply activities (17%). This drug supply occurred at different levels, with some officers being involved in the commercial supply of illegal drugs and other officers supplying smaller quantities of drugs to friends. For example:

- Officer B2, who engaged in the commercial supply of illegal drugs, was arrested for drug supply following a covert operation conducted by NSW Police Internal Affairs. He was found to be in possession of a large quantity of ecstasy and methylamphetamine tablets, with an estimated street value over $40 000.[1684] Officer B2 pleaded guilty to four charges

1682 Source type is friend, friend/dealer or family member for 39% of cases – which accounts for over half of the officers for which information on drug source is available.

1683 The remaining 83% of the sample was made up of officers for whom no intelligence existed re drug supply or for whom some intelligence existed but not sufficient to draw a firm conclusion that they had in fact supplied illegal drugs.

1684 NSW Police, Facts Sheet (relating to criminal charges against officer B2), p. 3 (b/c 5538063).

of Supply Prohibited Drugs and was sentenced to a four-year custodial sentence, of which he served two years and was then released on parole. Officer B2 admitted in a PIC hearing that he had been dealing drugs to patrons of a Sydney nightclub who were not aware that he was a serving officer at the time.[1685]

- Officer Y3 admitted in a PIC hearing that she purchased illegal drugs from a dealer, who was also a personal friend she had known for years. Officer Y3 admitted that she sold some of these drugs to a friend, although she denies making a profit. Despite her claims that she did not profit from the deal, Officer Y3 admitted that her actions technically amounted to drug supply under the law.[1686]

Some officers have been identified as having engaged in drug 'rips', where drugs and/or money are stolen from drug dealers. In each of the cases below, the drug rips included instances of drug supply:

- Officer U3 admitted in a PIC hearing to being involved in a number of thefts, including one that netted over 2000 ecstasy pills. Officer U3's informant located a supplier and purchased the drugs with counterfeit money. Officer U3 and his accomplices then conducted a phoney arrest and seizure of the drugs. Officer U3's informant then sold the drugs and Officer U3 shared in the profits.[1687]
- Officer V1 pleaded guilty to supplying 1000 ecstasy pills and conspiring to steal $17 000 by staging a fake robbery. In facts tendered to the court it was revealed that Officer V1 and his accomplice arranged to sell the ecstasy pills to a drug supplier. They then hired a third person to steal the drugs and the cash while the deal was in progress. When interviewed by PIC investigators, Officer V1 claimed he had been 'taken over' by drugs and that his judgement had been clouded by his illegal drug use. He indicated that if he had not become personally involved in using illegal drugs, he would never have become involved in the supply of drugs.[1688]

3.12.2 Other misconduct

Over half of the officers from the case study sample were identified as having engaged in 'other' misconduct (59%). That is, misconduct other than illegal drug use or supply. The kinds of misconduct engaged in, together with the seriousness of that misconduct, varied greatly from officer to officer.

1685 Operation Abelia, PIC Transcript, Private hearing, APJ, 16 August 2004, pp. 10, 14-17.

1686 Operation Abelia, PIC Transcript, 6 November 2003, pp. 62-63.

1687 Operation Abelia, PIC Transcript, 20 February 2004, pp. 583-586.

1688 Court Attendance Notice (b/c 6631410, b/c 6631412, b/c 6631414); Operation Abelia, PIC Transcript of Record of Interview, 13 September 2004, pp. 9-10.

For less than one-quarter of the officers, there were no confirmed incidents of other misconduct in their complaints histories (20%). There was insufficient information to draw any conclusions for a further 21% of officers.[1689]

For those officers who did engage in other misconduct, over three-quarters engaged in misconduct that was serious in nature (77%). The kind of misconduct varied greatly and included offences such as obtain benefit by deception, receiving of stolen goods, fraud, misuse of office, provide unauthorised information, improper association, untruthfulness and serious assault.

Less serious misconduct engaged in by some officers included behaviour such as fail to take necessary/appropriate action, refuse/disobey direction, rudeness and lateness for rostered duty. Of course, some officers had adverse findings in their complaints history for both serious and minor misconduct.

In some cases, officers engaged in misconduct that was directly related to their illegal drug use. For example:

- An adverse finding was made against Officer H3 in relation to a physical assault upon her ex-partner, also a police officer. Information gathered during NSW Police inquiries indicated that Officer H3 committed the assault in retaliation when she discovered that her ex-partner had reported her drug use to Internal Affairs.[1690]
- Officer R3 was found to have driven under the influence of a drug, cannabis, when he returned to the police station to be drug tested following a critical incident. Officer R3 admitted to NSW Police investigators that he drove his private motor vehicle a considerable distance, after being instructed to return to the police station to undertake a mandatory drug test. Officer R3 had smoked cannabis at his home following the critical incident.[1691]
- A NSW Police investigation found Officer X1 to have driven under the influence of drugs, specifically cannabis and a prescribed restricted substance. Officer X1 came to police attention whilst off duty and driving her private motor vehicle. After receiving reports that Officer X1 had barely avoided a number of head-on collisions, police observed Officer X1 to repeatedly weave and swerve across the roadway in an erratic manner. Police stopped Officer X1 and detained her, having formed the belief that she was under the influence of a drug or drugs. A blood sample was taken from Officer X1 which proved to be positive for cannabis and a prescribed restricted substance (a benzodiazepine).[1692]

Some officers engaged in more than one form of misconduct that was not directly related to their drug use. For example:

1689 This remaining 21% of the sample was made up of officers for whom no information could be obtained re their complaints history (15%) and or for whom intelligence existed, but not sufficient to draw a firm conclusion that they had engaged in other misconduct (6%).

1690 NSW Police, Complaint Summary Report (b/c 5196576); NSW Police, CIS Complaint File (b/c 6639804 - b/c 6639806); Correspondence from NSW Police, Internal Affairs, to NSW Ombudsman (b/c 6364919).

1691 NSW Police, Commissioner's Confidence Submission, p. 2 (b/c 6347670).

1692 NSW Police, Facts Sheet (relating to criminal charges against officer X1), pp. 1-3 (b/c 6364972 - b/c 6364974); NSW Police, Investigator's Report, p. 1 (b/c 6364951).

- A NSW Police investigation report found that Officer N1 had an improper association with members of a gang involved in criminal activities, including activities relating to car re-birthing, firearms and drug supply. During her association with these individuals, Officer N1 illegally accessed the police computer system to obtain information regarding these persons, she failed to report the criminal activities she observed these persons engaging in and she lied to investigators by denying the improper association when interviewed.[1693]

Officers within the case study sample commonly engaged in the same kinds of misconduct as Officer N1, outlined above, namely:

- improperly accessing and/or disclosing information;
- improper association; and
- untruthfulness.

Further examples of officers who engaged in such misconduct include:

- Officer F2 admitted in a PIC hearing that he accessed the NSW Police computer system following his friend's arrest in relation to drug offences. Officer F2 admitted that he did not access the event for any legitimate work purpose. Officer F2 admitted that he was aware of his friend's involvement in illegal drug supply prior to the arrest and he had in fact used illegal drugs in the company of this friend. Officer F2 failed to declare this association to his supervisors when his friend was arrested and he did not report any of the information he had regarding his friend's illegal activities. Officer F2 stated that he would always put friendship 'before the job' and admitted that he had improperly accessed the NSW Police computer system in relation to another friend who had been arrested for drug offences.[1694]
- Following a NSW Police investigation, Officer C3 had an adverse finding made against him for revealing confidential police information to a civilian associate. This finding related to Officer C3 having provided a known criminal with information to assist him in his criminal enterprises. Officer C3 provided his civilian associate with information regarding an ongoing police investigation, including 'tip offs' as to when police were going to conduct searches on certain premises. It was revealed that Officer C3 had maintained a close friendship with this civilian for a number of years, despite this person's involvement in serious criminal activities. Officer C3 also had an adverse finding made against him for misusing the NSW Police computer system. Officer C3 accessed the computer system for the purpose of obtaining information to assist another civilian associate. This was done without authorisation or legitimate purpose.[1695]
- Officer N2 was found to have been untruthful regarding his knowledge of another individual's involvement in illegal drug activities. A NSW Police

1693 NSW Police, Investigator's Report (b/c 5840658 - b/c 5840682).

1694 Operation Abelia, PIC Transcript, 9 February 2004, pp. 237-238, 241-246, 253, 282-283, 288.

1695 NSW Police, Investigator's Report, pp. 1-7 (b/c 6336250 - b/c 6336256).

investigation found that Officer N2 had been untruthful when he denied having knowledge of a civilian associate's involvement in drug cultivation. Investigators formed the opinion that Officer N2 was lying, given that the cannabis plants were in plain view of any person who attended the property where the plants were being grown and Officer N2 had visited that property on a number of occasions.[1696]

- Officer G5 was found to have lied to NSW Police investigators when interviewed regarding his illegal drug use. The internal investigation found that Officer G5's denials conflicted with evidence that was obtained via telephone intercept, as well as a number of witness statements, that clearly indicated he was involved in illegal drug use. In addition to an adverse finding being made against Officer G5 for lying about his own illegal drug use, it was also found that officer G5 had lied when he denied knowledge of another officer's drug use.[1697]

Similar to Officer G5, a number of the officers in the case study sample had adverse findings made against them for untruthfulness when questioned in relation to their illegal drug use. While some types of misconduct, such as untruthfulness, were common amongst members of the case study sample, no comparative analysis has been conducted to determine if the rate of such misconduct is higher in the case study sample than the general NSW Police population.

A number of officers in the case study sample were involved in committing assaults and various forms of improper behaviour. For example:

- Officer G3 was off duty and driving a private motor vehicle when he was involved in an altercation with another driver. During a physical confrontation, Officer G3 caused injuries to the other driver as well as damage to that person's vehicle. Officer G3 left the scene and was a short time later involved in a second incident with another person, in which he also caused injuries to the other party during a physical confrontation. Officer G3 departed the scene of the second incident and was eventually arrested by police after a foot chase. Officer G3 was criminally charged and pleaded guilty to assault charges in relation to both incidents.[1698]
- Officer V3 had a sexual harassment complaint lodged against him in relation to making unwarranted comments and gestures to a female colleague. Several of the officer's colleagues had become concerned about his behaviour and a NSW Police internal investigation of his conduct found sufficient evidence to sustain the complaint. Officer V3 also had an adverse finding made against him in relation to breaching a Notice of Suspension. Officer V3 was suspended pending the investigation of his positive drug test result and he was directed not to attend the police station without the prior approval of his commander whilst on suspension. Later that day, Officer V3 was found in the police station without authorisation. Officer V3 was later interviewed regarding the incident and admitted to NSW Police investigators that he had

1696 NSW Police, Investigator's Report, pp. 31-35 (b/c 5662448 - b/c 5662452).

1697 NSW Police, Investigator's Report, pp. 1-3 (b/c 6637382 - b/c 6637384).

1698 NSW Police, C@ts.i , Complaint Details (b/c 6637390); NSW Police, Investigator's Report, pp. 1-2 (b/c 6316869 - b/c 6316870).

consumed alcohol prior to disobeying the direction and visiting the station.[1699]

- Following a NSW Police internal investigation, Officer A3 had an adverse finding made against him for improper behaviour as a result of behaving in a threatening manner towards Sheriff's officers after trying to enter a courthouse with a bayonet in his bag. Officer A3, who was off duty at the time, did not provide the Sheriff's officers with a reasonable explanation for his possession of the bayonet and he improperly produced his police identification during the incident.[1700]
- Officer A4 came to attention for verbally abusing and physically assaulting a marshal at a racing event after entering a restricted area of the racetrack. Following a NSW Police internal inquiry, an adverse finding was made against Officer A4 in relation to this incident. As a result of another NSW Police complaint investigation, Officer A4 also had an adverse finding made against him for being absent from duty in relation to having attended a social function with another officer, at a bowling club, whilst he was rostered on duty.[1701]

Some officers had been nominated for s.181D removal in relation to various kinds of misconduct, prior to coming to attention for illegal drug use. For example:

- Following NSW Police complaint investigations, Officer G3 had adverse findings made against him for misuse of the police Memo (e-mail) system and unlawful access of the RTA computer system. The misconduct in relation to the Memo system involved Officer G3 unlawfully accessing other officers' computers and sending memos under their login names. The misconduct in relation to the RTA computer system involved officer G3 accessing his own vehicle registration details after being told that he was being issued with infringement notices. Officer G3 was nominated for s.181D action in relation to these matters but ultimately was not removed from NSW Police.[1702]
- Officer N3 was nominated for Loss of Commissioner's Confidence under s.181D as a result of an identified pattern of assault and abuse allegations being recorded in his NSW Police complaint history. Inadequate evidence existed to sustain the nomination and the matter did not progress. However, Officer N3 was managerially counselled in relation to his obligations regarding the treatment of persons in police custody.[1703]

Thus it is clear that some officers who engage in illegal drug use also engage in other types of misconduct, whether it be serious or minor in nature. In some cases, there is a clear link between an officer's illegal drug use and other misconduct engaged in by that officer, while in other cases there is no apparent link. Although officers in the case study sample seemed to commonly engage in particular forms of misconduct (such as

1699 NSW Police, s.181D Nomination supporting papers, pp. 5-7 (b/c 6347449 - b/c 6347451).

1700 NSW Police, Investigator's Report, pp. 5-6 (b/c 6316033 - b/c 6316034).

1701 NSW Police, Attachment to s.181D Notice, p. 2 (b/c 6347681); NSW Police, CIS Complaint File (b/c 6637374 - b/c 6637376).

1702 NSW Police, CIS Complaint Files (b/c 6639807 - b/c 6639816).

1703 NSW Police, Strategic Assessment and Security Centre report (b/c 6316055).

improperly accessing and/or disclosing information), it appears that officers involved in illegal drug use will potentially engage in as wide a range of misconduct activities as other officers in the general police population who engage in such activities.

4. SUMMARY OF OBSERVATIONS

The information derived from the case study data shows that illegal drug use is not confined to any one particular subgroup of officers. Officers who use illegal drugs vary in age and rank, they have served in NSW Police for varying periods of time and they carry out different types of duties. Similarly, the reasons that officers give for using illegal drugs have been shown to differ widely, as do the circumstances under which they use illegal drugs. All of these observations suggest that NSW Police need to develop comprehensive and wide-reaching policies and procedures for dealing with the problem of illegal drug use by officers.

The case study analysis shows that some officers who engage in illegal drug use will use a variety of drugs, including drugs such as cocaine and ecstasy that are detectable in the user's system for a relatively short period of time. The methods used by some officers to avoid getting caught, particularly in relation to the deliberate timing of their drug use, indicates that some officers will consciously take steps to circumvent the measures put in place by NSW Police to minimise illegal drug use by officers. It is therefore clear that whatever measures are put in place to deal with this problem, mechanisms for deterring and detecting drug use by officers need to be reviewed and improved on an ongoing basis.

APPENDIX 6: ACKNOWLEDGEMENTS

The research supporting this report is based on consultations with a broad range of police practitioners within and outside Australia; researchers in the drug and alcohol, policing, criminology and anti-corruption fields; and policy makers and practitioners in other areas. The PIC also consulted with those working in relevant policy areas within NSW Police to better understand the interpretation and the implementation of the different NSW Police policies that have the potential to assist in minimising illegal drug use by officers.

Those who contributed to informing this report are listed alphabetically below in the following categories:

- Areas within NSW Police
- NSW Police Association
- Law enforcement agencies and oversight bodies - Australia
- Law enforcement agencies and oversight bodies – overseas
- Specialists, researchers and academics – Australia
- Specialists, researchers and academics – overseas.

The PIC acknowledges and thanks those who gave their time to informing this project. However, it should be noted that the assessments and conclusions reached and the recommendations made in this report are those of the PIC.

AREAS WITHIN NSW POLICE

NSW Police provided a range of policy, procedural, statistical information and related reports. In addition, people from the following areas were interviewed concerning the operation of relevant policies and procedures. Some individuals, in particular, provided frequent, thoughtful and timely assistance in answering what must have seemed like a never-ending stream of questions:

- Education Services (including Foundational Studies, Continuing Education, Recruitment Branch)
- Employee Management
- Health Services
- Human Resources
- Professional Standards
- Undercover Branch
- Workforce and Careers Directorate.

POLICE ASSOCIATION OF NSW

The Police Association of NSW supported Operation Abelia in a number of ways, including:

- sharing some of its research material with the PIC
- devoting one part of its Biennial Conference in May 2004 to a discussion of issues related to Operation Abelia (refer to Appendix 8 for further information), and
- organising and facilitating focus groups with officers from different locations to collect information about police perceptions about the problem and the effectiveness of current policies and practices (see Appendix 4).

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- **Ian Bate**, Consul (Police Liaison), Australian Federal Police, Los Angeles Office
- **Stephen Biggs**, Drug and Alcohol Policy Co-ordinator, Tasmanian Police
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- **Katherine Mann**, Senior Project Officer, Drug and Alcohol Co-ordination, Queensland Police Service
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- **Grant Moyle**, Detective Inspector, South Australia Police

1704 The position listed next to each name, in this and subsequent sections, was that held by the person at the time they provided assistance to this project and may no longer be their current position.

- **Tracy Murdoch**, Senior Analyst, WA Anti-Corruption Commission
- **Mark Neates**, Corporate Health and Fitness Advisor, Western Australia Police Academy
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- **Mark Haddon**, Detective Sergeant, Anti-Corruption Strategic Intelligence Desk, Metropolitan Police Service, UK
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- **Kevin Holloran**, Commanding Officer, Medical Division, New York City Police Department, USA
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- **Marco Vasquez**, Deputy Chief of Administration, Denver Police Department, Colorado USA
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- **Sharon Buckley**, General Manager, Coal Services Health
- **Judy Carlisle**, Occupational Health Nurse, Coal Services Health
- **Professor Janet Chan**, School of Social Science and Policy, University of NSW, Sydney
- **Professor MacDonald Christie**, Professor and Director of Basic Research, Pain Management Research Institute, Royal North Shore Hospital, and Senior Principal Research Fellow, Department of Pharmacology, (NH&MRC) University of Sydney
- **Grant Cook**, Queensland Mining Council
- **Group Captain Bob Cooper**, Director, Military Personnel Policy, Department of Defence
- **John Dawes,** Project Manager, Health Standards, Safety Division, RailCorp
- **Barry Dove**, Senior Human Resources Policy Adviser, Queensland Rail
- **Associate Professor Olaf Drummer**, Head of Scientific Services at the Victorian Institute of Forensic Medicine (VIFM) and Associate Professor at the Department of Forensic Medicine, Monash University
- **Dr Cameron Duff**, Coordinator of Research, The Centre for Youth Drug Studies, Australian Drug Foundation
- **Bruce Flaherty**, Principal Policy Officer (Drug Crime Diversion), Crime Prevention Division, NSW Attorney-General's Department
- **Kathryn Heiler**, Senior Researcher Australian Centre for Industrial Relations Research and Training, on secondment to the Construction, Forestry, Mining and Energy Union (CFMEU) as National Policy Advisor for Mining and Energy
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- **Bill Isles**, Manager, Occupational Health Services, Qantas

- **Dr Ray Kazlauskas**, Director Australian Sports Drug Testing Laboratory, Sydney
- **Dr John Lewis**, Head and Principal Scientist, Toxicology Unit, Pacific Laboratory Medicine Services, Macquarie Hospital Campus
- **Associate Professor Christopher Liddle**, Director, Drugs and Toxicology Laboratory, Institute of Clinical Pathology and Medical Research, Western Sydney Area Health Service, Westmead
- **Bronwyn Lind**, Deputy Director, NSW Bureau of Crime Statistics and Research
- **Dr Hugh Mackay**, Chairman of the Diploma of Policing Practice (DPP) Board of Management, and social researcher
- **Professor Richard Mattick**, Director, National Drug and Alcohol Research Centre, Sydney
- **Dr Richard Midford**, Senior Research Fellow, National Drug Research Institute, Curtin University, Perth
- **Wing Commander Bob Nilsson**, Defence Personnel Executive, Department of Defence
- **Marian O'Connell**, Manager, Professional Standards and Conduct Unit, Ambulance Service of NSW
- **Squadron Leader Anne O'Leary**, Department of Defence
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- **Dr Judith Perl**, Pharmacologist, Clinical Forensic Medicine, NSW Police
- **Anton Podder**, Senior Policy Officer, Crime Prevention Division, NSW Attorney-General's Department
- **Dr Tim Prenzler**, Head, School of Criminology and Criminal Justice, Griffith University, Brisbane
- **Trevor Sharp**, Project Co-ordinator, Building Trades Group, Drug and Alcohol Committee
- **Peter Simpson**, Consultant, Boylan, Simpson & Simpson Corporate Psychology Services Pty Ltd, West Perth
- **Associate Professor Graham Starmer**, Honorary Associate Professor, Department of Pharmacology, University of Sydney
- **Julian Thompson**, Civil Aviation Safety Authority (CASA), Safety and Development
- **Dr Don Weatherburn**, Director, NSW Bureau of Crime Statistics and Research
- **Dr Wendy Wickes**, Senior Medical Officer, Amphetamine Use Disorders Research Group, Drug and Alcohol Services Council, Government of South Australia

- **Julie Wills**, Manager Health & Safety Strategy, State Rail
- **Dr Alex Wodak**, Director Alcohol and Drug Service, St Vincent's Hospital, Darlinghurst
- **Justice James Wood**, Chief Judge of the Common Law Division of the NSW Supreme Court

SPECIALISTS, RESEARCHERS AND ACADEMICS – OVERSEAS

- **Professor Margaret Beare**, Director, Nathanson Centre for the Study of Organized Crime and Corruption, Ontario, Canada
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- **Dr David Carter**, School of Criminal Justice, Michigan State University, USA
- **Professor Alan Doig,** Professor of Fraud Management, Teesside Business School, University of Teesside, UK
- **Dr Nicholas Dorn**, Research Fellow, School of Social Sciences, University of Cardiff, UK
- **Professor Benoit Dupont**, International Centre for Comparative Criminology, University of Montreal, Canada
- **Professor James Fyfe**, Temple University Centre for Public Policy, Department of Criminal Justice, Temple University; and Deputy Commissioner of Training, New York Police Department, USA
- **Larry Gaines**, former executive director of the Kentucky Chiefs of Police Association and a police research consultant, USA
- **Fredrik Galtung**, TIRI, The Governance Access Learning Network, UK
- **Professor Leo Huberts**, Police Studies and Criminal Justice, Faculty of Social Sciences, Department of Public Administration and Communication Science, Vrije Universiteit, Amsterdam, Netherlands
- **Terry Lamboo**, Vrije Universiteit, Amsterdam, Netherlands
- **Professor Michael Levi**, Professor of Criminology, Cardiff University, UK
- **Joseph McNamara**, Research Fellow, Hoover Institution, Stanford University, USA
- **Professor Jon Quah**, Department of Political Science, National University of Singapore
- **Professor Bruno Wilhelm Speck**, Cientista Politico, Universidade Estadual de Campinas, Brasil
- **Czeslaw Walek**, Project Manager, Transparency International, Czech Republic
- **Professor David Wilson**, Centre for Criminal Justice Policy and Research, Department; University of Central England, UK

APPENDIX 7: ROUND TABLE DISCUSSIONS

The PIC organised and chaired a series of round table discussions in April and May 2004. The purpose of these round table discussions was to provide a formal forum for consultation and discussion between the PIC and NSW Police, the Police Association of NSW, the Ministry for Police and NSW Ombudsman on some of the matters likely to be the subject of assessment, and possibly recommendations, by the PIC in the Operation Abelia Report.

Round table discussions were held on the following topics:

- Round Table 1: Workplace drug testing
  - i. Detecting drug use through targeted drug tests, 7 April 2004
  - ii. Deterring drug use: Using workplace drug testing, 21 April 2004
  - iii. Drug testing following critical incidents, 22 April 2004
- Round Table 2: Critical incident testing (Expert Participation), 6 May 2004
- Round Table 3: Students, 11 May 2004
- Round Table 4: Recruitment, 12 May 2004
- Round Table 5: Supporting and equipping sworn officers and supervisors, 4 May 2004

The process for each of the round table discussions (with the exception of the Expert Participation in Round Table 2) involved:

- the PIC preparing and pre-circulating a briefing paper to inform the discussion. These briefing papers summarised relevant current NSW Police policies, the published literature about this topic, any relevant comments from the local area commander interviews and information about how other law enforcement agencies tackle these issues. Each briefing paper also provided a list of issues for discussion. They were provided to stimulate discussion and invite participants to express their views on these topics
- NSW Police, the Police Association of NSW and the NSW Ombudsman each provided written responses to the issues raised in the briefing paper. These responses were circulated amongst the agencies prior to the day of the discussion
- on the day of the round table each of the questions was discussed with each of the agencies being able to add (briefly) to their written response as well as able to comment on the other agencies' responses
- minutes summarising the discussion were prepared and disseminated.

The process for Round Table 2 was slightly different. The central purpose of this round table was to hear from four experts in the drug testing field to determine:

a. What is the most important information to collect when drug testing police officers following a critical incident to address the needs of the three main stakeholders - Commissioner of Police on behalf of NSW Police; The Coroner on behalf of the deceased or injured, relatives of the deceased or injured and the community at large (in the case of fatalities); and the officer(s) involved in the incident.

and

b. Given current available technology, what is the best way of collecting this information and what are the limitations of the information and the technology?

The experts who participated in this round table were:

- Professor MacDonald Christie - Director of Basic Research, Pain Management Research Institute, Royal North Shore Hospital, and Senior Principal Research Fellow, Department of Pharmacology, (NH&MRC) University of Sydney
- Dr John Lewis - Head and Principal Scientist, Toxicology Unit, Pacific Laboratory Medicine Services, Macquarie Hospital Campus
- Associate Professor Christopher Liddle - Director, Drugs and Toxicology Laboratory, Institute of Clinical Pathology and Medical Research, Western Sydney Area Health Service, Westmead
- Associate Professor Graham Starmer - Honorary Associate Professor, Department of Pharmacology, University of Sydney

A full transcript was made of the discussion from this round table.

PARTICIPANTS[1705]

In addition to the experts listed above, the following people represented their agencies during one or more of the Operation Abelia round table discussions.

NSW POLICE

Acting Assistant Commissioner John Carroll, Commander Professional Standards

Gary Jackel, Director Health Services

Di Elphinstone, Manager External Agencies Response Unit

Chief Superintendent Garry Dobson, Director Education Services

Superintendent Tony McWhirter, Acting Director Foundational Studies

1705 The position associated with each name was the position held by that person at the time they participated in the round table discussion(s) and may no longer be their current position.

Superintendent John Sweeney, Local Area Commander, Harbourside

Superintendent Paul Carey, Local Area Commander, City Central

Inspector Max Wallace, Acting Manager Employee Management Branch

Inspector Joe Mey, Manager Recruitment Branch

MINISTRY FOR POLICE

Emma Ashton, Principal Policy Officer

David Hunt, Policy Manager

POLICE ASSOCIATION OF NSW

Greg Chilvers, Director of Research for the Police Association on NSW

Ian Ball, President of the Police Association of NSW

Ted Bassingthwaighte

Andrew McCoullough

NSW OMBUDSMAN

Simon Cohen, Acting Assistant Ombudsman

Peter Burford, Senior Investigations Officer

POLICE INTEGRITY COMMISSION

Mervyn Finlay QC, Assistant Commissioner

Allan Kearney, Director Intelligence and Executive Services

Michelle O'Brien, Senior Operational Lawyer

Angela Gorta, Principal Analyst

Leisl Nelson, Research and Legal Clerk

APPENDIX 8: POLICE ASSOCIATION OF NSW BIENNIAL CONFERENCE DISCUSSION GROUPS

The Police Association of NSW (PANSW) held its Biennial Conference in Wollongong in the last week of May 2004. The PANSW devoted one part of its conference program to a discussion of Operation Abelia. Following a presentation about Operation Abelia by a PIC representative, the approximately 130 delegates were divided into twelve discussion groups. These discussion groups were asked to address the following two questions:

1. What are the *top two issues* that must be addressed to reduce the problems of illicit drug use in NSW Police?
2. What does the group see as the *best immediate and practical strategy* that delegates could adopt in order to reduce the problem of illicit drug use by police?

Following the discussion groups, a spokesperson from each group reported on the discussion held within their group to the assembled delegates. The PANSW provided the PIC with the summary responses from each of the discussion groups.

These summary responses from the twelve discussion groups to the two questions, as provided by the PANSW, are collated below. In addition to answering the two questions, a number of groups expressed their concerns about possible recommendations that might result from Operation Abelia. These concerns are also collated in this appendix.

TOP TWO ISSUES TO BE ADDRESSED

The PIC grouped the delegates' responses to the question of '*What are the* top two issues *that must be addressed to reduce the problems of illicit drug use in the NSW Police?'*, into the following five categories:

- drug testing
- education
- recruitment and students
- obtaining more information about the problem, and
- other.

DRUG TESTING

> Expand targeted drug testing on the basis of an issued warrant under the hand of a judge with any application supported by affidavit. This warrant may be executed at the person's home, public place or workplace, whether on or off duty.

Increasing drug testing to include 'off-duty' recalls. On the provision that it only relates to targeted drug testing on intelligence based information and must be by virtue of an instrument sworn before an Authorised Justice.

Drug testing.

Deterrents such as continued random drug testing.

An effective drug testing policy backed up by an awareness campaign with case studies showing the effectiveness of the testing program.

EDUCATION

Rehabilitation and education programs.

Ongoing education program directed to recruits and sworn members. Must include:

- Integrity issues
- Health issues
- Impact on Occupational Health and Safety
- Inappropriate association with criminals
- Reinforcement of the Oath of Office.

Education and raising awareness regarding: dangers of drug use; reasons why drug use causes conflict with police obligations. Suggest that the education could even utilise police who have been caught, recommending to others not to do it. It could also use police peers sending a message that they don't accept or approve of drug use.

Education. The introduction of a suitable Education Program at the time of entry into NSW Police, then through each stage of the Officer's career. This Program is to have a suitable Welfare component to assist those Police caught up in illicit drug use.

Education.

Improvements to the initial recruitment process and ongoing education.

An effective drug testing policy backed up by an awareness campaign with case studies showing the effectiveness of the testing program.

RECRUITMENT AND STUDENTS

Recruiting and training. The group believes that current recruiting practices and training clearly allow for the recruitment of people inclined to use illegal drugs. The practices of the past seemed to delve deeper into people's family environments and keep prospective employees under closer scrutiny during training.

There should be a more rigorous screening and testing process for recruits. Drug testing prior to and during college phase. If our training procedures need to be changed so be it.

Higher level scrutiny of applicants. Background checks, pre-employment interviews.

Recruitment process. The re-introduction of background checks at time of application into the NSW Police. This includes interviewing friends and neighbours into the character of the applicant. Also the reintroduction of the selection interview prior to entry into NSW Police.

Expand current drug testing policy to include applicants and students at Police College. All applicants accepted should undertake to submit to a mandatory drug test on admission and to be randomly subjected to drug testing during training. This strategy reinforces a culture that this conduct will not be tolerated.

Ongoing screening/ testing starting at the recruitment stage/academy.

Improvements to the initial recruitment process and ongoing education.

Tightening up recruitment processes including background checks and interview panels.

OBTAINING MORE INFORMATION ABOUT THE PROBLEM

Gain more information regarding demographics of typical users, and then conduct some targeted testing on other members of the demographic. Wanted more information on the demographics to identify risk factors.

OTHER

Reinforce positive peer group, no tolerance.

Difficulty in identifying colleagues who may be using drugs.

Inequity between public perceptions of drug use in the community versus severity with which drug use by police employees is viewed. It is hard to convince younger police of the wrongs of drug use when his or her own life experience is vastly different.

Police perception – the perception of police of the illegality of drug use, the social relationship of drug use and the effects of drug use.

Management – the way that management approaches the issue of drugs. Aligning themselves with the PIC program and not Employee Management programs. Concentrating on figures and statistics and not staff.

BEST IMMEDIATE AND PRACTICAL STRATEGY THAT DELEGATES COULD ADOPT

The PIC has grouped the delegates' responses to the question of *What does the group see as the* best immediate and practical strategy *that delegates could adopt in order to reduce the problem of illicit drug use by police*, into the following seven categories:

- messages to be given by the PANSW
- recruitment and students
- amnesty and rehabilitation
- education
- obtaining more information about the problem
- drug testing, and
- other.

MESSAGES TO BE GIVEN BY PANSW

Delegates should be immediately active in promoting the unacceptability of illicit/illegal drug use within the Police force. Delegates should do this by raising the issue at a Branch level and tasked with identifying local strategies to aid in the achievement of this objective. A circular should be disseminated by the Association re-iterating the position that illicit drug taking by our members will not be tolerated.

Zero tolerance and dismissal.

Indicate to members that if they are caught the ramifications if assistance from the PANSW is not forthcoming, e.g., cost to them – give examples of previous instances involving members.

Reinforce Association stance on illegal drug use by a combination of direct contact with Branches via Branch Officials, an Association Circular and an article/editorial in the Police News.

Reinforce the current illicit drug policy to reflect the positive police culture of zero tolerance to illicit drug use.

RECRUITMENT AND STUDENTS

Parental and family interviews included as part of recruitment.

Screen/test before attestation from academy. Random or target.

Possible use of drug detection dogs at the Academy.

The PANSW support the mandatory testing of all recruits upon application for professional suitability to join NSW Police, and then randomly at any time while attached to the College.

AMNESTY AND REHABILITATION

Education programs about amnesty and rehab programs.

To promote the current amnesty amongst members.

Keep members informed of any amnesty provisions.

Ensure the availability of **confidential** rehabilitation – developed on world's best practice.

Always ensure that rehab is the first course of action when a problem is identified. MEMBER WELFARE IS PARAMOUNT.

Education and a declared amnesty period. There should also be support mechanisms in place for any officer who comes forward. The group generally agreed that the current testing procedures are sufficient.

Promote programs such as the current Amnesty.

EDUCATION

Education programs about amnesty and rehab programs.

Build awareness by education through OH&S training and Branch Focus. Have links from the intranet to the PANSW homepage.

Education and a declared amnesty period. There should also be support mechanisms in place for any officer who comes forward. The group generally agreed that the current testing procedures are sufficient.

Education and practical strategies: if there is a specific age group/social group etc direct education specifically at this group; education of commanders and supervisors.

OBTAINING MORE INFORMATION ABOUT THE PROBLEM

Be aware of causes of substance abuse, i.e. stress, critical incidents, pain management etc.

Gain more information regarding demographics of typical users, and then conduct some targeted testing on other members of the demographic. Wanted more information on the demographics to identify risk factors.

DRUG TESTING

The NSWPA support the introduction of targeted and random drug testing anytime whilst at the workplace only.

Explore technology available for improved and less invasive testing.

Exploring technology – is there in existence testing for drugs for weeks after (not the current 4 day period after drug use)? There may be no need for out of work testing.

One group took a vote about testing outside of work hours (not at home, payment): 5 of this group were in favour, 2 were against and 3 abstained wanting more information.

OTHER

Drug squad/LACs need increase in staff to address drug problems at street level.

Ensure fair process.

Assistance through policy development in conjunction with the NSW Police Healthy Lifestyles Branch and assist in selection of personnel involved in any random or targeted tests (including psychological testing).

CONCERNS

In addition to responding to the questions some of the discussion groups expressed their concerns about potential recommendations arising from Operation Abelia. These concerns are summarised below under the following three categories:

- drug testing
- amnesty, and
- other.

CONCERNS REGARDING DRUG TESTING

No system should allow the process of targeted testing to be an alterative punitive method of harassing officers.

Testing at home when off duty - what compensation if any?

Will you be recalled to work?

Cost factors of testing.

Unsworn staff not being tested.

Target testing should be told why, who may have been the complainant.

CONCERNS REGARDING AMNESTY

If you come forward will it be used against you?

OTHER

Government should clean up their own backyard first.

Civil liberties.

Concerned that the problem appears to be small and notes that there are currently mechanisms in place to deal with illicit drug use by Police and want to be sure the issue is looked at under a magnifying glass and not a microscope.

Any serious measures affecting the wider membership such as changing rosters, home visits, recalls, etc., would not be tolerated unless there was evidence that the problem was widespread. This group thought that the majority of members should not be punished for a problem that only affects a small group.

The PIC would like to thank the Police Association of NSW for allocating a section of its conference program to the discussion of Operation Abelia and to thank the conference delegates for their thoughtful contributions.

APPENDIX 9: SELECTED ILLEGAL DRUGS – BASIC INFORMATION

Within the body of this report reference is made to a variety of illegal drugs. While the PIC does not have expertise in the area of the pharmacological effects of illegal drugs, the PIC has prepared this appendix as a resource for readers interested in basic information about the type of drugs referred to in the report.

This appendix brings together information from a number of publicly available sources to document the history and the effects of selected illegal drugs. Separate sections are included for:

- Amphetamines
- Cannabis
- Cocaine
- Ecstasy
- GHB (Gamma-hydroxybutrate)
- Ketamine, and
- Steroids.

For each of these drug types, a summary is provided of the available information on:

- drug classification
- other names for the drug
- forms of the drug
- a brief description of the drug and its history
- effects:
  - both short-term and long-term
  - coming down
  - effects on driving
  - time of onset of effects and duration of effects, and
- other relevant information.

AMPHETAMINES

DRUG CLASSIFICATION:

Stimulant.[1706] Psychostimulant.[1707]

ALSO CALLED:

Speed, go-ee, whiz, uppers, dexies, buzz, rev, crystal, meth, crystal meth, base, pure, shabu, ox blood, ice, up, fast, louee, goey, pep pills.[1708]

FORMS:

There are at least three forms of methamphetamine available in Sydney that are considered by the market to be distinct commodities:

- methamphetamine powder ('speed')
- base methamphetamine ('base'), and
- crystalline methamphetamine ('ice'/ 'shabu'/'crystal meth').

Base and ice are more potent forms of methamphetamine than speed.[1709]

No matter what form it comes in, almost all the speed available in Australia today is methamphetamine. Methamphetamine is slightly different in chemical terms to amphetamine, but the two have very similar effects. Although the availability and use of crystalline forms of methamphetamine are increasing, most of the speed available in Australia these days still comes in the form of powder.[1710]

A LITTLE ABOUT THE DRUG:

The term 'amphetamine' refers to a whole family of synthetic drugs that are all chemically related to amphetamine and have pretty similar effects. Stimulants increase the activity of the central nervous system and produce effects similar to the body's naturally occurring hormone, adrenalin.[1711] They speed up the messages going to and from the brain to the body.[1712]

1706 Australian Bureau of Statistics, *Australian standard classification of drugs of concern*. Canberra: Australian Bureau of Statistics, July 2000; National Drug and Alcohol Research Centre, Amphetamines. *NDARC fact sheet*, undated.

1707 Australian Drug Foundation, *Amphetamines,* 2003. (Downloaded 6/6/2003.)

1708 Australian Drug Foundation, Amphetamines, 2003. (Downloaded 6/6/2003); National Drug and Alcohol Research Centre, Amphetamines. NDARC fact sheet, undated.

1709 L. Topp, L. Degenhardt, S. Kaye & S. Darke, The emergence of potent forms of methamphetamine in Sydney, Australia: A case study of the IDRS as a strategic early warning system. In *National Drug and Alcohol Research Centre, CentreLines, March 2003*, p. 5.

1710 National Drug and Alcohol Research Centre, Amphetamines. *NDARC fact sheet*, undated.

1711 National Drug and Alcohol Research Centre, Amphetamines. *NDARC fact sheet*, undated.

1712 Australian Drug Foundation, Amphetamines. (Downloaded 6/6/2003.)

HISTORY:

Amphetamine was originally synthesised for medical purposes and was first used in the 1920s as a decongestant and to treat obesity and depression.[1713] Amphetamines have been used to treat hyperactivity in children, narcolepsy (uncontrollable sleeping fits) and obesity.[1714]

It was only when the medical profession began noticing links between heavy amphetamine use and an increase in paranoid psychoses (and to a lesser extent violence) that questions were raised about the advisability of prescribing amphetamines in a relatively unregulated way.[1715]

EFFECTS[1716]:

Short-term effects

- euphoria and well-being; increased energy and hyperactivity; talkativeness; reduction of appetite; dry mouth; increased blood pressure and heart rate; nausea[1717]
- irritability – some users become anxious, irritable, hostile and aggressive; sometimes people feel a sense of power and superiority over others[1718]
- blurred vision; trembling; suspiciousness; delusions; palpitations; unusual perceptions such as a sensation of insects crawling on the skin; impaired breathing; loss of muscle tone[1719]
- acute toxicity; palpitations, hypertension; rare - strokes or cardiac problems[1720]

Long-term effects

- sleep problems; extreme mood swings; compulsive repetition of actions; paranoia; depression and anxiety; panic attacks; seizures; social and financial problems; amphetamine-induced psychosis or 'speed psychosis' with symptoms similar to paranoid schizophrenia possibly

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1713 National Drug and Alcohol Research Centre, Amphetamines. *NDARC fact sheet,* undated.

1714 United Nations Office on Drugs and Crime, Amphetamine-type stimulants. *United Nations Office on Drugs and Crime Fact Sheets,* 2000.

1715 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 31.

1716 The effects of any drug (including amphetamines) vary from person to person. It depends on many factors including an individual's size, weight and health, how much and how the drug is taken, whether the person is used to taking it and whether other drugs are taken. It also depends on the environment in which the drug is used - for example, whether the person is alone, with others, or at a party (Australian Drug Foundation 2003).

1717 National Drug and Alcohol Research Centre, Amphetamines. *NDARC fact sheet,* undated.

1718 Australian Drug Foundation, *Amphetamines,* 2003. (Downloaded 6/6/2003).

1719 Health-Center (Undated) Effects of amphetamines, accessed 2 May 2003 <http://www2.health-center.com/mentalhealth/substanceabue/amphetamines/ampheffects>.

1720 V. Munir, An Emergency Department perspective on the hazards of party drugs. Paper given at the Victorian Alcohol and Drug Association (VAADA) symposium on Youth Party Drugs in Victoria – Beyond 'e': Exploring the impact of party drugs on current day youth and culture, Melbourne, 23 June 2003.

including hallucinations, paranoid delusions and uncontrolled violent behaviour[1721]

- malnutrition; less resistance to infections; violence – heavy amphetamine users may suddenly become violent for no apparent reason[1722]
- chest pains; abnormal heart rhythms; ulcers; coma; heart failure[1723]
- paranoia, anxiety, depression; withdrawal syndrome; psychosis; hypertension; complications of intravenous drug use[1724]

The short- and long-term effects of all forms of methamphetamine - whether it is ice, base or normal speed - are the same. The only difference is that, because ice is such a strong form of methamphetamine, all the effects and side-effects will be (1) more likely to happen; and (2) more intense than for normal speed.[1725]

Most amphetamines sold illegally contain a mixture of pure amphetamines and other substances such as sugar, glucose, bi-carb soda, and ephedrine. These additives can be very poisonous. They can cause collapsed veins, tetanus, abscesses, and damage to the heart, lungs, liver and brain. And because the user doesn't know whether they are using 5 per cent or 50 per cent pure amphetamines, it is very easy to accidentally overdose.[1726]

Coming down

As the effects of speed wear off, a person may experience a range of problems including: uncontrolled violence; tension; radical mood swings; depression; total exhaustion.[1727]

Effects on driving

Hunter et al (1998) found a paucity of research evidence concerning the impact of stimulants on driving performance. They found no research on either actual driving or driving simulators, but found laboratory research with equivocal results concerning the impact of stimulants on driving. They cited Hurst (1976, 1987) who found that amphetamines enhanced driving related performance, particularly in fatigued subjects and in simple repetitive tasks as opposed to complex ones. However, Hunter et al also found risk taking and skill over-estimation to be features of the effects of stimulants.[1728]

1721 National Drug and Alcohol Research Centre, Amphetamines. *NDARC fact sheet,* undated.

1722 Australian Drug Foundation, *Amphetamines,* 2003. (Downloaded 6/6/2003).

1723 Health-Center (undated) Effects of amphetamines, accessed 2 May 2003, <http://www2.health-center.com/mentalhealth/substanceabue/amphetamines/ampheffects>.

1724 V. Munir, An Emergency Department perspective on the hazards of party drugs. *Paper given at the Victorian Alcohol and Drug Association (VAADA) symposium on Youth Party Drugs in Victoria – Beyond 'e': Exploring the impact of party drugs on current day youth and culture, Melbourne, 23 June 2003.*

1725 National Drug and Alcohol Research Centre, Ice. *NDARC fact sheet,* undated.

1726 Australian Drug Foundation, *Amphetamines,* 2003. (Downloaded 6/6/2003.)

1727 Australian Drug Foundation, *Amphetamines,* 2003. (Downloaded 6/6/2003.)

1728 Australasian Centre for Policing Research, Kerbside testing for drugs other than alcohol. *Commissioners' Drug Committee, Australasian Centre for Policing Research,* January 2001, p. 2.

Onset and duration

The effects of amphetamines can last for six to eight hours, depending on factors such as a person's size and weight, the quality, purity and amount taken, the route of administration, and the person's mood or experience with the drug. Environmental influences such as the person's surroundings can also influence the level of effect.[1729]

OTHER:

People use amphetamines for different reasons. Some use the drugs to get 'high' and dance all night. Others use the drugs to help stay awake for long periods of time, to improve performance in sport or at work, or to boost self-confidence. Amphetamines can reduce tiredness and increase endurance.[1730]

Although in theory, anyone who makes methamphetamine in Australia could produce ice, really pure crystalline ice is not made here, simply because the manufacturers don't have the expertise necessary to make it. What is made here is either normal speed powder (amphetamine) or something that is often called 'base'.[1731]

Sometimes people who make or sell speed in Australia will call their product 'ice' or 'shabu' to make it more attractive to buyers so they can charge a higher price. This only leads to confusion among users as to what they have actually bought.[1732]

1729 ADF 2002 cited by Australian Crime Commission, *Australian illicit drug report*. Canberra: Australian Crime Commission, March 2003, p. 46

1730 Australian Drug Foundation, *Amphetamines,* 2003. (Downloaded 6/6/2003.)

1731 National Drug and Alcohol Research Centre, Ice. *NDARC fact sheet,* undated.

1732 National Drug and Alcohol Research Centre, Ice. *NDARC fact sheet,* undated.

CANNABIS

DRUG CLASSIFICATION:

Cannabinoids.[1733]

ALSO CALLED:

Grass, Pot, Hash, Weed, Reefer, Dope, Herb, Mull, Buddha, Ganja, Joint, Stick, Buckets, Cones.[1734]

Marijuana, Mary Jane, hooch, weed, brew, smoke, hydro, yarndi, heads and green.[1735]

FORMS:

Marijuana – is the most common and least powerful form of cannabis. Marijuana is smoked in hand-rolled cigarettes (joints) or in a pipe (a bong).

Hashish (hash) – is small blocks of dried cannabis resin. Hash is added to tobacco and smoked, or baked and eaten in foods such as hash cookies.

Hash oil - is a thick oily liquid, golden-brown to black, that can be extracted from hashish. It is usually spread on the tip or paper of cigarettes and then smoked. Hash oil is more powerful than the other forms of cannabis.[1736]

A LITTLE ABOUT THE DRUG:

Cannabis is derived from the cannabis plant (*cannabis sativa*). It grows wild in many of the tropical and temperate areas of the world. It can be grown in almost any climate, and is increasingly cultivated by means of indoors hydroponic technology.[1737] The psychoactive chemical components of cannabis are called cannabinoids. Of the 61 cannabinoids present in the cannabis plant, the most powerful (containing hallucinogenic properties) is delta-9-tetrahydocannabinol, more commonly known as THC. This cannabinoid is concentrated in the flowering heads of the plants, with lower levels found in the leaves.[1738]

HISTORY:

The cannabis plant has been used both medicinally and recreationally for thousands of years. It wasn't until the early 19th century that the use of cannabis spread from China and the Middle East to the population of Europe and then to America in the middle of

1733 Australian Bureau of Statistics, *Australian standard classification of drugs of concern*. Canberra: Australian Bureau of Statistics, July 2000.

1734 Australian Drug Foundation, Cannabis, How Drugs Affect You, September 2002.

1735 National Drug and Alcohol Research Centre, Cannabis. *NDARC fact sheet*, undated.

1736 Australian Drug Foundation, Cannabis, How Drugs Affect You, September 2002.

1737 National Drug and Alcohol Research Centre, Cannabis. *NDARC fact sheet*, undated.

1738 Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 33.

the century. Cannabis was made illegal in the USA in 1937 and has continued to be a popular recreational substance since that time.[1739]

EFFECTS:

Short-term effects

- feeling of well-being; talkativeness; drowsiness; loss of inhibitions; decreased nausea; increased appetite; loss of co-ordination; bloodshot eyes; dryness of the eyes, mouth and throat; anxiety and paranoia[1740]

Long-term effects

There is limited research on the long-term effects of cannabis. On the available evidence, the major probable adverse effects are:

- increased risk of respiratory diseases associated with smoking, including cancer; dependence; decreased memory and learning abilities; decreased motivation in areas such as study, work or concentration[1741]

There is little evidence to support the claim that cannabis causes mental illness. However, it is believed that cannabis may be an effective 'key' to unlock pre-existing mental illnesses in those who are susceptible.[1742]

Coming down

Most people do not experience signs of physical addiction, but with regular daily use, mild to medium withdrawal symptoms usually occur for less than a week, but can extend for as long as six weeks.[1743]

Effects on driving

Less coordination – Cannabis decreases coordination and balance making it dangerous to drive or operate machinery.[1744]

Cannabis, particularly in combination with alcohol, will greatly increase the risk of having an accident. Cannabis and alcohol can significantly reduce the ability to drive safely. Effects such as reduced coordination, slow reaction time, blurred vision and drowsiness all impact on driving ability. These effects can last several hours and appear to vary according to quantity, quality and content.[1745]

1739 The Vaults of Erowid, accessed 7 February 2005, <www.erowid.org/plants/cannabis>.

1740 National Drug and Alcohol Research Centre, Cannabis. *NDARC fact sheet*, undated.

1741 National Drug and Alcohol Research Centre, Cannabis. *NDARC fact sheet*, undated.

1742 National Drug and Alcohol Research Centre, Cannabis. *NDARC fact sheet*, undated.

1743 The Vaults of Erowid, accessed 7 February 2005, <www.erowid.org/plants/cannabis>.

1744 National Drug and Alcohol Research Centre, Cannabis. *NDARC fact sheet*, undated.

1745 National Drug and Alcohol Research Centre, Cannabis. *NDARC fact sheet*, undated.

There is no doubt that cannabis exerts a deleterious effect on motor skills and reaction time (Chessher, Dauncey, Crawford & Horn 1986) and that on-road driving performance is impaired for up to one hour after smoking cannabis (Smiley 1999).[1746]

Cannabis has been found to produce dose dependent impairments in performance in laboratory tests. In other words, the higher the dosage the greater the impairment. In laboratory tests, subjects who had consumed cannabis seemed to favour accuracy over speed, and engaged in a slower and more careful approach to the tests. In driving simulator and actual driving tests, subjects had significant dose related reductions in their ability to control their vehicles. These included increased lane position variability, increased reaction time to peripheral stimuli as well as adverse impacts on decision making and obstacle avoidance. As with the laboratory tests, however, subjects under the influence of cannabis (unlike subjects under the influence of alcohol) seemed to compensate for their impairment to some extent, by driving more slowly and cautiously and at an increased distance from the car in front.[1747]

Onset and duration

When smoked, the effects of cannabis begin almost immediately. When eaten the effects can take 1 to 2 hours to manifest, based primarily on how much food is in the stomach. The effects of smoked cannabis peak after about 20 minutes and last for 1-2 hours. When eaten, the effects will peak more slowly and primary effects may last for 3-4 hours.[1748]

OTHER:

Cannabis has been used medicinally for many centuries. There is evidence to suggest it is useful in providing relief to cancer patients from nausea and vomiting caused by chemotherapy. Researchers now believe cannabis is worthy of further investigation in the treatment of glaucoma, nausea, anorexia nervosa, epilepsy and asthma.[1749]

Cannabis is the most widely used illicit drug in Australia.

1746 C. Jones & D. Weatherburn, Reducing cannabis consumption. *NSW Bureau of Crime Statistics and Research, Crime and Justice Bulletin Number 60*, November 2001, p. 1.

1747 Australasian Centre for Policing Research, Kerbside testing for drugs other than alcohol. *Commissioners' Drug Committee, Australasian Centre for Policing Research,* January 2001, p. 2.

1748 The Vaults of Erowid, accessed 7 February 2005, <www.erowid.org/plants/cannabis>.

1749 Australian Drug Foundation, Cannabis, How Drugs Affect You, September 2002.

COCAINE

DRUG CLASSIFICATION:

Other stimulants and hallucinogens[1750]

ALSO CALLED:

Coke, Charlie, Snow, blow, toot, C, crack, cola, nose candy and white dust.[1751]

Flake, white lady, rock, freebase.[1752]

FORMS:

'Crack' is a very pure form of freebase cocaine sold in the form of small crystals or rocks.[1753] There have been major problems with crack in the USA. However, it is rarely seen in Australia.[1754]

A LITTLE ABOUT THE DRUG:

Cocaine is a colourless or white crystalline alkaloid powder produced from material extracted from the leaves of the coca plant, *Erythroxylum coca*, which is indigenous to South America. The substance is sometimes used in medicine as a local anesthetic, especially for the eyes, nose and throat, but is now widely used illicitly for its euphoric and stimulating effects. 'Crack' is the street name for cocaine hydrochloride that has been processed using ammonia or sodium bicarbonate and water. It is then heated to remove the hydrochloride base, producing a smokeable form of cocaine.[1755]

HISTORY:

Coca leaf chewing has been practiced for thousands of years. Cocaine was first isolated from the Erythroxylon coca plant around 1850. Medicinal use of cocaine increased through the late 19th century and recreational use started to become a known problem in the early 20th century. Recreational use was banned in the USA in 1914.[1756]

Cocaine is one of the most widely used illegal drugs in the USA and other parts of the world; however, it has never achieved the same level of use in Australia. There has

1750 Australian Bureau of Statistics, *Australian standard classification of drugs of concern*. Canberra: Australian Bureau of Statistics, July 2000.

1751 National Drug and Alcohol Research Centre, Cocaine. *NDARC fact sheet*, undated.

1752 Australian Drug Foundation, Cocaine, How drugs affect you, September 2002, p. 2.

1753 Australian Drug Foundation, Cocaine, How drugs affect you, September 2002, p. 2.

1754 National Drug and Alcohol Research Centre, Cocaine. *NDARC fact sheet*, undated.

1755 NIDA (1999) cited by Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 49.

1756 The Vaults of Erowid, accessed 7 February 2005, <www.erowid.org/chemicals/cocaine>.

been an increase in availability of cocaine in Sydney, resulting in an increase in use by injecting drug users in that city.[1757]

EFFECTS[1758]:

Short-term effects

- euphoria and feeling of well-being; increased alertness; increased self-confidence; reduction of appetite; decreased fatigue; headache; inability to sleep[1759]
- palpitations; hypertension; sweating; high temperature; dilated pupils; loss of judgment[1760]
- physiological arousal including increased body temperature and heart rate, exhilaration, anxiety, feelings of well-being, decreased hunger, panic, poor concentration and judgment, indifference to pain and fatigue, feelings of great physical strength and mental capacity, enlarged pupils, sexual arousal, unpredictable and/or violent behaviour[1761]

Long-term effects

- sleep disorder; sexual problems (often impotence); snorting which can lead to perforation of the nasal membranes and septum – runny nose, nose bleeds and loss of sense of smell; facial tics or involuntary jerking of the body; psychosis; seizures; heart attacks, strokes and respiratory failure; social and financial problems[1762]
- hypertension; accelerated heart disease; brain haemorrhages; sudden death; depression; paranoia[1763]
- restlessness, nausea, hyper-excitability, insomnia, weight loss, psychosis, paranoia, exhaustion, hallucinations, depression/inability to experience pleasure[1764]

Cocaine can induce serious symptoms in the context of various patterns of use, but particularly among older, more dependent polydrug users. Findings also highlight the importance of educating cocaine users about the possibility and nature of overdose

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1757 National Drug and Alcohol Research Centre, Cocaine. *NDARC fact sheet*, undated.

1758 The effects of any drug (including cocaine) vary from person to person. They depend on many factors, including an individual's size, weight and health, how much of the drug and how the drug is taken, whether the person is used to taking it and whether other drugs are taken. It also depends on the environment in which the drug is used – for example, whether the person is alone, with others, or at a party. (Australian Drug Foundation, Cocaine, How drugs affect you, September 2002.)

1759 National Drug and Alcohol Research Centre, Cocaine. *NDARC fact sheet*, undated.

1760 V. Munir, An Emergency Department perspective on the hazards of party drugs. *Paper given at the Victorian Alcohol and Drug Association (VAADA) symposium on Youth Party Drugs in Victoria – Beyond 'e': Exploring the impact of party drugs on current day youth and culture, Melbourne, 23 June 2003*.

1761 Australian Drug Foundation, Cocaine, How drugs affect you, September 2002, pp. 3-4.

1762 National Drug and Alcohol Research Centre, Cocaine. *NDARC fact sheet*, undated.

1763 V. Munir, An Emergency Department perspective on the hazards of party drugs. *Paper given at the Victorian Alcohol and Drug Association (VAADA) symposium on Youth Party Drugs in Victoria – Beyond 'e': Exploring the impact of party drugs on current day youth and culture, Melbourne, 23 June 2003*.

1764 Australian Drug Foundation, Cocaine, How drugs affect you, September 2002, p. 5.

and making them aware that cocaine overdose can occur irrespective of dose, frequency and method of use. Furthermore, users need to be aware of the potential danger of combining cocaine with other drugs, such as heroin and alcohol.[1765]

Coming down

Cocaine withdrawal generally occurs in three phases:

1. 'The crash', which describes symptoms experienced immediately after use ceases – usually in the first two to four days. Symptoms include: agitation, depression, intense craving for the drug, and extreme fatigue.
2. 'The withdrawal phase' may last up to ten weeks and is characterised by: depression, lack of energy, anxiety, intense craving, and angry outbursts.
3. 'The extinction phase' may last indefinitely and includes symptoms of episodic cravings for cocaine, usually in response to conditioned cues. These cravings may surface months or years after cocaine use has ceased.

Other withdrawal symptoms that may be experienced include: lack of motivation, inability to feel any pleasure, nausea/vomiting, shaking, irritability/agitation, muscle pain, long but disturbed sleep.[1766]

Effects on driving

Due to the nature of its psychological and physical effects, it is dangerous to drive a vehicle after taking cocaine. If cocaine is combined with other drugs, such as alcohol, the risk of accident is further increased.[1767]

Onset and duration

The effects of cocaine, including intense pleasure, alertness, confidence and sexual arousal, are very short lived (less than 30 minutes).

Onset varies depending on method of ingestion. Snorting cocaine will produce effects within a minute. Smoking freebase cocaine produces effects almost immediately … often before exhaling. Injected cocaine also produces effects within a few seconds.[1768]

OTHER:

Cocaine is used both as a party drug and also to assist work performance in professions with demanding long hours. In some social groups it can be viewed as a status drug. Cocaine injectors also seek the confidence boosting and arousing effects of cocaine. Some injecting users seek to balance the agitating effects of cocaine and

1765 S. Kaye & S. Darke, Non-fatal cocaine overdose and other adverse events among injecting and non-injecting cocaine users. *National Drug and Alcohol Research Centre, NDARC Technical Report No. 170,* 2003, p. ix.

1766 Australian Drug Foundation, Cocaine, How drugs affect you, September 2002, pp. 7-8.

1767 Australian Drug Foundation, Cocaine, How drugs affect you, September 2002, p. 10.

1768 The Vaults of Erowid, <www.erowid.org/chemicals/cocaine>. (Downloaded 7/2/2005)

the sedating effects of heroin by mixing the use of these drugs. A recent heroin shortage in Australia saw a largely unexpected shift among heroin users in Sydney to cocaine.[1769]

The problems caused by cocaine include: cardiovascular problems (heart attacks); overdose (strokes, seizures); infection risk and vein damage are increased by multiple injections; perforation of nasal passages; psychiatric problems (psychosis); social and financial problems and cocaine addition. [1770]

1769 National Drug and Alcohol Research Centre, Cocaine. *NDARC fact sheet*, undated.

1770 National Drug and Alcohol Research Centre, Cocaine. *NDARC fact sheet*, undated.

ECSTASY

DRUG CLASSIFICATION:

Phenethylamine.[1771] A stimulant with hallucinogenic properties.[1772] NB Ecstasy is *not* an amphetamine.[1773]

ALSO CALLED:

E, eccy, eckies, X, XTC, pills, eggs, doves, love doves, white doves, MDMA, hug drug, 'the love drug', Adam (MDA), brownies, burgers, disco biscuits, Edward, elephants, essence, fantasy, M and Ms, Mitsi(bushie)s, New Yorkers, rhubarb and custard, shamrocks, sweeties, tulips, Dolphins.[1774]

FORMS:

Ecstasy is usually sold as a tablet or pill, but can also be found in capsule or powder form. The tablets come in a variety of colours and sizes and may carry a branded design such as a lightning bolt or crown. In recent times well-known brands such as Calvin Klein and Rolls Royce have been found stamped on ecstasy tablets.[1775] While most ecstasy is sold in pill form, crystal is starting to appear in the UK.[1776] Ecstasy usually comes in the form of small white or yellow- to brown-coloured tablets of various sizes, shapes and designs.[1777]

A LITTLE ABOUT THE DRUG:

Ecstasy is the street term for a number of substances that are similar to methylenedioxymethamphetamine (MDMA).[1778] MDMA is a central nervous system stimulant and has both hallucinogenic and ephedrine-like effects. Although chemically related to amphetamine, MDMA is not a derivative and is produced by a different chemical process.[1779]

Ecstasy has a strange property in that it can make users feel in tune with each other. Because of this, some American therapists, especially those seeing couples whose

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1771 Australian Bureau of Statistics, *Australian standard classification of drugs of concern*. Canberra: Australian Bureau of Statistics, July 2000.

1772 National Drug and Alcohol Research Centre, Ecstasy. *NDARC fact sheet,* undated.

1773 W. Wickes, *Amphetamines and other psychostimulants – a guide to the management of users*. Canberra: Commonwealth Department, Housing and Community Services and Drug and Alcohol Directorate NSW Department of Health, 1993; Australian Crime Commission, *Australian illicit drug report*. Canberra: Australian Crime Commission, March 2003, p. 126.

1774 Australian Drug Foundation, *Ecstasy,* 2003. (Downloaded 11/6/03.); DrugScope (undated) *Ecstasy,* accessed 6 June 2003, <http://www.drugscope.org.uk>; Frank (undated) *Ecstasy,* accessed 1 June 2003, <http://www.talktofrank.com>; National Drug and Alcohol Research Centre, Ecstasy. *NDARC fact sheet*.

1775 National Drug and Alcohol Research Centre, Ecstasy. *NDARC fact sheet,* undated.

1776 DrugScope (undated) *Ecstasy, accessed 6 June 2003,* <http://www.drugscope.org.uk>.

1777 Australian Drug Foundation, *Ecstasy,* 2003. (Downloaded 11/6/03.)

1778 National Drug and Alcohol Research Centre, Ecstasy. *NDARC fact sheet,* undated.

1779 Johnson, Maxwell & Leitnerschmidt (1997) cited by Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 23.

marriage was failing, administered the drug to help couples be more willing to see the other person's point of view.[1780]

HISTORY:

Ecstasy was first made by two German chemists in 1912 and patented in 1914, in case it turned out to be a useful drug, which it did not. In the 1960s, the drug was rediscovered by an American research chemist Alexander Shulgin who experimented with it on himself.[1781]

The ecstasy/nightclub combination began to spread slowly from the London fashion/music industry elite, until 1991, when the rave scene (as the subculture became known) was possibly the biggest youth subculture that Britain had ever seen. This subculture was intimately bound up with the use of Ecstasy.[1782]

MDMA appeared in Australia in the mid-1980s and by 1989 had gained a high media profile with purported widespread use, especially in association with dance parties.[1783]

EFFECTS[1784]:

Short-term effects

- euphoria and a feeling of well-being; feelings of increased closeness with others; increased self-confidence; lack of inhibitions; tongue and cheek chewing; teeth grinding; dry mouth; increased body temperature; nausea and anxiety; sweating; inability to sleep[1785]
- increase in heart rate, body temperature and blood pressure; jaw clenching; loss of appetite[1786]
- an initial rush feeling followed by a combination of feeling energetic and yet calm; loss of anger; empathy with other people; enhanced sense of communication; heightened sense of surroundings; greater appreciation of music; increased sexual and sensual experience[1787]

1780 DrugScope (undated), *Ecstasy,* accessed 6 June 2003, <http://www.drugscope.org.uk>.

1781 DrugScope (undated) *Ecstasy,* accessed 6 June 2003, <http://www.drugscope.org.uk>.

1782 P. McDermott & A. Matthews (undated) *Ecstasy in the U.K.: Recreational drug use and cultural change,* accessed 6 June 2003, <http://www.totse.com>.

1783 W. Wickes, *Amphetamines and other psychostimulants – a guide to the management of users*. Canberra: Commonwealth Department, Housing and Community Services and Drug and Alcohol Directorate NSW Department of Health, 1993, p. 18.

1784 The effects of any drug (including ecstasy) can vary from person to person. It depends on many factors, including: the person's size, weight and health; how much and how the drug is taken; whether the person is used to taking it; the environment in which the drug is taken; and whether other drugs are taken at the same time (Australian Drug Foundation 2003).

1785 National Drug and Alcohol Research Centre, Ecstasy. *NDARC fact sheet,* undated.

1786 Australian Drug Foundation, *Ecstasy,* 2003. (Downloaded 11/6/03.)

1787 DrugScope (undated) *Ecstasy,* accessed 6 June 2003, <http://www.drugscope.org.uk>.

- heightened perceptions (such as sight, sound & touch – makes things look, feel & sound better); difficulty concentrating; difficulty urinating; difficulty reaching orgasm[1788]
- tremor & tics; libido reduction; sexual dysfunction; confusion; depression; panic attacks; blurred vision[1789]
- palpitations, hypertension; vomiting; agitation; muscle pain & stiffness; tooth grinding; large pupils[1790]

Long-term effects

Regular use may lead to sleep problems, lack of energy, dietary problems (including anorexia nervosa), feeling depressed or anxious, increased susceptibility to colds, flu, sore throat, etc. may follow.[1791]

Little is known about the long-term effects of ecstasy because of the paucity of research. Many of the early results are highly controversial but it is generally accepted that, particularly in high doses, some health problems will results from long-tern use. Some of these may include: neurotoxicity, memory and cognition problems, depression.[1792]

Research indicates that few people tend to use ecstasy for a long time. This is possibly due to the severity of undesirable effects, which tend to increase the longer ecstasy use continues, while the pleasurable effects diminish.[1793]

Coming down

A hangover consisting of drowsiness, muscle aches (particularly jaw muscles), depression and difficulty concentrating are pronounced in the second day after use.[1794] After using ecstasy, some or all of the following symptoms can occur: insomnia, depression, anxiety, paranoia, fatigue, and difficulty concentrating. These effects usually begin the day after taking the drug and can last for several days.[1795]

Effects on driving

Ecstasy is a stimulant drug – it makes the user feel alert, energetic and confident. Over-confidence could increase the chances of an accident because more risks are

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1788 B. Barker, Ecstasy: Patterns of use and harms in Australia. *Paper presented at the 2003 NDARC Party Drugs Symposium, Sydney, 28 February 2003*. Accessed 21 May 2003, <http://ndarc.med.unsw.edu.au/ndarc.nsf/website/News.symposium>.

1789 Pham & Puzantin 2001, cited by Australian Crime Commission, *Australian illicit drug report*. Canberra: Australian Crime Commission, March 2003, p. 71.

1790 V. Munir, An Emergency Department perspective on the hazards of party drugs. *Paper given at the Victorian Alcohol and Drug Association (VAADA) symposium on Youth Party Drugs in Victoria – Beyond 'e': Exploring the impact of party drugs on current day youth and culture, Melbourne, 23 June 2003.*

1791 DrugScope (undated) *Ecstasy,* accessed 6 June 2003, <http://www.drugscope.org.uk>.

1792 National Drug and Alcohol Research Centre, Ecstasy. *NDARC fact sheet,* undated.

1793 Australian Drug Foundation, *Ecstasy,* undated. (Downloaded 11/6/03.)

1794 W. Wickes, *Amphetamines and other psychostimulants – a guide to the management of users*. Canberra: Commonwealth Department, Housing and Community Services and Drug and Alcohol Directorate NSW Department of Health, 1993, p.19.

1795 Australian Drug Foundation, *Ecstasy,* 2003. (Downloaded 11/6/03.)

taken. Blurred vision and hallucinations can also be a problem with driving and taking ecstasy.[1796]

Onset and duration

The phases of the ecstasy experience and their approximate timing are listed below:

1. *Coming on* – where the effects can be smooth and bumpy, and users may feel a rush (usually takes 30 minutes, although longer if on a full stomach)
2. *Experience* – where the user may feel good, happy, relaxed (lasts 3-6 hours when taken orally)
3. *Coming down* - some users report physical exhaustion & worsening mood; use of other drugs (cannabis) to decrease negative effects
4. *Hangover* - very drained the next day – 'recovery day' or 'chill out sessions'
5. *Week after* - effects vary ('Ecky Monday' & 'Suicide Tuesday')
6. *Loses its magic* - tolerance develops with decreased positive effects & negative side effects appear to increase.[1797]

OTHER:

Ingredients are often hard to obtain. Therefore manufacturers may substitute a wide range of substances when making the drug.[1798]

Tablets sold as ecstasy do not necessarily contain MDMA. Drugs marketed as ecstasy may include various mixes of MDMA with amphetamine, methylamphetamine, ketamine and other drugs, and even a drug mix containing no MDMA. Drugs which are sold on the market as ecstasy, but which do not actually contain MDMA, are known amongst users as 'fake ecstasy'. 'Herbal ecstasy' is gaining increasing popularity as a safer alternative to MDMA while retaining the amphetamine-like qualities. Herbal ecstasy contains caffeine (kola nut) and Ma Huang, an ephedra herb that contains ephedrine. This combination of caffeine and the ephedra herb has caused heart attacks and a number of deaths. In the United States, there have been more than 800 reports of herbal ecstasy reactions including seizures, heart attacks and strokes.[1799]

It is still common for tablets marketed as ecstasy to be incorrectly represented as containing MDMA, when in fact they are compressed methylamphetamine tablets with

1796 Australian Drug Foundation, *Ecstasy,* 2003. (Downloaded 11/6/03.)

1797 Australian Drug Foundation, *Ecstasy,* 2003. (Downloaded 11/6/03.); B. Barker, Ecstasy: Patterns of use and harms in Australia. *Paper presented at the 2003 NDARC Party Drugs Symposium,* Sydney, 28 February 2003. Accessed 21 May 2003, <http://ndarc.med.unsw.edu.au/ndarc.nsf/website/News.symposium>; DrugScope (undated) *Ecstasy,* accessed 6 June 2003, <http://www.drugscope.org.uk>.

1798 Australian Drug Foundation, *Ecstasy,* 2003. (Downloaded 11/6/03.)

1799 Drughelp (2002), CAMH (2002), and Johnson, Maxwell & Leitnerschmidt (1997) cited by Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 23.

additives such as ketamine and caffeine. The majority of ecstasy tablets seized in Australia continue to contain a variety of products, often with little or no MDMA.[1800]

An estimated 80 per cent of the world's MDMA continues to be produced in clandestine laboratories in the Netherlands and, to a lesser extent, Belgium.[1801]

At some clubs in Holland, users can submit their pills to a rough test to get some idea what is in them before they decide to take them. Recently a company introduced a similar testing kit in the UK but this has been criticised by the government as condoning drug use, despite its potential for reducing harm. UK police have also warned that anybody handing back a tablet after testing it could in theory be prosecuted for supplying the drug.[1802] The Australian situation differs significantly in that respect. Temporary custody of a prohibited drug, held with the purpose of eventually returning it to its ostensible owner, has been considered not to amount to supply.[1803]

1800 Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 29.

1801 USDEA (2001) cited by Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 25.

1802 DrugScope (undated) *Ecstasy,* accessed 6 June 2003, <http://www.drugscope.org.uk>.

1803 *Manisco v R* (1995) 14 WAR 303; (1995) 79 A Crim R 213.

GHB (GAMMA-HYDROXYBUTRATE)

DRUG CLASSIFICATION:

Anaesthetic.[1804]

ALSO CALLED:

G, fantasy, liquid ecstasy, liquid E, liquid X, liquid, GBH, grievous-bodily harm, Georgia Home Boy.[1805]

FORMS:

The drug can come as either a crystal powder or, more usually, as a clear, bitter or salty tasting liquid, usually sold in vials.[1806]

A LITTLE ABOUT THE DRUG:

Gamma-hydroxybutyrate (GHB) or sodium oxybate is also a neurochemical compound that occurs naturally in all cells of the human body. GHB is a disinhibitor and can produce a mild euphoria and a sense of well being, similar to that experienced when using Ecstasy (MDMA).[1807] It is a central nervous system depressant that is known to be highly dose dependent.[1808]

HISTORY:

GHB is a drug that has been noted in Australia only in the past few years.[1809] GHB was originally synthesised in the 1960s. Since that time the drug has had many uses: for example, in some countries it is used as a general anaesthetic and a treatment for insomnia and narcolepsy. Research is also underway in some parts of the world where the drug is being trialled as a treatment for both alcohol and heroin withdrawal.[1810]

1804 Australian Bureau of Statistics, *Australian standard classification of drugs of concern*. Canberra: Australian Bureau of Statistics, July 2000.

1805 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3; P. Dillon, New drugs, new risks: The current state of play in Australia. *Paper presented at the 2003 NDARC Party Drugs Symposium, Sydney, 28 February 2003*. Accessed 21 May 2003, <http://ndarc.med.unsw.edu.au/ndarc.nsf/website/News.symposium>; L. Degenhardt, S. Darke & P. Dillon, GHB use, patterns and associated harms. *NDARC research project fact sheet*, undated.

1806 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? *In National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

1807 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

1808 L. Degenhardt, S. Darke & P. Dillon, GHB use, patterns and associated harms. *NDARC research project fact sheet*, undated.

1809 L. Degenhardt, S. Darke & P. Dillon, GHB use, patterns and associated harms. *NDARC research project fact sheet*, undated.

1810 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p 3.

In recent years it has gained popularity amongst club drug users due to its euphoric and aphrodisiac effects.[1811]

EFFECTS[1812]:

- dizziness; blurred vision; hot/cold flushes; vomiting; profuse sweating; loss of consciousness; memory lapses; tremors or shaking; shortness of breath; headaches; heart palpitations[1813]
- disinhibition; marked nausea; muscle spasm & abnormal movements; disorientation, seizures; coma; cardiac & respiratory depression[1814]

There was no correlation between the number of times persons reported ever having used GHB, and the number of side effects they reported having experienced while using it.[1815]

The effects of GHB appear to be highly dose dependent. Small increases in the amount taken lead to a dramatic increase in effect.[1816] Determining the correct dose and the quality are often the most dangerous aspect of GHB use.[1817] The amount required for a level of effect depends on the person. Over-estimating the dose can have very serious consequences.[1818]

All of these side effects are often much more severe when GHB is combined with other drugs, particularly depressants such as alcohol and other psychoactive drugs.[1819]

Onset and duration

The effects of GHB are usually felt within 15 minutes of taking the drug and rarely last longer than three hours.[1820]

1811 ABCI 2000 cited by P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p 3.

1812 The effects of any drug vary from person to person. It depends on many factors including an individual's size, weight and health, how much and how the drug is taken, whether the person is used to taking it and whether other drugs are taken. It also depends on the environment in which the drug is used - for example, whether the person is alone, with others, or at a party (Australian Drug Foundation, 2003).

1813 L. Degenhardt, S. Darke & P. Dillon, GHB use, patterns and associated harms. *NDARC research project fact sheet,* undated.

1814 V. Munir, An Emergency Department perspective on the hazards of party drugs. *Paper given at the Victorian Alcohol and Drug Association (VAADA) symposium on Youth Party Drugs in Victoria – Beyond 'e': Exploring the impact of party drugs on current day youth and culture, Melbourne, 23 June 2003.*

1815 L. Degenhardt, S. Darke & P. Dillon, GHB use, patterns and associated harms. *NDARC research project fact sheet,* undated.

1816 Galloway et al 1997 cited by P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

1817 Galloway et al 1997; Chin et al 1992 cited by Dillon & Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines,* June 2001, p. 3.

1818 Galloway et al 1997; Chin et al 1992 cited by Dillon & Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines,* June 2001, p. 3.

1819 Tolliver 1997 and Kam & Yoong 1998, cited by P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines,* June 2001, p. 3.

1820 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines,* June 2001, p. 3.

OTHER:

The almost total amnesia that can occur after use makes counselling and follow-up treatment difficult as it does not deter the patients who cannot remember their near-fatal experience.[1821]

In addition to its recreational use, as a result of its abrupt coma-inducing effects and its ease of administration (i.e. it can be added simply to drinks) it has been identified as a drug used in sexual assault, i.e. a 'date rape' drug. GHB can cause the victims to lose their ability to ward off attackers, develop amnesia, and thus become unreliable witnesses. As the symptoms caused by this drug often mimic those of alcohol, not all victims are screened for their presence.[1822]

1821 Kam & Yoong 1998 cited by P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines,* June 2001, p. 3.

1822 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 4.

KETAMINE

DRUG CLASSIFICATION:

Anaesthetic.[1823]

ALSO CALLED:

Special K, Vitamin K, Kit Kat or K.[1824]

A LITTLE ABOUT THE DRUG:

Ketamine is a short-acting general anaesthetic for human and veterinary use. The drug has been described as a 'dissociative anaesthetic' because of its ability to induce a lack of responsive awareness, not only to pain but also to the general environment.

HISTORY:

Ketamine was first manufactured in the US in the 1960s.[1825]

Ketamine is still used for short anaesthetic and surgical procedures especially in the absence of a trained anaesthetist. It is particularly useful in developing countries and remote country areas within Australia where a doctor may be working single-handed. Minimal anaesthetic equipment is required and the unconscious patient requires little attention for maintenance of the airway.[1826]

EFFECTS[1827]:

- inability to speak; blurred vision; lack of co-ordination; increased body temperature[1828]; users describe visits to the 'K-hole', referring to a place 'where users are' when under the influence of ketamine.[1829] The K-hole experience appears to be different for everybody but Stafford (1992) identified six categories of mental effects produced by ketamine including contact with aliens, entry into computer networks, access into

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1823 Australian Bureau of Statistics, *Australian standard classification of drugs of concern*. Canberra: Australian Bureau of Statistics, July 2000.

1824 P. Dillon, New drugs, new risks: The current state of play in Australia. *Paper presented at the 2003 NDARC Party Drugs Symposium*, Sydney, 28 February 2003. Accessed 21 May 2003, <http://ndarc.med.unsw.edu.au/ndarc.nsf/website/News.symposium>.

1825 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

1826 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

1827 The effects of any drug vary from person to person. It depends on many factors including an individual's size, weight and health, how much and how the drug is taken, whether the person is used to taking it and whether other drugs are taken. It also depends on the environment in which the drug is used - for example, whether the person is alone, with others, or at a party (Australian Drug Foundation 2003).

1828 P. Dillon, J. Copeland & K. Jansen, Patterns of use and harms associated with non-medical ketamine use. In *National Drug and Alcohol Research Centre, CentreLines, March 2003*, p. 6.

1829 Tori 1996, cited by P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

alternative realities and out-of-body-near-death states.[1830] Many who take larger amounts of ketamine are convinced that their experiences were real even though they accept that they took a drug, they insist that a door into another world was opened by the drug. Some report that the perception of the 'other world' has developed into a paranoid psychosis.[1831]

- euphoria; 'out of body' or 'near-death' experience; hallucinations, vivid dreams; floating sensation; loss of self-control, high risk of injury; amnesia, confusion, hostility; cardiac & respiratory depression[1832]

OTHER:

The greatest risk involved with the combined use of alcohol is that the user may collapse, fall asleep or simply be too exhausted to get up and then subsequently vomit. If the person's airways are not clear there is the possibility that they may choke on their own vomit.[1833]

Ketamine is a dissociative anaesthetic; that is, it 'induces a lack of responsive awareness not only to pain but to the general environment, without a corresponding depression of autonomic reflexes and vital centres in the diacephelon'. Despite being an anaesthetic it 'can be a powerful stimulant at lower doses'. Along with the other 'party drugs', ketamine has become popular among young people at dance clubs and 'raves' in recent years. It has been reputed to give the user a powerful 'rush', which may occur very quickly depending on the mode of administration. It has a relatively short duration of effect.[1834]

1830 P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines*, June 2001, p. 3.

1831 Jansen 1997 cited by cited by P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

1832 V. Munir, An Emergency Department perspective on the hazards of party drugs. *Paper given at the Victorian Alcohol and Drug Association (VAADA) symposium on Youth Party Drugs in Victoria – Beyond 'e': Exploring the impact of party drugs on current day youth and culture, Melbourne, 23 June 2003.*

1833 Jansen 2000, cited by P. Dillon & L. Degenhardt, Ketamine and GHB: New trends in club drug use? In *National Drug and Alcohol Research Centre, CentreLines, June 2001*, p. 3.

1834 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 63.

STEROIDS

DRUG CLASSIFICATION:

Anabolic androgenic steroid.[1835]

ALSO CALLED:

Roids, gear, juice, arnolds, gym candy, pumpers, stackers, weight trainers[1836]

FORMS:

Anabolic steroids can be taken orally, injected intramuscularly, or rubbed on the skin when in the form of gels or creams.[1837] Steroids come in tablet and injectable form with examples including androstenedione, boldenone, decadurabolin (nandrolone), dehydroepiandosterone (DHEA), stanozolol and testosterone.[1838]

A LITTLE ABOUT THE DRUG:

Anabolic steroids are a group of powerful compounds that are closely related chemically to the male sex hormone testosterone.[1839] Anabolic steroids have both 'anabolic' and 'androgenic' effects. The anabolic effects assist in the growth and repair of tissue, mainly muscle. The androgenic effects are involved in the development and maintenance of male sex characteristics. It has not yet been possible to separate the anabolic and androgenic effects. All anabolic steroids have both anabolic and androgenic effects to varying degrees.[1840] Currently there are more than 100 different types of anabolic steroids that have been developed, and each requires a prescription to be used legally in the United States.[1841]

Anabolic steroids are restricted substances in Australia. They can be legally obtained from medical practitioners for a limited number of purposes, such as to treat muscle wasting.[1842] Physicians seldom prescribe steroids today, and the few remaining

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1835 Australian Bureau of Statistics, *Australian standard classification of drugs of concern*. Canberra: Australian Bureau of Statistics July 2000.

1836 Office of National Drug Control Policy, Steroids. Office of National Drug Control Policy, Drug Policy Information Clearing House, 2003; National Drug and Alcohol Research Centre, Steroid Facts. *National Drug and Alcohol Centre Brochure,* undated, p. 3.

1837 Office of National Drug Control Policy, Steroids. Office of National Drug Control Policy, Drug Policy Information Clearing House, 2003.

1838 Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 59.

1839 Missouri Department of Mental Health, Steroids. Missouri Department of Mental Health Division of Alcohol and Drug Abuse, Fact sheet, undated.

1840 National Drug and Alcohol Research Centre, Steroid Facts. *National Drug and Alcohol Centre Brochure,* undated, p. 2.

1841 Office of National Drug Control Policy, Steroids. Office of National Drug Control Policy, Drug Policy Information Clearing House, 2003.

1842 B. Maycock & A. Beel, Anabolic steroid abuse and violence. *NSW Bureau of Crime Statistics and Research, Crime and Justice Bulletin Number 35*, July 1997, p. 1.

medical uses for them are generally limited to certain kinds of anaemia, severe burns, and some types of breast cancer.[1843]

Anabolic and androgenic steroids are produced under three different manufacturing situations: commercially produced for human consumption, commercially produced for veterinary consumption and clandestinely produced.[1844]

HISTORY:

These artificial substances were developed in the 1930s originally to help men whose bodies produced inadequate amounts of the natural hormone that is responsible for the development of masculine characteristics occurring at puberty, such as lowering of voice and growth of body hair.[1845]

The non-medical use of anabolic androgenic steroids (AAS) may have begun at the 1936 Berlin Olympics with reports of testosterone use by German athletes. However, these reports and others like it are yet to be confirmed. The first confirmed report of the non-medical use of AAS was in preparation for the 1954 World Weightlifting Championships in Vienna.[1846]

EFFECTS[1847]:

Short-term effects

- acne; breast development in men; increased irritability and aggression; liver cancer; heart attacks; elevated cholesterol levels[1848]; aggressive, combative behaviour known as 'roid rage'
- depression[1849]
- increased size and improved appearance; increased motivation; increased confidence[1850]

Long-term effects

- heart attacks; strokes

1843 Missouri Department of Mental Health, Steroids. *Missouri Department of Mental Health Division of Alcohol and Drug Abuse, Fact sheet,* undated.

1844 Campbell (2001) cited by Australian Crime Commission, *Illicit drug data report 2003-04*. Canberra: Australian Crime Commission, March 2005, p. 59.

1845 Missouri Department of Mental Health, Steroids. *Missouri Department of Mental Health Division of Alcohol and Drug Abuse, Fact sheet,* undated.

1846 R. Peters, J. Copeland, P. Dillon & A. Beel, Patterns and correlates of anabolic-androgenic steroid use. *National Drug and Alcohol Research Centre (NDARC) Technical Report 48*, 1997, p. 2.

1847 The effects of any drug vary from person to person. It depends on many factors including an individual's size, weight and health, how much and how the drug is taken, whether the person is used to taking it and whether other drugs are taken. It also depends on the environment in which the drug is used - for example, whether the person is alone, with others, or at a party (Australian Drug Foundation, undated).

1848 Office of National Drug Control Policy, Steroids. Office of National Drug Control Policy, Drug Policy Information Clearing House, 2003.

1849 Missouri Department of Mental Health, Steroids. *Missouri Department of Mental Health Division of Alcohol and Drug Abuse, Fact sheet,* undated.

1850 R. Peters, J. Copeland, P. Dillon & A. Beel, Patterns and correlates of anabolic-androgenic steroid use. *National Drug and Alcohol Research Centre (NDARC) Technical Report 48*, 1997, p. 72.

Little research has been done to assess the long-term effect of steroid use, nor is there much clinical evidence of the effects on women and adolescents.[1851]

Most of the effects are reversible if the abuser stops taking the drug, but some can be permanent.[1852]

The majority of studies appear to have found at least some evidence of an association between anabolic steroid use and aggression or violence. Those studies that have found a negative relationship generally involved small doses of steroids. At the same time, the precise role played by anabolic steroid use in the commission of aggressive acts is far from clear. It is possible that anabolic steroid use only produces aggressive or violent behaviour in persons already predisposed to such behaviour. Regardless of how one interprets the available data on anabolic steroid use, there is no doubt that, at present, anabolic steroid use is a far less significant factor in the commission of violent crime than alcohol.[1853]

OTHER:

These drugs are often used in patterns called *cycling*, which involves taking multiple doses of steroids over a specific period of time, stopping for a period, and starting again. Users also frequently combine several different types of steroids in a process known as *stacking*. By doing this, users believe that the different steroids will interact to produce an effect on muscle size that is greater than the effect of using each drug individually.[1854]

Another mode of steroid use is '*pyramiding'*. This is a process in which users slowly escalate steroid use (increasing the number of drugs used at one time and/or the dose and frequency of one or more steroids) reaching a peak amount at mid-cycle and gradually tapering the does toward the end of the cycle.[1855]

Most men start to use steroids because they are frustrated with the slow effects of their weight training program.[1856]

International research has identified 5 groups of anabolic steroid users:

- competitive athletes
- body image (recreational bodybuilders)
- competitive bodybuilders

1851 Missouri Department of Mental Health, Steroids. *Missouri Department of Mental Health Division of Alcohol and Drug Abuse, Fact sheet,* undated.

1852 Office of National Drug Control Policy, Steroids. Office of National Drug Control Policy, Drug Policy Information Clearing House, 2003.

1853 B. Maycock & A. Beel, Anabolic steroid abuse and violence. *NSW Bureau of Crime Statistics and Research, Crime and Justice Bulletin Number 35*, July 1997, p. 6.

1854 Office of National Drug Control Policy, Steroids. Office of National Drug Control Policy, Drug Policy Information Clearing House, 2003.

1855 Office of National Drug Control Policy, Steroids. Office of National Drug Control Policy, Drug Policy Information Clearing House, 2003.

1856 S. Grogan, *Body image: Understanding body dissatisfaction in men, women and children*. London: Routledge, 1999, p. 73.

- occupational users (where the use of anabolic steroids is perceived to help in the carrying out of employment duties and includes body guards, security personnel, construction workers, police and members of the armed services)
- adolescents.[1857]

1857 National Drug and Alcohol Research Centre, Steroid Facts. *National Drug and Alcohol Centre Brochure,* undated, p. 4.

APPENDIX 10: WITNESS LIST

NAME OR CODENAME[1858]	DATE OF APPEARANCE BEFORE THE PIC
AL1	7 April 2004
AL4	9,10 November 2004
AL5	6 April 2004
AL6	7 April 2004; 11 November 2004
AL12	20 February 2004; 7 April 2004; 12 November 2004
AL22	6, 7 April 2004
AL24	6 April 2004
AL29	8 November 2004
AL30	8 November 2004
CANTARAKIS, Daniel Robert	10 February 2004
FOSTER, Samuel John (U3[1859])	19, 20 February 2004; 5, 6 April 2004; 8, 12 November 2004
GALLAGHER, Peter	15,16 December 2003
HILL, Shelley Ann (Y3)	6 November 2003
JACKEL, Gary Neil	15 December 2003
McCABE, James Anthony	5, 7 April 2004; 8, 10, 11 November 2004
POTTER, Jo Elizabeth	10 February 2004
TYLER, Tracey Leigh (D4)	6 November 2003
WARDLE, Darren Edward (F2)	9 February 2004
WILSON, Melanie Kym (J3)	6 November 2003

1858 Witnesses who appeared in public hearings are listed in alphabetical order.

1859 Codenames used in Chapters 5 and 6 and Appendix 5 are contained in parentheses.

APPENDIX 11: WORKPLACE DRUG TESTING

NSW Police conducts targeted drug testing, random drug testing and mandatory (or critical incident) drug testing. Each of these is a form of workplace drug testing. The purpose of this appendix is to provide some brief background about how workplace drug testing operates and some of its limitations.

Workplace drug testing analyses a sample from the employee's body, usually urine, for the presence of a drug or drug metabolite.[1860] While urine testing, or 'urinalysis', is the most common form of drug testing, other types of specimen (also referred to as a 'matrix' or 'assay medium') can be examined to detect drug use. In addition to urine, hair, blood, oral fluid, or sweat can be analysed.

Given that random breath testing has operated in NSW for more than twenty years[1861], many people are familiar with using breath testing to detect alcohol use by vehicle drivers. It is not uncommon for people to assume that the mechanism for drug testing is similar to that for alcohol testing. This is not the case.

DIFFERENCES BETWEEN TESTS FOR ALCOHOL AND OTHER DRUGS

While breath testing is used to detect alcohol consumption, urinalysis is the most common methodology for detecting exposure to drugs other than alcohol. Some of the main differences between breath testing and urinalysis are as follows:

- readings for breath alcohol testing take only seconds to minutes. Urinalysis takes considerably longer (sometimes days or weeks for a result)
- sample collection is more complex for urinalysis
- a specialised laboratory is involved in the analytic process, meaning that there are issues of sample security, a more complex chain of custody and transport to be addressed
- interpretation of laboratory test results is required, with some specialised knowledge of drug groups and metabolic pathways
- urine levels rarely give a reliable indication of time of ingestion or peak serum levels, and hence generally do not support reliable estimates of the level of impairment.[1862]

1860 A metabolite is an inert by-product of a drug which is present in the body following ingestion of the drug.

1861 Random breath testing was introduced in NSW on 17 December 1982 (J. Henstridge, R. Homel, & P. Mackay, *The long-term effects of random breath testing in four Australian states: A time series analysis*. Department of Transport and Regional Development. The Federal Office of Road Safety, April 1997, p. iv).

1862 Australasian College of Occupational Medicine (1992) *Management of alcohol and other drugs in Australian workplaces*. Report prepared by The Australasian College of Occupational Medicine, Victoria, February 1992, pp. 12-13.

Hence urine testing:

- does not provide quick feedback for handling immediate situations
- detects the presence of one or more drugs, rather than the level of impairment
- must always be carried through to accurate confirmatory testing if results are to be used for significant action
- requires careful attention to sample collection and handling procedures.[1863]

DRUG TESTING BY URINALYSIS

Urinalysis is carried out as a two-step process: an initial or screening test followed by a confirmatory test (for those specimens where the screening testing result is 'tentatively positive'). All samples undergo a screening test. The screening test is designed to maximise the likelihood of finding a drug, while sometimes sacrificing the ability to identify the specific drug (for example, the test identifies 'opiates' that could be either codeine or morphine). The test is designed to ensure that few or no people are classified as not having used a drug when, in fact, they have (that is, to minimise false negatives).[1864]

Screening tests use a process called 'immunoassay' which involves using antibodies to detect the presence or absence of drugs in the urine. The specimen is compared to a 'calibrator', which contains a known quantity of the drug being tested. If the sample specimen is higher than, or equal to, the calibrator, then the test is considered positive. If the specimen is lower than the calibrator, then the test is considered negative.[1865] The calibrator is usually based on the cut-offs set by the Australian Standard 4308:2001.[1866]

The screening test is a relatively cheap test that eliminates samples from further consideration where the presence of the 'target substance is below a designated threshold level'.[1867] When the screening test is negative, no further analysis is undertaken and a conclusion is reached that there is no evidence of exposure to any of the drugs tested for. Only when the screening test is 'tentatively positive' that is, where there is evidence of a drug or drug metabolite above a certain cut-off level, is a confirmatory test conducted.

1863 Australasian College of Occupational Medicine (1992) *Management of alcohol and other drugs in Australian workplaces*. Report prepared by The Australasian College of Occupational Medicine, Victoria, February 1992, p. 13.

1864 T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, p. 12.

1865 T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, p. 13.

1866 Standards Australia/Standards New Zealand, Procedures for the collection, detection and quantification of drugs of abuse in urine. *Australian/New Zealand Standard AS/NZS 4308:2001,* 2001, p. 3.

1867 D. Rouen, K. Dolan, & J. Kimber, A review of drug detection testing and an examination of urine, hair, saliva and sweat. *National Drug and Alcohol Research Centre (NDARC) Technical Report 120, 2001,* p. 2; Institute of Environmental Science and Research Ltd (2000) FAQ about workplace drug testing, accessed 6 May 2003, <http://www.esr.cri.nz/what_we_do/workplace_drug_testing/faq.htm>; US Department of Health and Human Services (undated) *Drug testing: Reasons for testing*. Substance Abuse and Mental Health Services Administration (SAMHSA), accessed 18 June 2003, <http://www.samhsa.gov>.

The confirmatory test is more expensive and can identify the specific drug or metabolite in the urine.[1868] Essentially, the confirmatory testing process 'involves shattering the drug into pieces that form a fragmentation spectrum. Different compounds have different fragment patterns and, like fingerprints, no two are alike'.[1869]

Workplace drug testing does not test for the presence of all drugs; it tests for specific classes of drug. Workplace drug tests are primarily used to test for five classes of 'drugs of abuse': opiates (e.g., heroin, morphine and codeine), sympathomimetic amines (e.g., amphetamines and ecstasy), cannabis metabolites, cocaine metabolites and benzodiazepines.

Exposure to some types of drugs can be detected for longer periods than exposure to other types of drugs. Different drugs (or drug metabolites) remain in the system for different periods of time. For urine tests the approximate detection periods are outlined in Table A11.1.

A number of factors can affect the amount of drug present in the urine at the time the sample was taken. These include the characteristics of the drug, the amount ingested, the form in which it is ingested, physical and pharmacological characteristics of the user, and pathological factors such as genetic disorders, body water, and menstruation.[1870] What is certain is that the higher the dose of drug taken, and the greater the frequency of use, the more likely it is to be detected.[1871]

TABLE A11.1: COMPARATIVE ESTIMATES OF LENGTH OF TIME DIFFERENT DRUG TYPES CAN BE DETECTED IN URINE SAMPLES

Drug Ingested	Length of Time Detected in Urine (Average)
Alcohol	12-24 hours
Amphetamine	2-4 days
Cannabis	2-7 days but up to one month for regular users
Cocaine/Crack	12 hours – 3 days
Ecstasy	2-4 days
Heroin	1-2 days[1872]
LSD	2-3 days

(Source: DrugScope, undated)

1868 T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, pp. ix, 12.

1869 Council on Scientific Affairs 1987 cited by T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, p. 14.

1870 Bigger 1979 and Chiang & Hawks 1986 cited by T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, p. 19.

1871 T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, p. 12.

1872 MAM (or 6-monoacetylmorphine) can be detected up to 6 hours, morphine metabolite 2-3 days. If MAM is present it indicates definite heroin use (T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, p. 6).

LIMITATIONS OF WORKPLACE DRUG TESTING

In summary, the main limitations of workplace drug testing are:

1. a positive drug test result may not mean that the person is impaired
2. a negative drug test result may not mean that the person has not used drugs
3. drug tests identify only specific classes of drug
4. it can take two to three weeks to obtain the result.

Other limitations of workplace drug testing that have been discussed in the literature include:

- drug tests cannot distinguish between occasional and habitual use[1873], or between casual, recreational and regular drug users[1874]
- even the results of the most sophisticated urine tests cannot prove when the drug was taken, how much was used, or that intoxication or impairment was the result. A urine test after an accident, for example, may indicate that the person used an illicit drug at some time in the past. But it cannot prove that the individual was impaired by or under the influence of the drug at the time of the accident. In this situation, the urine test is an investigative tool, but is not a way to prove dysfunction[1875]
- false positives and false negatives can occur[1876]
- detection times can vary for individuals, depending on rates of metabolism and excretion[1877]
- a positive drug test result cannot indicate whether the person knowingly ingested the substance.[1878]

As Makkai (2000) has observed 'a positive drug test is the beginning of the story rather than the end'. She elaborated:

1873 National Workrights Institute (undated) Workplace drug testing, accessed 18 June 2003, <http://www.workrights.org>.

1874 WorkCover New South Wales, *Drugs, alcohol and the workplace: A guide to developing a workplace drug and alcohol policy*. WorkCover NSW, 1995, p. 12.

1875 S. Allsop, & M. Phillips, Drug testing in the workplace: An unfortunate marriage. *Paper presented at forum, 'Under the influence: The issues and practicalities of alcohol and other drug testing in the workplace', Perth, 8 October 1996*, p. 1; Drug Policy Alliance, Drug testing (2002). Drug Policy Alliance: Drugs, police and the law, accessed 5 May 2003, <http://www.drugpolicy.org/law/drugtesting>; T. Makkai, Drug use monitoring in Australia (DUMA): Drug detection testing. *Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000*, p. 17; B. A. Manili, E. F. Connors, D. W. Stephens, & J. R. Stedman, Police drug testing. US Department of Justice, National Institute of Justice, May 1987, p. 9; Worksafe Western Australia Commission Guidance notes: Alcohol and other drugs at the workplace. Worksafe Western Australia Commission Perth, 2000, p. 23.

1876 Makkai, T, & McGregor, K. (2003) Drug use monitoring in Australia (DUMA): 2002 annual report on drug use among police detainees. *Australian Institute of Criminology, Research and Public Policy Series, No. 47,* 2003, p. 12.

1877 Makkai, T, & McGregor, K. (2003) Drug use monitoring in Australia (DUMA): 2002 annual report on drug use among police detainees. *Australian Institute of Criminology, Research and Public Policy Series, No. 47,* 2003, p. 12

1878 Drug Policy Alliance, Drug testing (2002). Drug Policy Alliance: Drugs, police and the law, accessed 5 May 2003, <http://www.drugpolicy.org/law/drugtesting>.

The test result raises many questions that the test itself cannot answer including:

- Is the person using the drug chronically?
- Are they using the drug intermittently?
- Are they addicted to the drug?
- Were they taking the drug under prescription?
- Were they under the influence of the drug at the time the urine was collected?[1879]

1879 Manno 1986 cited by T. Makkai, *Drug use monitoring in Australia (DUMA): Drug detection testing*. Australian Institute of Criminology, Research and Public Policy Series, No. 25, March 2000, pp. 18-19.

APPENDIX 12: CRITERIA FOR RECRUITMENT INTO NSW POLICE

Suitability criteria include:

1. Educational suitability is assessed by Charles Sturt University from information provided in the 'Application for Admission'
2. Professional Suitability Assessment for admission to the Diploma of Policing Practice (DPP)[1880]
    - Age – at least 18.5 years at time of application
    - Australian citizenship or have permanent Australian residency status
    - Drivers licence – full licence, Green Provisional Licence, or equivalent
    - Driver behaviour – an assessment is made of driving experience, offences committed, seriousness of such offences and recency
    - Criminal or related history – those with prior criminal convictions or have come under adverse notice would not normally be assessed as professionally suitable
    - General physical fitness – assessments include aerobic fitness, upper body strength, lower limb strength, handgrip strength, abdominal strength, flexibility – in particular hamstring/lower back
    - Medical fitness – including assessment of any history of asthma, epilepsy, psychiatric illness, severe trauma to the head or body or other history or impairment that presents a risk to self or others; hearing to fall within normal limits; visual acuity in line with recommendations made by the Australian Optometric Association; normal colour vision; Body Mass Index not greater than 30
    - Overseas criminal clearance for those who have been an Australian resident for less than five years or have resided overseas in one country for longer than 12 months.
3. Following admission into the DPP students need to[1881]:
    - provide evidence of successful completion of Session 2 of the DPP
    - maintain currency (i.e. less than 6 months) in competency assessments contained within certain subjects in the DPP
    - provide first aid, swimming and typing certificates
    - satisfy a pre-employment medical assessment
    - complete and pass a physical assessment
    - hold a current motor drivers licence (as a minimum a green provisional licence is required)
    - be at least 19 years old to attest.

1880 NSW Police and Charles Sturt University, *Admission eligibility guide*. Published by the Division of Marketing and Communications, Charles Sturt University, March 2004, pp 13-16.

1881 The following list is taken from 2004 covering letter to applicants signed by J. P. Mey, Inspector, Manager, NSW Police Recruitment Branch.

APPENDIX 13: DIPLOMA OF POLICING PRACTICE – COURSE STRUCTURE

Following changes introduced over the period May 2004 – April 2005[1882]:

Session 1 (Internal - 14 weeks)[1883]	**Session 2** (Internal - 14 weeks)		**Session 3** (Distance Education - 14 weeks)	**Session 4** (Distance Education - 14 weeks)	**Session 5** (Distance Education - 14 weeks)	
PPP111- Simulated Policing - Acquiring Confidence 1 PPP112 – Police as Investigators 1 PPP113 – Communication in Policing PPP114 – Criminal Justice and Policing PPP115 – Police, Crime and Society 1 PPP116 – Operational Safety and Tactics 1	PPP121 – Simulated Policing – Acquiring Confidence 2 PPP122 – Police as Investigators 2 PPP123 – Ethical Reasoning and Policing PPP124 – Policing and Road Safety PPP125 – Police, Crime and Society 2 PPP126 – Operational Safety and Tactics 2	**ATTESTATION*** **	PPP231 – Session 3 Police Practicum PPP232 – Police as Investigators 3	PPP241 – Session 4 Police Practicum PPP242 – Problem Oriented Policing & Vulnerable People	PPP251 – Session 5 Police Practicum PPP252 – Ethical Values and Leadership	**CONFIRMATION & GRADUATION**

1882 Information on the post-May 2004 content provided by Diploma of Policing Practice Administration Coordinator, School of Policing Studies, Charles Sturt University, 3rd December 2004.

1883 Distance Education is also offered over two trimesters for Session 1 students.

Prior to May 2004[1884]:

Session 1[1885]	Session 2[1886]		Session 3[1888]	Session 4	Session 5	
UNDERGRADUATE ENTRY JST111 – Ethical dimensions and the police role JST112 – Communication in Policing 1 JST113 – The Criminal Justice System JST115 – Policing and Crime Prevention JST116 – The Context of Policing (*Prior to Session 2 students must do 80 hours police placement*)	GRADUATE ENTRY JST130 – Society, Law and Practice JST132 – Communication in Policing 2 JST136 – Policing Road Safety JST137- Operational Safety and Tactics JST140 – Simulated Patrol Assessment Centre (SPAC) JST135 – Intro to Policing (Graduate Students only)	**ATTESTATION[1887]**	JST245 – Station, Field and Investigative Processes JST 246 – Practicum (Session 3)	JST251 – Critical Assessment of Investigative Practices JST 255 – Practicum (Session 4)	JST261 – Police Field Practicum includes working under minimum supervision and LAC recommendation for confirmation. JST263 – Policing Vulnerable People and Interagency Collaboration	**CONFIRMATION & GRADUATION**

1884 Source: NSW Police College & Charles Sturt University (2002) Appendix 1.

1885 Full-time undergraduate students complete this Session on campus at the NSW Police College. Distance Education students complete this Session from home part-time over two sessions.

1886 All students complete this session full-time on campus.

1887 Eligible to be a salaried NSW Police probationary constable.

1888 Sessions 3, 4, and 5 are completed via distance education while assigned as a probationary constable to a Local Area Command.

APPENDIX 14: AUSTRALIAN POLICING AGENCIES – POLICIES AND PRACTICES REGARDING ILLEGAL DRUG USE BY PERSONNEL

WHY DID THE PIC CONDUCT THIS RESEARCH?

The PIC examined the approaches used by other agencies to minimise illegal drug use by their personnel in order to assist in providing a broader context in which to consider NSW Police policies and procedures in this area. By considering the approaches taken by other agencies to detect and/or deter the use of illegal drugs by their personnel and the actions these agencies take when illegal drug use is detected, the PIC sought to identify possible lessons that may be usefully applied within NSW Police.

The first group of agencies considered by the PIC were other Australian policing agencies. The PIC also approached a number of overseas policing agencies and non-policing organisations in Australia, which will be looked at in Appendices 15 & 16 respectively. In addition, the PIC examined community approaches to minimising recreational drug use and these will be discussed in Appendix 17.

The relevant policies of the following Australian policing agencies are discussed in this appendix:

- Australian Federal Police
- Northern Territory Police
- Queensland Police Service
- South Australia Police
- Tasmania Police
- Victoria Police
- Western Australia Police Service.

HOW DID THE PIC CONDUCT THIS RESEARCH?

Each Australian policing agency was contacted by the PIC to seek its assistance in relation to the research regarding illegal drug use by police personnel. Each of these agencies assisted by providing information concerning any policies the agency had in relation to illegal drug use by personnel, training of new recruits, ongoing education and codes of conduct. In many cases, the PIC liaised with a contact person from within the agency to whom inquiries could be directed, where necessary, regarding the agency's approach to minimising illegal drug use by personnel.

WHAT DID THE PIC FIND OUT?

The PIC found that the issue of illegal drug use by officers had recently received attention or was a subject of current debate within a number of Australian policing agencies at the time the PIC approached them. Legislation allowing drug testing of officers has recently been introduced in Queensland and Tasmania, and consideration of new or revised policies on the use of illegal drugs by officers is ongoing in a number of states.

The key lessons obtained from this research into the approaches taken by other Australian policing agencies are outlined in Chapter 3 of this report. The position of each of the agencies as at early 2005 and the policies from which the key lessons in Chapter 3 have been derived are summarised in this appendix. These summaries pertain to the official policies or other available documentation of the agencies represented regarding their approaches to minimising illegal drug use by personnel. It is important to remember that the realities of practice may vary from the impressions gained by reading the written documents. In some cases, representatives of the agencies have provided additional information on the operation of aspects of their policies which elaborates on the information contained in the written documents.

AUSTRALIAN FEDERAL POLICE

The Australian Federal Police (AFP) is of particular interest for Operation Abelia since, as at early 2005, it is the only other Australian law enforcement agency apart from NSW Police with a broad-based testing regime as part of its substance misuse policy.

The AFP policy, 'AFP National Guideline on the Use of Prohibited Drugs', first came into effect in March 1997, roughly the same time as the NSW Police policy. Drug testing was included in the 1997 policy; however, as there was no legislative backing to accompany the policy, the testing could only be requested on a voluntary basis using the Commissioner's common law powers. In July 2000 amendments to the *Australian Federal Police Act 1979* came into effect that made drug testing in specified circumstances mandatory. As a consequence of the amending legislation the policy was revised and issued in its present form in May 2001.[1889]

A separate policy exists for the inappropriate use and/or abuse of pharmaceutical drugs, including anabolic steroids. That policy does not incorporate any form of testing. A policy for alcohol misuse is currently being developed.[1890]

The AFP stipulates that its workforce must be drug free. The National Guideline is extremely clear in prohibiting the use of illicit drugs at any time and two unambiguous statements to this effect are found in the policy.[1891] The rationale for the prohibition, as provided in the policy, is the need to maintain integrity, reliability and accountability of staff. Health and safety concerns are also included in the rationale.

1889 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Canberra.

1890 Correspondence from Australian Federal Police, Drug Program Project Officer, 24 January 2005.

1891 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Canberra, pp. 1-2.

The National Guideline states that:

> The drug free work force program aims to educate, and provide a drug free working environment, for all AFP personnel through a group of integrated guidelines and support services. The program is focused on a harm minimisation and use discouragement approach encompassing education, rehabilitation and testing processes. [1892]

The Guideline applies to all AFP personnel including employees (civilian staff as well as sworn members), special members,[1893] employees appointed for a fixed term and secondees. It also includes personnel from the Australian Protective Service (APS), which officially became part of the AFP on 1 July 2004. All of these personnel are subject to drug testing. As at 30 June 2004, the AFP had 4800 employees (including APS personnel) in Australia and overseas.[1894] The commencement of a program of Volunteers in Policing prompted the creation of a new drug testing category during 2002-2003, the Mandatory Volunteer Testing program.[1895]

A separate National Guideline has been developed for contractors and consultants. This guideline requires that contractors be subject to testing for prohibited drugs through the contractual relationship between the AFP and the Service Provider.[1896]

Overseas personnel are not subject to a separate policy as they are considered to fall within the scope of the general policy on prohibited drugs. Overseas staff may also be subject to additional guidelines that are specific to their posting. During 2004, staff posted overseas were drug tested by the AFP.[1897]

The term 'prohibited drugs' in the policy title refers to a narcotic substance or any drug specified in a Determination issued under Section 4A of the *Australian Federal Police Act 1979* ('the AFP Act'). Narcotic substances are defined in the *Customs Act 1901* Schedule VI. These are essentially illicit drugs. The Guideline states that the categories of illicit drugs may include, but are not restricted to, opiates, sympathomimetic amines (such as amphetamines), cannabis metabolites and cocaine metabolites.[1898]

As noted in the AFP's National Guideline, the AFP drug free workforce program is focused on harm minimisation and a multi-pronged use-discouragement approach that includes education and rehabilitation along with drug testing. The National Guideline itself largely describes the administration of the testing program and the consequences for positive drug tests. There is some information about rehabilitation and education, as will be

1892 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Canberra, p. 1.

1893 Special members are appointed by the AFP Commissioner under s.40E of the *Australian Federal Police Act 1979*. They can include officers seconded from other police services, or former AFP officers who are engaged to work on specific investigations.

1894 Australian Federal Police, AFP Annual Report 2003-2004, Canberra, 2004, p.15.

1895 Australian Federal Police, AFP Annual Report 2002-2003, Canberra, 2003, Appendix 3.

1896 Australian Federal Police, National Guideline on the Use of Prohibited Drugs in Relation to Contractors and Consultants (Illicit Drugs and Pharmaceutical Products), Canberra.

1897 Communication with Professional Standards, AFP, 25 August 2003; Correspondence from Drug Program Project Officer, Australian Federal Police, 16 November 2004; AFP, Guidelines on Role, Functions and Lines of Responsibility of Liaison Officers, 1996. DFAT, Code of Conduct for Overseas Service, undated.

1898 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Canberra, pp.1-2.

discussed below. It is interesting, however, to note that, apart from drug testing, the policy does not provide guidance for supervisors confronted with an employee who appears drug affected or about whom there are suspicions or allegations of drug use. Unlike some other law enforcement policies, the AFP policy does not discuss 'fitness for work' or declining work performance (apart from the initial rationale which states that trust in the AFP is conditional on officials exercising their authorities and powers rationally). In general, the AFP policy appears to rely heavily on drug testing as the primary means of detecting illegal drug use by its staff.

A Drug Program Project Officer (DPPO) carries out the general administration of the drug testing program. This officer is responsible for coordinating arrangements for conducting tests on behalf of individual business areas within the AFP. AFP personnel are required to comply with a direction to undergo a drug test and failure to do so is considered a disciplinary offence.[1899] The testing regime used by the AFP follows the Australian Standard AS4308-1995 and hence uses urine sampling. The AFP Act does provide for other forms of body sample (such as blood or hair) to be sought for drug testing purposes, although, under the policy, requesting a different form of sample must be carefully considered having regard to whether it is reasonable in the circumstances. Consideration may include the availability of procedures and any significant injury or incapacity of the employee that restricts their ability to provide a urine sample.[1900] An independent provider is contracted for the collection and analysis of urine samples. This is conducted as a two-part test. An initial screening test is followed by a confirmatory test, where the initial test result indicates the possible presence of a drug. The purpose of the confirmatory test is to eliminate any false positive results.[1901]

Mandatory targeted testing

All staff are liable to periodic drug testing under the Mandatory Targeted Testing (MTT) program. This program operates in a similar manner to the random testing program of NSW Police. The AFP program differs, however, in that some employees have a greater chance of being selected for testing than others. The AFP carries out risk assessments of work areas and employees in those work areas considered to be a higher risk are subject to more frequent testing – hence the title 'targeted' testing, rather than random testing. Areas assessed to be at high risk would include those where highly confidential information is used or areas where staff are exposed to drugs and the drug trade. Once an area has been identified, staff from within that area are selected randomly for testing. Only staff that are rostered on duty are tested.[1902]

The AFP has stated that its aim would be to test a minimum of 50 per 100 employees per year for the random process, as well as employees being tested at other 'significant' times

1899 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Canberra, p. 2.

1900 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Canberra, p. 3.

1901 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Canberra, p. 3.

1902 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Attachment A, Canberra.

under other programs such as pre- & post-deployment overseas, pre- & post-deployment to undercover operations and those operating in highly sensitive positions.[1903]

Mandatory certain incident testing

Mandatory Certain Incident Testing (MCIT) is similar to NSW Police Mandatory Testing. The main difference is that the list of critical incidents that require a MCIT includes incidents where:

- a person is seriously injured (not only killed) while in AFP custody
- a person is killed or seriously injured by an application of physical force or discharge of a firearm by an on-duty AFP member or special member, or
- an AFP employee or special member is directly involved while on duty and a person is killed or seriously injured as the result of an incident involving a motor vehicle or vessel.

The AFP Director of Professional Standards authorises MCIT tests.1904 While the AFP policy states that personnel directly involved in an incident are not to be stood down from duty until the requirement for testing has been determined, AFP legislation provides that a direction to provide a sample can be given whether or not the employee or special member is still on duty.[1905]

Mandatory investigation testing

Mandatory Investigation Testing (MIT) is initiated as part of a Professional Standards internal investigation where information/intelligence has been received that would justify such an approach. The tests are carried out by staff from the Professional Standards area (with the independent testing providers).[1906]

Mandatory applicant testing

Applicants for the AFP are tested shortly before employment as part of the selection process, or immediately after commencing employment. This testing is conducted as a condition of employment and focuses on detecting the presence of illicit drugs.[1907]

The selection process includes additional measures to try to prevent persons who use illicit drugs from becoming employees of the AFP. The Security Clearance Questionnaire and

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1903 Correspondence from Drug Program Project Officer, Health and Safety Services, Australian Federal Police, 11 January 2005.

1904 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Attachment C, Canberra; Section 40N *Australian Federal Police Act 1979*.

1905 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Attachment C; Section 40N *Australian Federal Police Act 1979*.

1906 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, Attachment B.

1907 Australian Federal Police, National Guideline on the Use of Prohibited Drugs, p. 4.

Drug Issues Security Questionnaire – which must be completed by all prospective employees – includes a number of questions related to use of illicit drugs.[1908]

Role of the medical review officer

The AFP policy incorporates a Medical Review Officer (MRO) and a Medical/Science Review panel into the testing procedure. Samples that test positive in the initial laboratory screening are automatically subject to a confirmatory test by the independent provider. Confirmed positive results are sent to the MRO. The MRO provides the test results to the person who provided the sample (in the case of an MTT) or an officer within the business area that initiated the test (for other tests). The MRO will also provide the results to the Medical/Science Review panel. This panel examines all confirmed positive test results, contacts the sample provider for additional information and reviews the circumstances that impact on them. Only if the panel finds there is no justifiable reason for the sample to contain one or more of the nominated drugs will the test result be deemed a 'verified positive result'.[1909]

Expansion of mandatory targeted testing

Since its inception in 1997, the main shift in the AFP drug policy has been the decision to greatly expand Mandatory Targeted Testing after legislation granting the AFP the power to conduct the tests came into effect. The extent of the expansion in the testing program can be seen in the significant increase in the number of MTT tests from 83 in the 2001/2002 reporting year to 1905 tests in the 2002/2003 and 1122 tests in the 2003/2004 reporting years.[1910]

In spite of the increase in numbers tested, there has not been an increase in positive test results amongst employees. In the 2001/2002 reporting year, one applicant, one contractor and one employee tested positive. In the 2002/2003 reporting year, one applicant for an unsworn position, five contractors, and one employee tested positive for drug use. In the 2003/2004 reporting year, two applicants for unsworn positions and three contractors tested positive for drug use. The two positive employee tests across this three-year period involved the detection of cannabis.[1911]

Response

AFP personnel who are 'adversely brought to notice' under this guideline have their suitability for continued employment or work with the AFP assessed.[1912]

1908 Australian Federal Police, Security Clearance Questionnaire. AFP Drug Issues Security Questionnaire.

1909 Australian Federal Police, *National Guideline on the Use of Prohibited Drugs*, Canberra, pp. 5-6.

1910 Australian Federal Police, *AFP Annual Report 2002-2003*, Appendix 3, Canberra, 2003; Australian Federal Police, *AFP Annual Report 2003-2004*, Appendix 3, Canberra, 2004.

1911 Australian Federal Police, *AFP Annual Report 2002-2003*, Appendix 3, Canberra, 2003; Communication with Drug Program Project Officer, 29 August 2003; Australian Federal Police, *AFP Annual Report 2003-2004*, Appendix 3, p. 124, Canberra, 2004.

1912 Australian Federal Police, *National Guideline on the Use of Prohibited Drugs*, Canberra, p. 5.

In the event of a positive MIT or MCIT test, normal investigation procedures apply once the officer in the business area that initiated the test is informed. In the event of a positive MTT test, the matter is referred to Professional Standards for an assessment for further action. In the case of a positive test for cannabis, the assessment process will canvass rehabilitation options in the first instance.[1913]

The Guideline on the inappropriate use of pharmaceutical products states that where an appointee is inappropriately using and/or abusing pharmaceutical products and has declined to seek or continue assistance, the appointee's suitability for continued employment with the AFP will be assessed.[1914]

The AFP Commissioner's Order on Professional Standards also outlines the consequences when an officer has a positive drug test and is found to be in breach of the *Australian Federal Police Illicit Drug Free Workforce Model*. This provides for a range of potential actions that include the commencement of disciplinary proceedings, other actions under the AFP Act, or being dealt with in accordance with the rehabilitative outcomes provided by the prohibited drug policy.[1915]

Amnesty and rehabilitation

The AFP policy does not incorporate an amnesty program in the manner of NSW Police. A range of support services is available for AFP employees experiencing drug related problems. This includes an Employee Assistance Program, counselling and other services. An 'endeavour to support' applies to those employees who voluntarily seek assistance to cease their personal use of cannabis prior to being tested. Similarly, rehabilitation programs for those who have tested positive in a drug test are only offered to those who have tested positive to cannabis. Detected use of other forms of illicit drugs is treated on a case-by-case basis. [1916]

Employees in rehabilitation are subjected to special follow-up testing for two years. If rehabilitation is not completed within two years or a second verified positive test is returned, the matter becomes one of employment suitability where rehabilitation is not an option.[1917]

Education

Education packages are provided to personnel to advise them of the AFP's Drug Free Work Force policy. The focus of these packages is on harm minimisation and use discouragement. They include not only information about the AFP's policy on the use of

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1913 Australian Federal Police, *National Guideline on the Use of Prohibited Drugs*, Canberra, pp. 4-5.

1914 Australian Federal Police, *National Guideline on the Inappropriate Use and/or Abuse of Pharmaceutical Products*, Canberra, 1996.

1915 Australian Federal Police, *The Australian Federal Police Commissioner's Order on Professional Standards*. Canberra, June 2000.

1916 Australian Federal Police, *National Guideline on the Use of Prohibited Drugs*, Canberra, p. 6; Communication with Professional Standards, AFP, 29 August 2003; Communication with Drug Program Project Officer, AFP, 29 August 2003.

1917 Australian Federal Police, *National Guideline on the Use of Prohibited Drugs*, Canberra, p. 6.

prohibited drugs, but also technical information regarding substances, threshold levels, length of time in the body, harm and consequences of use, testing procedures and information aimed towards changing peoples' attitudes towards drug misuse.[1918]

NORTHERN TERRITORY POLICE

A clear and concise prohibition on the use of illicit drugs is found in the Northern Territory Police Code of Conduct and Ethics: 'you must not use any illegal drugs at any time.'[1919] This Code also states that an officer commits a breach of discipline if he or she uses a substance (including liquor or a drug prescribed by a doctor) in a manner that results in unacceptable performance of duties or improper conduct.[1920]

At this time there is no drug and alcohol policy in place. The Northern Territory Police has stated that work has commenced on developing a policy that will be suitable for its service.[1921]

QUEENSLAND POLICE SERVICE

Until recently, the Queensland Police Service (QPS) Code of Conduct has been the primary instrument guiding police standards of behaviour, including the misuse of alcohol and licit drugs, and use of illegal drugs.

While the Code of Conduct does not specifically mention the issue of illegal drug use, Section 7 of the Code provides a broad framework for members' standards of behaviour. It requires members to take responsibility for assessing the appropriateness of their conduct, or the conduct of other members, by application of the SELF test:

- Would your decision withstand SCRUTINY by the community or the Service?
- Will your decision ENSURE compliance with your Oath of Service, this Code of Conduct and Service policy?
- Is your decision LAWFUL? Does it comply with all laws, regulations and rules?
- Is your decision FAIR to the community, your family and colleagues and others?

In addition, respect for the law and system of government in general and professional conduct are referred to in a number of Service documents including the Procedural Guidelines for Professional Conduct.

1918 Australian Federal Police, *National Guideline on the Use of Prohibited Drugs*, Canberra, p. 6.

1919 Northern Territory Police, *Code of Conduct and Ethics*, 3rd ed, October 2001, p.8.

1920 Northern Territory Police, *Code of Conduct and Ethics*, 3rd ed. October 2001, p.8.

1921 Communication with Senior Policy Advisor, Drug and Alcohol Policy, Northern Territory Police, 3 November 2004.

No systematic drug testing of police officers takes place pursuant to the Code of Conduct. However, in disciplinary investigations where the use of illicit drugs or alcohol is suspected, the Deputy Commissioner is able to direct members to be tested. Additionally, covert operatives are drug tested as part of their work agreements which must be finalised before taking up this type of duty. This involves pre- and post-operation testing as well as random testing and re-integration testing.[1922]

The approach taken by the QPS has undergone a substantial change as a consequence of the passage of the *Police Service Administration (Alcohol and Drug Testing) Amendment Act 2003*.[1923] As amended by that Act, the *Police Service Administration Act 1990* now provides the QPS with a legislative basis to undertake alcohol and drug testing of specified members of the QPS referred to as 'relevant members' (s.5A.3). According to the Act, the objectives of this testing are to ensure appropriate steps are taken in the interests of the health and welfare of QPS relevant members and to enhance public confidence in the service and the integrity of the service.[1924]

A variety of drugs are captured under the Act. These include (s.5A.4):

- alcohol
- 'dangerous drugs' as defined by the *Drugs Misuse Act 1986*
- a controlled drug, restricted drug or poison as defined under the *Health Act 1937* that may impair physical or mental capacity, or
- another substance that may impair physical or mental capacity.

The latter three are collectively referred to as 'targeted substances'. The 'relevant members' to whom the Act applies covers a wide range of personnel, including police officers, civilian staff who work in 'critical areas', an assistant watch-house manager, police radio/electronics technicians and recruits (s.5A.2; s.5A3(1)). The civilian staff included are those working in a direct support role for operational police officers or in an area whose functions involve a measure of risk (e.g. civilians working in a communications centre or a facility used for storing dangerous drugs).[1925]

The Act states that a relevant member must not have evidence of a dangerous drug in their urine at any time. 'Targeted drug testing' is to be introduced for a specific range of circumstances (s.5A.13). These include:

- involvement in a critical incident[1926]

1922 This arrangement is encapsulated under Targeted Substance Testing in Phase 2 of the QPS Drug and Alcohol Policy; Correspondence from Commissioner, Queensland Police Service, 18 April 2005, pp. 2-3.

1923 The Act was not proclaimed until October 2004.

1924 *Police Service Administration (Alcohol and Drug Testing) Amendment Act 2003 (QLD)*, s 5A.1.

1925 Explanation of what constitutes a critical area is found in Queensland Government, *Police Service Administration (Alcohol and Drug Testing) Amendment Act 2003 (QLD),* s 5A.2.

1926 This is defined under the Act to mean an incident in which an officer discharges a firearm in a manner that caused or could have caused injury, a death of a person in custody, or a vehicle pursuit or a workplace incident at a police establishment where a person dies or is admitted to hospital for treatment of injuries (s.5A.2).

- working as a covert operative
- applying to work as a covert operative
- where there is suspicion by an authorised person of substance misuse, and
- prior to training for recruits.

Random testing for targeted substances was not included in the legislation, although it does provide for random testing for alcohol. A relevant member who fails to provide a specimen, unless they have a reasonable excuse, is taken to have tested positively for a targeted substance (s.5A.15).

The Act provides the Queensland Police Commissioner with a variety of possible actions when responding to a positive alcohol or targeted substance test. Options include counselling and rehabilitation, fitness for duty tests and disciplinary action amongst others (s.5A.16). Some of these responses may only apply where the person has tested positive to an illegal drug. A health and welfare response may occur in parallel with a discipline response.[1927]

The QPS has recently released its 'Alcohol and Drug Policy and Procedures'. The Policy outlines the response of the QPS to the issue of alcohol and drug misuse by its staff and provides the Service with a framework to administer the provisions of the legislation.[1928] Phase one of the Alcohol and Drug Policy and Procedures, which commenced in January 2005, focused on random alcohol testing and the consequences for returning a positive alcohol test. Additional procedures for targeted alcohol and drug testing were released under Phase two of the policy in April 2005.[1929]

The policy provides a clear prohibition on the use of illicit drugs by police:

> There is an organisational and community expectation that police will adhere to the highest standards of personal and professional integrity. Illicit drug use is incompatible with the ethics of the police workplace and the use of illicit drugs is unacceptable at any time.[1930]

A clearly stated aim of the policy is to enhance the integrity of the QPS, while another is to promote the health, welfare and safety of all QPS members.

According to the policy, the QPS intends to pursue a multi-strategy approach to alcohol and drug misuse that includes legislation, enforcement, education and support. Along with testing, there is a capacity for police and staff members to self report personal substance misuse and access QPS funded assessment, counselling and treatment. Ongoing support will continue to be offered through police chaplains, Human Services Officers and peer

1927 Correspondence from Commissioner, Queensland Police Service, 18 April 2005, p. 3.

1928 Queensland Police Service, *Alcohol and Drug Policy and Procedures*, Brisbane, 17 December 2004; Correspondence from Commissioner, Queensland Police Service, 18 April 2005, p. 3.

1929 Queensland Police Service, *Alcohol and Drug Policy and Procedures*, Brisbane, 17 December 2004, p. 1; Correspondence from Commissioner, Queensland Police Service, 18 April 2005, pp. 1 & 3.

1930 Queensland Police Service, *Alcohol and Drug Policy and Procedures*, Brisbane, 17 December 2004, p. 5.

support structures. There is an information strategy that is to raise police awareness and knowledge of the risks and harms associated with inappropriate alcohol and licit drug use, including education about the harms associated with illicit drug use. Education, support for self-reporting staff, case management for staff accessing external treatment and coordination of testing is to be provided by the Alcohol and Drug Awareness (ADA) Unit.[1931]

The policy encourages self-reporting and early intervention and states that staff who self-report substance misuse may do so, without fear of disciplinary action based on their disclosure, for the purposes of obtaining a case management plan or to obtain counselling or rehabilitation under the plan. However, a disciplinary response will be considered by the Service if independent information, other than that revealed through self reporting, is received regarding a member's current involvement in illicit drug activities. The consequence of a positive targeted substance test is a disciplinary response with the provision for a welfare response where approved by the Commissioner.[1932]

SOUTH AUSTRALIA POLICE

South Australia Police has been engaged in developing a service-wide alcohol and other drug policy for a number of years. There has been considerable debate and redrafting of the document, largely in order to address specific concerns about use of alcohol by officers in small rural police stations. As at early 2005, South Australia Police has provided the draft policy to the South Australian Police Association for further consultation.

Until the new policy is finalised, the original South Australia Police Alcohol Policy continues to apply.[1933] In addition, South Australia Police has in place a number of areas within the service, including an Employee Assistance Section, that can assist employees who are experiencing problems with alcohol or drug misuse.

While South Australia Police continues to develop a service-wide 'Alcohol and Other Drugs in the Workplace' policy, a specialist area within Crime Services has had a drug testing program in place for police officers serving in that area since 2001. This program was developed as a specialised anti-corruption strategy. Apart from this particular area there has been no mandatory drug testing undertaken by the South Australia Police; moreover, they have indicated that this position will not change with the new drug and alcohol policy that is being developed.[1934]

Recruits are not drug tested during the application process or during their training. They do receive training on the ethical attitudes required of police, whilst both on and off duty. In addition, Police Academy Standing Orders state that recruits attending the academy who

1931 Queensland Police Service, *Alcohol and Drug Policy and Procedures*, Brisbane, 17 December 2004, pp. 7-9; Correspondence from Commissioner, Queensland Police Service, 18 April 2005, p. 3.

1932 Queensland Police Service, *Alcohol and Drug Policy and Procedures*, Brisbane, 17 December 2004, p. 11; Correspondence from Commissioner, Queensland Police Service, 18 April 2005, p. 4.

1933 Communication with Officer in Charge, Drug and Alcohol Policy Section, South Australian Police, 15 August 2003.

1934 Communication with Manager, Industrial Relations Branch, South Australia Police, 25 August 2003.

appear to have an alcohol or drug problem are required to undertake medical and psychological evaluation to determine their suitability for continued employment.[1935]

TASMANIA, DEPARTMENT OF POLICE AND PUBLIC SECURITY

In January 2004, the Tasmania *Police Service Act 2003* commenced. The Act includes a Code of Conduct and provisions for integrity testing of police officers. The Code of Conduct requires officers to act honestly and with integrity but it does not include an explicit prohibition on the use of illicit drugs.[1936]

The Act also provides a legislative basis for drug and alcohol testing of Tasmanian police officers; that is, members of the police service other than trainees or junior constables. Under the legislation, a police officer may be tested whether or not there is suspicion that they have recently consumed alcohol or taken any drug (s.50(1)). Officers can be required to submit to testing while on duty, reporting for duty, on 'standby' or on 'availability'(s.50(1)).[1937] Testing may also be carried out in the event of an incident involving a police officer, while discharging the duties of a police officer, where a person is killed or seriously injured (s.50(2)). Applicants are not drug tested in Tasmania as part of the recruitment process.

A number of forms of drug and alcohol testing are provided for within this Act. Officers may be required to undergo a breath test or submit to a breath analysis. They may be required to provide a sample of urine or saliva for testing; or, with the consent of the officer, a blood sample may be taken (s.50(1), s.50(2)).

The Act does not specify what response is to be taken in the event of a positive test result. It does state, however, that the Commissioner may issue directions on the consequences of a positive drug or alcohol test, follow-up testing, procedures for rehabilitation or any other appropriate matter (s.51(1)). It also requires the Commissioner to issue directions on the confidentiality of testing and security and safekeeping of samples (s.51(2)).

The Tasmanian Department of Police and Public Safety is currently developing comprehensive drug and alcohol policy and procedures. These will, in part, enable the implementation of the drug testing aspects of the *Police Service Act 2003*.

VICTORIA POLICE

Victoria Police is currently in the process of developing a Victoria Police Workplace Alcohol and Other Drugs Policy. This will be a welfare-based policy that is expected to include drug testing. In addition, the *Police Regulation Act 1958* is currently under review

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1935 South Australia Police, *Police Academy Standing Orders*, October 2002.

1936 Tasmanian Government, *Police Service Act 2003*. Available at <www.parliament.tas.gov.au/bills/Bills2003/pdf/77_of_3003.pdf>

1937 The Tasmanian Police award defines 'Availability' as those times when a member is rostered or directed to be available to resume duty at any time and is to remain contactable within the time limits or obligations imposed by the Controlling Authority. 'Standby' refers to those times where a member is directed to be prepared to resume duty immediately when advised and within the time limits or obligations imposed by the Controlling Authority. 2001 Tasmania Police Award.

and new legislation is being drafted that may include provisions for some form of drug testing. The Victoria Police Association has agreed to its members referring themselves for assistance in relation to drug or alcohol dependence, supervisory referral, or drug testing following a critical incident. They have, however, made clear their opposition to random, targeted and 'start of shift' testing of their members.[1938]

Until the new policy comes into operation, the main statements from Victoria Police on the use of illicit drugs by employees are to be found in the Victoria Police Code of Conduct and the Victoria Police Manual.[1939] The Code of Conduct clearly states:

> Use of illicit drugs is a criminal act. Victoria Police will not tolerate this activity by its employees.
>
> You have an occupational health and safety obligation to yourself, fellow workers and the community to be alcohol and drug free.[1940]

The Code goes on to state that if an employee develops a drug dependency they can be assisted to overcome the problem through treatment and counselling, provided they declare the nature and extent of the problem, demonstrate a commitment to treatment and alert a supervisor before the dependency becomes a performance issue or subject of investigation.

The Manual also includes instructions on drug and alcohol consumption by employees. According to the Manual, these were established to ensure that Victoria Police employees act 'in a safe, responsible and lawful manner, both on and off duty'.[1941] The instructions specify that employees must 'not be unfit for duty due to the consumption of alcohol or drug'. A drug is defined as any substance which renders an employee unfit for duty when consumed and includes drugs listed on the Standard for the Uniform Scheduling of Drugs and Poisons as defined in s.4 and s.12 of the *Drugs, Poisons and Controlled Substances Act 1981*. The Manual also warns that breaches of the instructions will result in discipline charges.

In the absence at this time of a formal drug misuse policy, a welfare response to suspected problems is still possible. An employee may be referred to clinical services by a supervisor for treatment, including rehabilitation, and sick leave would be used for this time. The Employee Support Services of the Victoria Police include employee support and welfare, clinical services and a chaplaincy service. While the Employee Support Service does not explicitly offer a program for officers with a drug misuse problem, it does advertise the professional and confidential counselling that is available to all employees and does not require a referral.[1942]

1938 Victoria Police Association, 'Secretary's Message', *The Police Association Journal* 70 (11), November 2004, p. 3.

1939 Victoria Police, 'Code of Conduct'. Viewed at <http://www.police.vic.gov.au/showcontentpage.cfm?contentpageid=3896>; Victoria Police, *Victoria Police Manual: VPM Instruction 201-2: Drug and alcohol consumption by employees,* undated.

1940 Victoria Police, *Code of Conduct*, p. 6.

1941 Victoria Police, *Victoria Police Manual: VPM Instruction 201-2: Drug and alcohol consumption by employees*, undated.

1942 Victoria Police, *Employee Support Services*, pamphlet provided by Victoria Police, undated.

Victoria Police has been conducting drug tests of prospective recruits as part of the application process, using a signed consent since May 1999. The incidence of positive tests has been under one per cent.[1943]

WESTERN AUSTRALIA POLICE SERVICE

The Western Australia Police Service has had an approved 'Substance Use' policy since July 2001, though some aspects of the policy have not been implemented at the time of drafting this report. In the absence of legislation or regulations to support drug testing there has been no drug testing of members or recruits in training in the Western Australia Police Service (outside of rehabilitation requirements as will be discussed below).[1944] The Service does, however, conduct pre-employment drug testing of applicants.[1945]

The final report of the 'Royal Commission Into Whether There Has Been Corrupt or Criminal Conduct by any Western Australian Police Officer' was released in January 2004. One of the recommendations made in that report was for the development of a corruption prevention plan that should include, among other things, provision for testing of on-duty police for alcohol or prohibited drugs.[1946]

As of early 2005, the Western Australia Police Service is examining the recommendations of the Royal Commission with a view to developing appropriate legislation that will put into operation those recommendations.[1947]

The 'Fitness For Duty' section of the 2001 policy has been implemented. This section requires personnel (both public servants and police) and their supervisors to take responsibility for ensuring that they are fit for duty when recalled to duty or using prescription medication. It also provides for referral to counselling and rehabilitation in instances where there is a problem with substance use. Three potential forms of referral are outlined:

- self-referral;
- informal referral resulting from the recommendation of colleagues, supervisors or family members; or
- formal or management referral when a manager suspects substance use by personnel.[1948]

Employees experiencing difficulties with substance use are provided with the opportunity to resolve their problems. The Health and Welfare Branch acts as case manager for self-

1943 Correspondence from Chief Commissioner, Victoria Police, 30 July 2003; Correspondence from Drug and Alcohol Strategy Unit, Victoria Police, 25 November 2003.

1944 Communication with Professional Standards, Western Australia Police Service, 26 August 2003.

1945 Communication with Inspector in Charge of Recruiting, Western Australia Police Service, 2 December 2004.

1946 *Final Report of the Royal Commission into whether there has been corrupt or criminal conduct by any Western Australian police officer*, January 2004, Volume II, p. 338.

1947 Communication with Legal Services, Western Australia Police Service, 6 December 2004.

1948 Western Australia Police, *HR 8.13.1.1 Fitness for Duty*, December 2001.

referrals and informal referrals. External providers, such as private rehabilitation centres or psychologists, may be used in treatment. Referring managers must document formal referrals, but these are also passed on to the Welfare Branch.[1949] This would suggest that, in the absence of testing, the response of the Western Australia Police Service towards personnel experiencing substance use problems tends towards rehabilitation rather than discipline in the first instance.

In cases where officers are having treatment and rehabilitation for substance use (mainly alcohol to date), the Health and Welfare Branch includes regular testing as part of the rehabilitation program on the basis of it being a fitness for work issue. If, for example, an officer tested positive on a regular basis, the Western Australia Police Service would seriously consider medical retirement on the basis that the individual was not fit for work even after being offered treatment.[1950]

The policy also includes provisions for educating personnel. All personnel are to receive information about the hazards of substance misuse and the policy of the Service. Managers are to be provided with training on recognising the symptoms of substance misuse in their staff and strategies for managing these issues.[1951] Recruits also receive some information about substance misuse, the policy of the Service and the availability of counselling along with ethics training while at the Academy.[1952]

1949 Western Australia Police, *HR 8.13.1.1 Fitness for Duty*, December 2001.

1950 Correspondence from Principal Legislation Officer, Legal Services, Western Australia Police, 13 December 2004.

1951 West Australia Police, *HR 8.13.1.1 Fitness for Duty*, December 2001.

1952 Communication with Corporate Health and Fitness Advisor, Western Australia Police Service, 15 September 2003.

APPENDIX 15: OVERSEAS POLICING AGENCIES – POLICIES AND PRACTICES REGARDING ILLEGAL DRUG USE BY PERSONNEL

WHY DID THE PIC CONDUCT THIS RESEARCH?

The PIC examined the approaches used by other agencies to minimise illegal drug use by their personnel in order to assist in providing a broader context in which to consider NSW Police policies and procedures in this area. By considering the approaches taken by other agencies to detect and/or deter the use of illegal drugs by their personnel and the actions these agencies take when illegal drug use is detected, the PIC sought to identify possible lessons that may potentially be usefully applied within NSW Police.

The first group of agencies considered by the PIC were other Australian policing agencies. The policies of these agencies are discussed in Appendix 14. The PIC also considered the approach taken by a number of overseas policing agencies, which are discussed in this appendix, as well as a number of non-policing organisations in Australia which are looked at in Appendix 16. In addition to approaching other agencies and organisations, the PIC examined community approaches to minimising recreational drug use and these will be discussed in Appendix 17.

The relevant policies of the following overseas agencies are discussed in this appendix:

- **Canada**
  - Royal Canadian Mounted Police
  - Toronto Police Service
- **United Kingdom**
  - Metropolitan Police Service (England)
  - West Midlands Police (England)
  - Scottish Police Service
- **Netherlands**
  - Amsterdam-Amstelland Police
- **United States**
  - Federal Bureau of Investigation
  - New York City Police Department
  - Chicago Police Department
  - Los Angeles Police Department
  - Washington DC Metropolitan Police Department

- San Francisco Police Department
- San Diego Police Department
- Charlotte-Mecklenburg Police Department
- Denver Police Department
- Aurora Police Department.

HOW DID THE PIC CONDUCT THIS RESEARCH?

Each overseas policing agency was contacted by the PIC to seek its assistance in relation to the research regarding illegal drug use by police personnel. Each of the agencies assisted by providing information regarding any policies the agency had in relation to illegal drug use by personnel, procedures or guidelines in relation to drug testing, as well as training policies/materials relating to high-risk groups. In many cases, the PIC liaised with a contact person from within the agency to whom inquiries could be directed, where necessary, regarding the agency's approach to minimising illegal drug use by personnel.

The police agencies discussed in this appendix were chosen based on a number of factors including their similarity to the Australian policing and legislative environment, their experience in developing substance misuse policies or a current interest in doing so, availability to make contact in English, and in some cases existing contacts with whom the PIC could correspond.

TERMINOLOGY ACROSS DIFFERENT JURISDICTIONS

In conducting this research, the PIC noted that different overseas agencies use different terms to describe the same thing. For example, a number of agencies use the word 'screening' to refer to drug testing. What are referred to as 'targeted tests' by NSW Police are called 'for cause', 'with cause' or 'reasonable suspicion' tests in other agencies. Some agencies use the term 'mandatory testing' in contrast to voluntary testing, rather than its use by NSW Police to refer to critical incident testing. Also, some policies refer to 'substance misuse', 'prohibited drugs', 'prohibited substances', 'targeted substances', 'narcotics' or other agency specific terms depending on the scope of substances covered by the policy. All of these terms would include illegal drugs, but may also include alcohol, pharmaceutical drugs or other drugs. In general, this appendix will follow the terms used by an organisation when referring to measures specified in its policy, but the terms illicit drugs or illegal drugs will be used when speaking about the policies in more general terms.

WHAT DID THE PIC FIND OUT?

The PIC found that some overseas policing agencies, such as those in the United States, have had drug and alcohol policies in place for a number of years. Others, such as those in Canada and the United Kingdom, were in the process of drafting new policies or were actively considering significant changes to policy at the time of drafting this report.

The key lessons obtained from this research into the approaches taken by overseas policing agencies are outlined in Chapter 3 of this report. The position of each of the agencies as at early 2005 and the policies from which the key lessons in Chapter 3 have been derived are summarised in this appendix. These summaries pertain to the official policies of the agencies represented or other available documentation regarding their approaches to minimising illegal drug use by personnel. It is important to remember that the realities of practice may vary from the impressions gained by reading the written documents. In some cases representatives of the agencies have provided additional information on the operation of aspects of their policies which elaborates on the information contained in the written documents.

CANADA

Royal Canadian Mounted Police

The Royal Canadian Mounted Police (RCMP) is Canada's national police force. It operates at federal, provincial and municipal levels and is made up of approximately 22 000 employees, of which approximately 15 000 are peace officers and the remainder are civilian staff.[1953] During 2003 the RCMP began work to prepare a renewed policy on drug misuse within the RCMP. This included consideration of whether the RCMP should adopt random and/or for cause drug testing. In conducting their research, representatives from the RCMP spoke with several large USA agencies including the New York City Police Department (NYPD), the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA). In November 2003 a position paper summarising this research and discussing relevant issues was presented to the RCMP Ethics Council. The PIC has obtained an edited copy of that paper.[1954]

According to the position paper, a number of factors precipitated the review of the existing policy. One was the need to ensure a uniform approach to drug misuse covering both applicants and the RCMP workforce. Another was concern about the impact of proposed legislation for the decriminalisation of possession of small quantities of cannabis. The RCMP questioned what action could be taken with respect to officers openly using cannabis under a new penalty regime.[1955] The position paper noted that the RCMP policy 'must be clear and reflect our values and standards with respect to illegal substances...'.[1956]

The research conducted revealed that no Canadian police force had a drug policy that included random or mandatory drug testing at that time. However, some agencies did have limited drug testing for specialised areas such as covert units or emergency response teams.

1953 Royal Canadian Mounted Police Website, 'Organization of the RCMP', viewed 7 February 2005, <www.rcmp-grc.gc.ca/html/organi_e.htm>.

1954 Royal Canadian Mounted Police, Drug Branch, position paper (untitled), presented to RCMP Ethics Council, November 2003.

1955 At the time of drafting this report, this legislation is not yet in force. The proposed legislation was contained in 'Bill C-38' (An Act to amend the *Contraventions Act* and the *Controlled Drugs and Substances Act*). The progress of this Bill appears to have stalled in November 2003 following a report from the Special Committee on the Non-medical Use of Drugs (Bill C-38).

1956 Royal Canadian Mounted Police, Drug Branch, position paper (untitled), presented to RCMP Ethics Council, November 2003, pp. 2-3.

While specific details are not provided in the paper, there appeared to be some basis for legal challenges to workplace drug and alcohol policies that were of concern to the RCMP.[1957] These concerns appear to have arisen out of an ongoing debate in Canada regarding the legality of employers drug testing their employees.

The paper canvassed whether drug testing should apply to all employees (that is, both sworn officers and civilian staff). It also noted that consideration should be given to whether the policy would apply only to employees carrying out certain 'high risk' functions or to all employees, regardless of their position.[1958]

The position paper also suggested that the policy to be developed would need to follow two tracks. The first track would deal with employees who voluntarily seek assistance for misuse of illegal drugs. The second track would apply to employees who misuse illegal drugs but do not voluntarily come forward for assistance. If drug testing were introduced as a detection tool, track two would apply to those employees whose drug use comes to attention as the result of a positive drug test. The paper noted that consideration needed to be given to the appropriate treatment and disciplinary outcomes for employees falling within each category.[1959]

The position paper noted that if drug testing is adopted, a decision must be made regarding the type of testing to be conducted. It was noted that there are two types of testing that must be considered, those being random and 'for cause' testing. The latter refers to situations where there are reasonable grounds indicating probable drug use by an employee. The paper proposed that any testing would be for illegal drugs. It did not propose testing for alcohol or prescription medication, largely out of concern about legal challenges. When discussing the rate of drug testing the paper noted that the 'standard average' of employees tested (apparently referring to agencies in the USA) is ten per cent of the workforce per year.[1960] The paper did not state what form of testing they would recommend (such as urine or another method).[1961]

Another point of interest that arose from the paper was a stated need to keep the drug and alcohol policies separate. This was recommended partly for ease of policy development, but also due to a concern that court challenges in one area of the policy could potentially delay implementation of the rest.

The aim of the position paper was to put forward an initiative for developing a substance misuse policy within the RCMP. At the time of drafting this report, there had been no progress regarding the recommendations made in the position paper. A representative of the RCMP has advised that it will be some time before the RCMP formally considers a

1957 Royal Canadian Mounted Police, Drug Branch, position paper (untitled), presented to RCMP Ethics Council, November 2003, pp. 4, 7-8.

1958 Royal Canadian Mounted Police, Drug Branch, position paper (untitled), presented to RCMP Ethics Council, November 2003, pp. 4-5.

1959 Royal Canadian Mounted Police, Drug Branch, position paper (untitled), presented to RCMP Ethics Council, November 2003, pp. 5-6.

1960 Royal Canadian Mounted Police, Drug Branch, position paper (untitled), presented to RCMP Ethics Council, November 2003, pp. 7-8.

1961 Royal Canadian Mounted Police, Drug Branch, position paper (untitled), presented to RCMP Ethics Council, November 2003, p. 8.

business plan for a new drug misuse policy.[1962] In the meantime, the position paper discussed in this report remains just that.

Toronto Police Service

The Toronto Police Service (TPS) is comprised of approximately 7200 members, with approximately 5200 being sworn police officers and the remainder being civilian staff.[1963] The TPS policy on drug misuse is found in its Service Procedures entitled *Toronto Police Service Procedure 08-05: Substance Abuse* and it applies to all members, both sworn and civilian. The policy states that members shall not engage in the illegal use or possession of any controlled substance or other substance to the extent that the said substance may have an adverse effect on the performance of his or her duties as a member of the Service.[1964] The TPS policy on drug misuse acknowledges that substance abuse problems will occur and need to be addressed by responsible management and members. The term 'substance abuse' is used in the policy to include alcohol, prescription, non-prescription or illegal drugs in a manner that has adverse effects on members' health, safety, productivity, quality of family life or the morale and effectiveness of the Service.[1965]

At the time of drafting this report, there was no drug testing in the TPS. Some testing had been proposed to commence in March 2005. This will be discussed later in this section. The policy that has been in operation within the TPS relies heavily on members voluntarily seeking help with substance abuse problems through self-disclosure, or supervisors and unit commanders detecting problems. In cases where supervisors become aware of a member who exhibits behaviour that may be related to substance abuse, a number of courses of action are described in the policy:

- If a supervisor becomes aware of a member who exhibits work performance problems that may be related to substance abuse, they should determine if there are any immediate fitness for duty or safety concerns. The supervisor should also encourage the member to seek assistance and advise them of options available. They must also follow up with the member, provide encouragement and provide heightened performance monitoring.
- Where a supervisor has fitness for duty or safety concerns the supervisor must report the matter to the unit commander. The unit commander will confer with the supervisor and where it is determined that there are fitness for duty concerns, the unit commander must ensure that the member attends for an assessment as determined by the Medical Advisor. The unit commander is also required to ensure the member receives proper support and complies with the ongoing recommendations of the Medical Advisor.

1962 Correspondence from Inspector, Integrity Programs, Royal Canadian Mounted Police, Canada, 14 April 2004.

1963 Figures correct as at 31 December 2003; Toronto Police Service, *Annual Report 2003*, p. 11, viewed 14 February 2005, <http//:www.torontopolice.on.ca/publications/files/reports/2003annualreport.pdf >.

1964 Controlled substance is defined as any of the substances listed in Schedules I, II, III and IV of the *Controlled Drugs and Substances Act*.

1965 Toronto Police Service, Toronto Police Service Policy and Procedure Manual, 08-05 Substance Use, last updated February 2005, pp. 1-2.

- If a supervisor observes that a member is unfit for duty, the member must receive immediate medical treatment if required and an investigation will be commenced. The member may also be suspended from duty.[1966]

If a member is found to refuse to cooperate with a mandatory fitness for duty evaluation the unit commander is required to take 'the appropriate disciplinary action'.[1967]

One of the options that supervisors can provide to a member with a substance misuse problem is the Employee and Family Assistance Program (EFAP). This is run by the Toronto Police Service for both sworn and civilian staff and their families. It is staffed by six full-time staff and additional volunteer Service members who have been trained in problem assessment and referral.[1968] Officers can also seek assistance from community-based services.

The EFAP coordinates a support group for police officers who have substance addictions and other psychological problems such as 'critical incident stress'. It is conducted in partnership with an independent health service provider. The support group is now part of a program for police officers suffering from addictions (alcohol, chemical and gambling) run by the health service provider. Most of the clients of the program present with alcohol addiction problems (69% in 2002). Clients with 'chemical' addictions formed 25% of the total (or 17 persons in 2002).[1969]

Self-disclosure is generally accepted as a first step towards rehabilitation. Members who self-disclose are placed on a treatment program and then reintegrated into the workforce. They must also participate in drug testing for a prescribed period of time to demonstrate sustained abstinence. Typically, a timetable will extend for a minimum of three years with random testing taking place over that time. Positive drug test results will, however, result in disciplinary action.[1970]

If detection of substance misuse comes about subsequent to the arrest or charging of members for drug related offences, treatment will be delayed until a disciplinary outcome has been reached. In such cases, the TPS may initiate a return to work program which will include mandatory drug testing. It has been noted that two such potential cases were in the system as at January 2004.[1971] In one of these cases, the officer was found guilty in a criminal court for possession of cocaine and has since been dismissed from the TPS following a tribunal hearing. At the time of writing this report, the officer is appealing both

1966 Toronto Police Service, Toronto Police Service Policy and Procedure Manual, 08-05 Substance Use, last updated February 2005, pp. 3-5.

1967 Toronto Police Service, Toronto Police Service Policy and Procedure Manual, 08-05 Substance Use, last updated February 2005, p. 5.

1968 Toronto Police Service, Toronto Police Service Policy and Procedure Manual, 08-01 Employee and Family Assistance Program, current as at August 2003.

1969 Toronto Police Service, Employee and Family Assistance Program, 2002 Annual Report, May 2003, pp. 20-21.

1970 Correspondence from Manager, Occupational Health and Safety, Toronto Police, Canada, 21 January 2004.

1971 Correspondence from Manager, Occupational Health and Safety, Toronto Police, Canada, 21 January 2004.

the criminal conviction and the dismissal. The case involving the second officer is ongoing.[1972]

As noted earlier, at the time of writing this report, the TPS does not have a drug testing program in place. However, this may change as a result of a review of TPS practices and procedures. In November 2001, Justice George Ferguson was commissioned by the TPS Chief of Police to conduct an extensive review of the Service and make recommendations concerning various aspects of police misconduct. One of the aspects considered was the use of illegal drugs by police officers.[1973]

In his final report, which was made public in February 2004, Ferguson made recommendations regarding the introduction of drug testing within the TPS. Ferguson recommended that a drug testing program be introduced whereby, as a condition of promotion or reassignment to high-risk areas (such as drug squads, major crime units, Emergency Task Force, Professional Standards Units, etc.), members will be required to submit to drug testing.[1974]

Ferguson identified the legal obstacles to adopting a 'comprehensive, service-wide drug-testing program' that existed at the time of drafting his report, stating that recent decisions by Canadian courts as well as pronouncements by both the Canadian and Ontario Human Rights Commission would appear to virtually preclude the introduction of random drug testing. Ferguson nonetheless expressed the view that a drug testing regime for officers assigned to high-risk areas is not only appropriate, but necessary in the interests of public and officer safety.[1975]

In April 2004, the Chief of Police expanded Justice Ferguson's mandate to give him a role in overseeing the implementation of his recommendations. The Chief of Police instituted an implementation committee, which met on a regular basis and included representatives of the Toronto Police Association and the Senior Officers' Organisation.[1976] On 14 January 2005, the Chief of Police announced that he would be proceeding with the implementation of drug testing, psychological testing and financial background checks for officers in defined high-risk jobs.

While noting that the Toronto Police Association and the Senior Officers' Association remained opposed to the introduction of drug testing, the Chief of Police indicated that testing of officers assigned to high-risk jobs would go ahead as of 1 March 2005.[1977] However, drug testing did not go ahead at that time. A new TPS Chief of Police was sworn in on 26 April 2005 and has since directed that a working group be established to

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1972 Correspondence from Detective, Professional Standards Investigative Unit, Toronto Police, Canada, 15 March 2005.

1973 G. Ferguson, *Review and recommendations concerning various aspects of Police Misconduct – Volume 1*, commissioned by Chief of Police, Toronto Police Service, Canada, January 2003, p. 2 (Released 27 February 2004).

1974 G. Ferguson, *Review and recommendations concerning various aspects of Police Misconduct – Volume 1*, commissioned by Chief of Police, Toronto Police Service, Canada, January 2003, pp. 31-32.

1975 G. Ferguson, *Review and recommendations concerning various aspects of Police Misconduct – Volume 1*, commissioned by Chief of Police, Toronto Police Service, Canada, January 2003, p. 30.

1976 J. Fantino, 'Reforms moving ahead', Toronto Police Service, 14 January 2005, viewed 17 January 2005, <http://www.torontopolice.on.ca>.

1977 J. Fantino, 'Reforms moving ahead', Toronto Police Service Website, 14 January 2005, viewed 17 January 2005 <http://www.torontopolice.on.ca>.

examine the issue of drug testing within the TPS. It is expected that this working group will meet for the first time in mid-2005.[1978]

UNITED KINGDOM

There are 43 police agencies in England and Wales.[1979] They are maintained by local police authorities, while the Government sets priorities for policing agencies in the UK as a whole. Scotland has eight police agencies, while Northern Ireland has one service. In Scotland, as in England, each police agency is maintained by a local police authority, while policy responsibility rests with the Secretary of State who, in turn, is answerable to Parliament.

Substance misuse policies are a subject of current debate in the UK and a number of papers have been published on how police agencies should move forward in establishing appropriate procedures. Not unexpectedly, the main point of contention has been the question of whether or not to conduct drug testing and, if so, what kind of testing there should be.

Policy developments

In January 2000, the Police Superintendents' Association of England and Wales published a report on workplace drug testing. That report supported compulsory random drug testing, mainly on an integrity basis, as the most effective deterrent and detection tool.[1980]

Also in that year, the Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO), which is the main police policy development body in the UK, developed a document entitled 'Substance Misuse by Police Personnel – Policy and Guidance Document'. This document was intended to form a model policy for UK police agencies and to provide some guidance to those agencies giving consideration to the introduction of drug testing. It also included a recommendation that consideration be given to changing the Police Regulations to enable drug testing to take place.

While stating that the ACPO did not approve of the misuse of drugs, and noting that possession and supplying of illegal drugs is a criminal offence, the ACPO policy guideline offers help to those who may have an alcohol or drug misuse problem.

Overall, the document has a significant focus on problem identification and treatment options. While it provides encouragement for officers experiencing substance misuse problems to seek assistance and treatment themselves, it also provides substantial support for managers to identify and deal with staff members having problems.

Attached to the policy is a document describing possible signs of substance misuse, including physical observations specific to particular drugs and more general signs such as poor work performance and frequent accidents. Advice is also provided about how to

1978 Correspondence from Detective, Professional Standards Investigative Unit, Toronto Police, Canada, 12 May 2005.

1979 England has 39 police agencies and Wales has four.

1980 Police Superintendents' Association of England and Wales, *Random Testing of Police Officers*, January 2000.

approach and interview a member of staff suspected of having a substance misuse problem and how to assist them find appropriate treatment. Rehabilitation is the primary aim unless an individual rejects treatment or fails to complete a treatment program, in which case misconduct procedures may be initiated.

The policy and guidance document includes a section on drug testing, noting that individual forces may wish to introduce a screening program in consultation with appropriate parties. It indicates testing may be carried out in certain instances including pre-employment screening and internal appointment to high-risk posts. It goes on to suggest further levels of screening including random drug testing, though it notes this would require legislation to support it.

In light of the emphasis on rehabilitation, the document discusses at length the apparent contradiction of a law enforcement agency dealing leniently with law breaking by its own staff. It concludes that if the 'hard line' of dismissal for any substance misuse is taken there is a significant risk of driving the problem underground with other staff potentially unwilling to take action that would result in the dismissal of a colleague. They propose a 'balance' between these conflicting interests where an initial amnesty would cease after a reasonable period and a 'hard line' policy would be introduced.[1981]

While the ACPO document was adopted by the Chief Constables' Council in October 2000, there have been some ongoing tensions with unions and staff associations over the extent to which a service is able to introduce and enforce drug testing of officers.[1982] According to one report, the Police Federation, which represents rank and file officers, was resistant to any form of drug testing and argued that a case had not been made to demonstrate a need for drug testing. The Superintendents' Association, on the other hand, supported drug testing.[1983]

In December 2000, ACPO submitted a paper to the Police Advisory Board of England and Wales (PABEW), which recommended that Police Regulations be changed to make the provision of specimens for substance misuse testing mandatory.[1984] However, there was no ministerial support for substance misuse testing at that time and, given the concerns of the Police Federation, the Home Secretary requested that further discussions be undertaken. As a result, a working party was established.[1985]

Since December 2000, meetings and discussions have been ongoing, with reports and recommendations being prepared for the Home Office. In January 2002, PABEW gave its

1981 Association of Chief Police Officers of England, Wales and Northern Ireland, Substance Misuse by Police Personnel – Policy and Guidance Document, October 2000, Section 10.4, Paragraphs 1 & 2.

1982 Correspondence from Chief Constable, Norfolk Police, United Kingdom, 13 August 2003.

1983 Metropolitan Police Authority, *PSPM Committee Report No.14*, 14 February 2002, viewed 16 June 2003, <http://www.mpa.gov.uk/committees/x-pspm/2002/020214/14.htm>.

1984 The PABEW is a statutory body that advises the Home Secretary on general questions affecting police services. It includes representatives of the main police organisations in the UK.

1985 Police Advisory Board of England and Wales, Substance Misuse: Paper for consideration at the meeting on 24 October 2001, p. 1.

unanimous support to the development of a substance misuse screening policy. However, the Home Secretary decided not to act on the matter at that time.[1986]

Later, in October 2003, PABEW proposed that the working party that had brought forward the earlier recommendations should be reconvened.

In December 2003, the Home Office wrote to say that the Home Secretary agreed in principle to the development of a substance misuse screening policy, so long as the testing was rigorously targeted and focused. He agreed that a reconvened working party should look again at the earlier proposals, and should consider specifically who should be tested and in what circumstances. At the time of writing this report, it is expected that the working party will soon present proposals for a national protocol on drug testing to the PABEW.[1987]

While policy discussions have continued and there is currently no legislation in the UK that supports mandatory drug testing of police personnel, there has been some limited voluntary testing in police services in the UK. In 2001, a voluntary testing program was instituted at the West Midlands Police. It was reported to have returned 44 positive tests out of 2000 conducted, 34 of which were medication-related.[1988]

The PIC has also been informed that the Metropolitan Police Service (MPS) commenced pre-employment testing of police applicants in mid-2004.[1989] The MPS has taken steps towards developing a drug testing policy that goes beyond applicant testing. However, the Police Federation has some reservations regarding the implementation of any resulting policy. The Police Federation supports the notion of a drug-free service and agrees 'in principle' to substance misuse testing. The Federation's concerns revolve mainly around the need to ensure that forces have the capacity to meet the occupational health demands involved in assisting members wishing to address substance misuse problems.[1990]

ENGLAND

Metropolitan Police Service

The Metropolitan Police Service (MPS) is by far the largest of the police agencies that operate in the United Kingdom. The MPS employs approximately 30 000 sworn officers and 12 000 civilian police staff. The MPS serves a population in excess of seven million people.[1991] The current MPS policy is aimed at employees who are addicted to

1986 Correspondence from Programme Manager Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 11 March 2005.

1987 Correspondence from Programme Manager Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 24 December 2003 & 11 March 2005.

1988 'Police may face drug tests', *BBC News, UK Edition*, 5 September 2003, viewed 7 February 2005, <http://news.bbc.co.uk/1/hi/uk/3082622.stm>.

1989 Correspondence from Programme Manager, Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 14 June 2004 & 5 August 2004.

1990 Correspondence from Programme Manager Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 15 March 2005.

1991 Metropolitan Police Service website, 'About the Metropolitan Police Service', viewed 15 February 2005, <http://www.met.police.uk/about/>.

substances, rather than irregular drug users. Problems of conduct or work performance created by incidents of substance misuse where there is no addiction are dealt with through other channels, such as the disciplinary process. To a large degree, the policy treats addiction as a medical problem and is rehabilitative in its focus.[1992]

The MPS policy applies to all members, irrespective of rank, grade or role, and aims to assist those with problems to achieve a full recovery and return to normal duties. To advance this aim, the MPS undertakes to provide time off and, where possible, modify duties during treatment. The policy also states that confidentiality will be maintained between Occupational Health, senior management and the individual. The individual must agree to give permission for regular reports to be sent to Occupational Health.[1993]

The policy clearly outlines the separate but related responsibilities of the individual, supervisors and colleagues. Detailed instructions are provided to managers on how to deal with staff suspected of having a substance misuse problem, including identification of the problem, referral to occupational health, treatment issues and legal issues.[1994]

The policy is also clear that despite the rehabilitative orientation of the policy, individuals who fail to take the opportunity of voluntarily disclosing any substance misuse before being found out by other means, such as poor work performance, may forfeit the opportunity for the problem to be treated in a supportive manner. Similarly, once questioned by a manager about their behaviour or performance and referred to occupational health, if they continue to deny any substance misuse they may forfeit their chance for referral to treatment and may have their case dealt with as a disciplinary issue.[1995]

The policy considers the legal distinction between addiction to alcohol and legal substances from addiction to an illicit drug (which can only be obtained by breaking the law). It notes that a firmer line will have to be taken with respect to those addicted to illicit drugs and that any individual involved in possession or supply will be dealt with in the 'appropriate manner'. But it also states that if a person admits to illicit drug use before their problem is identified through poor work performance or during a disciplinary investigation they will be treated sympathetically. Those identified by other means may face criminal and/or disciplinary proceedings. Even in cases where the officer comes forward and their case is dealt with sympathetically, their history of substance misuse will affect assessment of their suitability for future posts.[1996]

In addition, if an individual voluntarily chooses to seek help prior to their manager being aware of any work performance issues, then the matter will be treated in confidence. This confidence is restricted, however, in that if a health and safety concern requires senior management to be informed and the individual refuses consent, the Occupational Health

1992 Metropolitan Police Service, *Substance Misuse – Policy and guidelines*, current as at July 2003.

1993 Metropolitan Police Service, *Substance Misuse – Policy and guidelines*, current as at July 2003, pp. 2-3.

1994 Metropolitan Police Service, *Substance Misuse – Policy and guidelines: Guidance Notes for Managers*, current as at July 2003, pp. 3-6.

1995 Metropolitan Police Service, *Substance Misuse – Policy and guidelines*, current as July 2003, pp. 1, 4.

1996 Metropolitan Police Service, *Substance Misuse – Policy and guidelines*, current as July 2003, p. 6.

professionals may consider that disclosure is necessary in the public interest and that this over-rides client confidentiality.[1997]

In practice, the rate of self-referrals for substance misuse is very low, with only two in one recent year.[1998] An MPS representative has noted that it is because of this low rate that the MPS perceives a need for compulsory drug testing, to encourage greater self-referral.[1999]

As stated above, the MPS began pre-employment testing of police applicants in mid-2004.[2000] Applicants are required to provide a mouth swab, which is screened before being analysed.[2001] Applicants for recruitment are also asked about their previous substance misuse. A number have admitted to previous use, mainly cannabis, and have clearly indicated that they do not intend to continue this use if selected. No information was provided as to whether such applicants are eventually accepted into the MPS.[2002]

In light of the limited use of drug testing in the MPS, a representative of the MPS was asked how incidents of drug use are detected other than by self-referral. The PIC was advised that information came from their telephone hotline for staff to make anonymous reports, outside informant intelligence, direct reports from police staff, intelligence leads from other operations, financial investigations and other sources.[2003]

The MPS has recognised that their Substance Misuse Policy deals only with those officers who come forward voluntarily, admit their problem and seek help.[2004] In light of the debate occurring at a national level regarding the threat posed to policing by substance misuse and the efficacy of drug misuse testing in addressing this problem, a Project Initiation Document was developed by the MPS to consider the proposal that drug misuse testing be introduced within the MPS. This document clearly recognised that without some means of enforcement, such as substance misuse testing, there is a risk that individuals will continue to conceal a problem they may have until something goes wrong. The document states that substance misuse screening is designed to help create and maintain a healthy workforce and to 'support the ethos of high integrity, individual responsibility and accountability.'[2005]

1997 Metropolitan Police Service, *Substance Misuse – Policy and guidelines*, current as at July 2003, p. 7.

1998 Correspondence from Detective Sergeant, Strategic Intelligence Desk, Metropolitan Police Service, United Kingdom, 29 September 2003.

1999 Correspondence from Programme Manager, Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 14 January 2004.

2000 Correspondence from Programme Manager, Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 14 June 2004 and 5 August 2004.

2001 Samples are analysed if they give a positive or false positive reading when screened; Correspondence from Programme Manager, Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 24 March 2005.

2002 Correspondence from Detective Sergeant, Strategic Intelligence Desk, Metropolitan Police Service, United Kingdom, 29 September 2003.

2003 Correspondence from Detective Sergeant, Strategic Intelligence Desk, Metropolitan Police Service, United Kingdom, 29 September 2003.

2004 Metropolitan Police Service, *Draft Project Initiation Document: Substance Misuse Testing*, Human Resources Directorate, December 2003, p. 3.

2005 Metropolitan Police Service, *Draft Project Initiation Document: Substance Misuse Testing*, Human Resources Directorate, December 2003, p. 2.

The MPS has since developed an Interim Substance Misuse Testing Policy that calls for an 'incremental' approach to the introduction of drug testing.[2006] Following on from the pre-employment testing that has been introduced, the document provides for drug testing to occur under the following circumstances:

- during initial training and the probationary period
- staff working in identified 'safety critical' or 'security sensitive' posts
- with cause testing
- on promotion
- post-incident.[2007]

This interim policy became effective on 1 June 2004, although it contains an acknowledgment that changes to the Police Regulations will be necessary before testing of officers can be made compulsory. The interim policy states that testing beyond pre-employment testing will only be introduced following appropriate consultation and legal advice.[2008] As previously noted in the section on 'Policy Developments', the Police Federation has agreed 'in principle' to the development of a policy that includes substance misuse testing. However, the Federation has some reservations regarding the implementation of any such policy prior to forces having the capacity to meet the occupational health demands of assisting those members who wish to address a substance misuse problem.[2009]

It is the intention of the MPS that the introduction of substance misuse testing will not affect the existing Substance Misuse Policy. Individuals who come forward voluntarily will continue to be provided with support and assistance to achieve a full recovery and return to normal duties.[2010]

West Midlands

West Midlands Police is the second largest police agency in England. It is made up of approximately 8000 sworn officers and 4000 civilians in support roles.[2011] The PIC has obtained a copy of the West Midlands Police Drugs Misuse Policy, the latest version of which was published in March 2005. It has both health and safety as well as integrity concerns clearly stated in its rationale. It applies to all police officers, support staff, temporary staff and members of the Special Constabulary.[2012]

2006 Metropolitan Police Service, *Interim Substance Misuse Testing Policy*, June 2004, p. 3.

2007 Metropolitan Police Service, *Interim Substance Misuse Testing Policy*, June 2004, p. 3.

2008 Metropolitan Police Service, *Interim Substance Misuse Testing Policy*, June 2004, p. 3.

2009 Correspondence from Programme Manager Professional Standards Strategy, Metropolitan Police Service, United Kingdom, 15 March 2005.

2010 Metropolitan Police Service, Draft Project Initiation Document: Substance Misuse Testing, December 2003, p. 6.

2011 West Midlands Police website, 'About Us', viewed 15 February 2005, <http://www.west-midlands.police.uk/about_us/index.shtml>.

2012 West Midlands Police, *Drugs Misuse Policy*, March 2005, pp. 1-3.

The policy is rehabilitation focused, providing support for individuals with a drug abuse problem who acknowledge their dependence, self-declare the problem and are prepared to undergo rehabilitation. However, individuals must identify themselves and seek treatment prior to being notified that they are required to undergo a drug test. That is, a self-declaration cannot be made as a means of frustrating the disciplinary or criminal proceedings that might result from a positive test result.[2013]

Supervisors and managers are required to take action to challenge individuals when there is concern about drug abuse. If drug abuse is admitted then it is to be treated as a medical condition and the staff member is to be referred to the Occupational Health Unit. It is noted, however, that the policy does not undermine the obligation of managers to investigate suspected criminal conduct or misconduct. Colleagues are also encouraged to take action if they have reason to suspect an individual is suffering from a drug abuse problem. They are advised to encourage the individual to voluntarily seek the assistance of the Occupational Health Unit and, if this fails, they should discuss the matter with their manager.[2014]

Once a problem is identified, the individual concerned has a responsibility to cooperate with a rehabilitation regime. Failure to cooperate will be dealt with under the misconduct, capability and/or unsatisfactory performance procedures. In addition, an immediate risk assessment is conducted in all cases where an individual has been identified with a potential drug problem. This risk assessment is organised by the Occupational Health Unit and involves the Head of Professional Standards or his/her nominee. The purpose of the risk assessment is to consider the ethical and physical vulnerability of the individual and to determine the role he/she can perform to minimise risk. The policy notes that although a risk assessment is necessary in all circumstances, it should be recognised that voluntary referrals will, other than in exceptional circumstances, be treated on a support, welfare and treatment basis.[2015]

As described earlier in the Policy Developments section, the West Midlands policy also includes testing procedures for illicit drugs. Drug testing is conducted prior to employment as a condition of employment; during the probationary period for all officers and civilian staff; for internal and external candidates for specific posts (security or safety sensitive); for 'post holders' subject to regular medicals; and for both civilians and police seeking promotion. These tests are undertaken on a voluntary basis, although failure to comply will result in review of the appointment or preclusion from a post. Targeted 'with cause' drug testing is also conducted on a voluntary basis when information has been received that a member of staff is engaged in illicit drug use. The policy does not state what happens in the event that a person refuses to provide a sample for a targeted test, however, the policy does state that *all* refusals are to be reported to the Head of Professional Standards.[2016]

Positive drug test results are reviewed by the Force Medical Officer for a medical analysis of the individual case, taking into account all other relevant factors. In all cases where a positive result identifies potential illegal drug use, the matter is referred to the Head of

2013 West Midlands Police, *Drugs Misuse Policy*, March 2005, p. 3.

2014 West Midlands Police, *Drugs Misuse Policy*, March 2005, pp. 4.

2015 West Midlands Police, *Drugs Misuse Policy*, March 2005, pp. 4-5.

2016 West Midlands Police, *Drugs Misuse Policy*, March 2005, pp. 5-9.

Professional Standards for risk assessment and consideration of the requirement for further action. The action to be taken is determined on a case-by-case basis, with regard to the specific circumstances, and this referral to Professional Standards does not preclude support and treatment being made available to the member through the force.[2017]

A representative of the West Midlands Police has stated that even though applicants know when they are likely to be tested, three recruits tested positive to drugs within a six-month period from September 2003 to March 2004. The representative of West Midlands Police also indicated that the testing policy is a worthwhile investment, as it sends a strong message to potential employees and to the police workforce that drug use will not be tolerated.[2018]

NORTHERN IRELAND

The Police Service of Northern Ireland (PSNI) has a strength of approximately 7500 regular officers, although it also has a significant number of full-time and part-time reserve officers.[2019] In February 2003 the Policing Board of Northern Ireland announced a new Code of Ethics for the PSNI.[2020] In relation to substance misuse, Article 9 of the Code states, at paragraph 9.1:

> Police officers shall be fit to carry out their responsibilities when on call, commencing duty or on duty. They shall not be unfit or impaired when on duty as a result of drinking alcohol, using a substance for non-medical purposes or intentionally misusing a prescription drug.[2021]

In July 2003, a representative of the Office of the Police Ombudsman for Northern Ireland (OPONI) commented to the PIC that there was some concern that changing attitudes in society towards illicit drugs would be bound to be reflected amongst new recruits, which could present a threat to the service. It was also pointed out that, as the chief officers of the PSNI are members of ACPO, the policy changes being advocated by that organisation will have an impact on the PSNI should they be agreed and implemented.[2022] The PIC has not, however, received any information about current plans for changes to policies or practices in the PSNI regarding drug misuse.

SCOTLAND

The development of drug and alcohol policy in the Scottish Police Service is being advanced through the Association of Chief Police Officers of Scotland (ACPOS). ACPOS has been working toward the development of a model policy to be used by each of the

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2017 West Midlands Police, *Drugs Misuse Policy*, March 2005, p. 9.

2018 Correspondence from Deputy Chief Constable, West Midlands Police, United Kingdom, 18 March 2004.

2019 Approximately 1450 full-time reserve officers and 2550 part-time reserve officers (statistics are correct as of 13/9/04); Police Service of Northern Ireland website, 'Strength of Police Service', viewed 15 February 2005, <http://www.psni.police.uk/index/statistics_branch/pg_stats_strength_of_police.htm>.

2020 Police Service of Northern Ireland, 'Launch of new PSNI Code of Ethics', 13 February 2003, viewed 13 January 2004, <http://www.psni. police.uk/index/media_centre/press_releases/press_release_detail.htm>.

2021 Northern Ireland Policing Board, *Code of Ethics for the Police Service of Northern Ireland*, February 2003, p. 13.

2022 Correspondence from Executive Director of Investigations, Office of the Police Ombudsman for Northern Ireland, 3 July 2003.

eight forces that make up the Scottish Police Service. The PIC has obtained a copy of a recent consultation document, dated November 2004, which outlines the draft policy that has been developed by the ACPOS Substance Misuse Policy Working Group.[2023]

The consultation document suggests that the ACPOS policy is aimed at preventing and eradicating substance misuse amongst all Service personnel. The ACPOS policy as currently drafted encourages individuals with a substance misuse problem to come forward and seek help. At the same time, it also seeks to deter officers from becoming involved in substance misuse, via the application of a testing regime.[2024]

It is clear from the consultation document that ACPOS is considering the implementation of substance misuse testing in a range of circumstances. These circumstances include pre-employment testing for all new applicants, testing of probationary officers, testing of internal applicants to designated high-risk posts, targeted testing of officers once appointed to high-risk posts, 'with cause' testing where reasonable cause exists to believe that an individual is involved in substance misuse, as well as testing of personnel who are undergoing a period of rehabilitation. The draft policy notes that legislative changes will be necessary before certain types of drug testing can be made mandatory, including testing of probationary officers, with cause testing and targeted testing of officers assigned to high-risk posts.[2025]

According to the consultation document, the types of drugs of interest to ACPOS include cannabis, opiates, central nervous system stimulants, central nervous system depressants, hallucinogens, inhalants and anabolic steroids. The document notes that it is proposed that each force will be given the opportunity to determine which drugs they wish to test for.[2026]

The policy being developed emphasises treatment and rehabilitation of employees experiencing substance abuse problems, although it does include some comments regarding disciplinary procedures. If an individual is subject to disciplinary procedures where an alcohol or drug-related problem has been identified, a disciplinary hearing may be suspended until such time as the individual has completed a treatment program. Should an individual decline or fail to comply with the agreed treatment program, an immediate resumption of disciplinary procedures will be instigated. If there is evidence of a recurrence of the problem, following a course of treatment and subsequent return to work, disciplinary procedures may also be invoked. However, a further period of support and treatment may be granted at the force's discretion.[2027]

2023 Association of Chief Police Officers of Scotland, Personnel & Training Standing Committee, Substance Misuse Policy Working Group, *Substance Misuse Policy Consultation Document*, Version 3, 1 November 2004.

2024 Association of Chief Police Officers of Scotland, Personnel & Training Standing Committee, Substance Misuse Policy Working Group, *Substance Misuse Policy Consultation Document*, Version 3, 1 November 2004, p. 4.

2025 Association of Chief Police Officers of Scotland, Personnel & Training Standing Committee, Substance Misuse Policy Working Group, *Substance Misuse Policy Consultation Document*, Version 3, 1 November 2004, pp. 6-8.

2026 Association of Chief Police Officers of Scotland, Personnel & Training Standing Committee, Substance Misuse Policy Working Group, *Substance Misuse Policy Consultation Document*, Version 3, 1 November 2004, p. 10.

2027 Association of Chief Police Officers of Scotland, Personnel & Training Standing Committee, Substance Misuse Policy Working Group, *Substance Misuse Policy Consultation Document*, Version 3, 1 November 2004, pp. 12-14.

The consultation document also focuses on raising awareness of the problem, in particular instituting education programs for all personnel to assist them to recognise and support staff with substance misuse problems.[2028] Interestingly, the draft policy itself has an appendix which contains a guide to recognising the signs of substance misuse, both generally and for specific substances.[2029]

At the time of drafting this report, it is understood that the proposals contained in the ACPOS consultation document sit with the Police Advisory Board for Scotland (PABS) for debate. A national position has not yet been reached and there is currently no legislation in Scotland supporting the developments being proposed by ACPOS.[2030]

NETHERLANDS

Amsterdam-Amstelland Police

The Amsterdam-Amstelland Police consists of approximately 5800 police officers.[2031] The Chief of the Amsterdam-Amstelland Police Internal Affairs has reported that illicit drug use is an increasing problem within his police service, in particular the use of ecstasy, cocaine and GHB by officers attending dance parties. This has led to several internal investigations during 2003 and the dismissal of most of the officers who were found to be using illicit drugs.

One strategy used by the Amsterdam regional police to combat the problem of illicit drug use by officers involved the sending of a letter, during 2003, from the Chief of Police to the home address of all members. The letter made it clear that the use of illicit drugs was unacceptable and would lead to dismissal.[2032] An Australian newspaper reported that the Netherlands government has proposed a further strategy which would involve banning officers from visiting coffee shops that sell cannabis, both whilst on and off duty.[2033]

There is no drug testing in the Amsterdam regional police, nor is there drug testing within other police agencies in the Netherlands. Random testing has been discussed but determined to be unsuitable to the Dutch environment. It is possible, however, that as a result of investigations which reveal officers using drugs there may be an introduction of targeted testing for internal investigative purposes. The main methods by which drug use has been detected to date have been criminal intelligence and colleagues reporting on members suspected of drug use.[2034]

2028 Association of Chief Police Officers of Scotland, Personnel & Training Standing Committee, Substance Misuse Policy Working Group, *Substance Misuse Policy Consultation Document*, Version 3, 1 November 2004, p. 6.

2029 Association of Chief Police Officers of Scotland, Personnel & Training Standing Committee, Substance Misuse Policy Working Group, *Substance Misuse Policy Consultation Document*, Version 3, Appendix 1, 1 November 2004, pp. 15-18.

2030 Correspondence from Secretary of the Grampian Joint Branch Board of the Scottish Police Federation, Grampians Police, Scotland, 17 February 2005.

2031 Amsterdam-Amstelland Police website, 'Organisation', viewed 15 February 2005, <http://www.politie-amsterdam-amstelland.nl/en/homepage/>.

2032 Correspondence from Chief of Internal Affairs, Amsterdam-Amstelland Police, 15 August 2003.

2033 'Crackdown on police joint operations', *Sydney Morning Herald,* 13-14 September 2003, p.18.

2034 Correspondence from Chief of Internal Affairs, Amsterdam-Amstelland Police, 12 September 2003.

Improving the willingness of officers to speak openly about suspected drug misuse by colleagues is an approach that is consciously pursued by the Amsterdam-Amstelland Police through their training. They stress to trainees in the first days of their training the impact that joining the police force will have on their lives 24 hours a day. Another measure is for internal affairs to go to a unit where an officer has been the subject of an investigation to explain to the officer's colleagues what has taken place and to discuss what went wrong, how it might have been prevented and what lessons can be learned.[2035]

UNITED STATES

Policing organisations in the United States range from small city or local departments to large federal agencies. One thing they all have in common, however, is that drug testing dominates their drug misuse policies. This is largely owing to legislative requirements that compel them to maintain a drug-free workplace. It is important to note that an organisation may be subject to more than one set of drug-testing regulations in that they may be subject to federal as well as state or local requirements.[2036]

Drug testing has been commonplace in the United States since the mid-1980s. In September 1986 then-President Ronald Reagan signed Executive Order 12564, which established the goal of a drug-free federal workplace. The order made it a condition of employment for all federal employees to refrain from using illegal drugs whilst on or off duty. Shortly thereafter, legislation was enacted that enabled implementation of the order under Section 503 of Public Law 100-71. This legislation attempted to establish uniformity amongst federal agency drug testing plans, reliable and accurate drug testing, employee access to drug-testing records, confidentiality of drug test results and centralised oversight of the federal government's drug testing program. The *Drug-Free Workplace Act 1988* in turn required all employers receiving grants from any federal agency to certify they would maintain a drug-free workplace. This would apply to most police departments in the USA.[2037]

The federal government trend was reinforced by developments in the private sector. In the mid-1980s, the media reported that major corporations were instituting drug testing programs, particularly pre-employment screening. Studies were published describing the extent of illegal drug use among corporate employees, along with the adverse effects of this use on the integrity and efficiency of organisations.[2038]

By 2005, drug testing has become a reasonably commonplace fact of life in the United States. Courts, including the USA Supreme Court, have held that government employees in safety-sensitive positions – including police who carry guns – can be randomly drug tested.

2035 Correspondence from Chief of Internal Affairs, Amsterdam-Amstelland Police, 17 November 2003.

2036 K. Mann, Substance use in a police workplace: Emerging issues and contemporary response, Queensland Police Service, 2003, p. 57.

2037 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, pp. 5-6.

2038 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, p. 5.

Procedures for testing are well tried and are fairly standardised. The Substance Abuse and Mental Health Services Administration (SAMHSA) and the USA Department of Health and Human Services (DHHS) have recommendations for the collection, testing, and chain-of-custody procedures that are adhered to by most workplaces.[2039] It is to be noted, however, that practices for testing can vary in terms of substances tested for and circumstances under which testing occurs. Agencies also differ in the penalties that are imposed on those returning positive tests.

Federal Bureau of Investigation

As at 30 September 2004, the Federal Bureau of Investigation (FBI) had approximately 12 300 Special Agents and 16 600 Professional Support Personnel.[2040] The FBI clearly states that it is committed to a drug-free society and workplace. This is articulated in its Drug Deterrence Program and enforced through its drug testing program, which commenced in 1983. The Drug Deterrence Program states quite clearly that 'it has been a longstanding FBI policy that the abuse of any controlled substance by an FBI employee would result in severe disciplinary action'.[2041] Its rationale for a mandatory drug testing program includes not only health and safety concerns, but also considerations of integrity and the potential threat to national security. The FBI notes that all Special Agents, along with clerical staff and support employees in certain positions, can have access to classified information.[2042]

The FBI drug tests all applicants for employment (both civilian and sworn officer positions) and asks several questions about prior drug use on its application form. Applicants who are current users of illicit drugs are found unsuitable for employment. Moreover, the FBI does not condone any prior unlawful drug use. Despite this position it does recognise that some otherwise qualified applicants may have used drugs at some time in their past. In response, the FBI has developed criteria to determine whether an applicant who has used drugs in the past is unsuitable for employment. Those considered unsuitable include applicants who have, for example, sold drugs, lied on their application or used marijuana some time in the previous three years or more than 15 times in total in their life.[2043] The FBI is careful to ensure that its status as a drug-free workplace and its requirements for applicants are made clear to all applicants. Statements about its policies and expectations are included in all recruitment literature.[2044]

The current 'Drug Deterrence Program' policy and procedure document is dated April 1997. Drug testing by urinalysis dates back to 1986, when the FBI began testing agent-

2039 K. Mann, *Substance use in a police workplace: Emerging issues and contemporary responses*, Queensland Police Service, 2003, p. 57.

2040 US Department of Justice, Federal Bureau of Investigation Website, 'Frequently Asked Questions', viewed 7 February 2005, <www.fbi.gov/aboutus/faqs/faqsone.htm>.

2041 Illegal drug is defined in the document to be a controlled substance included in Schedule 1 through II as defined by s802(6) of Title 21 of the United States Code Controlled Substance Act (CSA). US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, pp. 1, 4.

2042 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure*, April 1997, pp. 6-11.

2043 US Department of Justice, Federal Bureau of Investigation, *Employment Policies and Practices*, viewed 2 June 2003, <http://www.fbi.gov.employment/ policies.htm>.

2044 Correspondence from Assistant Director, Office of Professional Responsibility, Federal Bureau of Investigation, 31 July 2003.

applicants. The current drug testing regime includes a range of circumstances in which an individual will be tested. Drug tests are conducted for:

- all applicants for employment
- probationary Special Agents during the first two years of employment
- employees when there is reasonable suspicion of illegal drug use[2045]
- all employees under a random-testing program
- employees during or after Employee Assistance Program (EAP) counselling or rehabilitation and for one year after, and
- those requesting testing on a voluntary basis.[2046]

Employees who are selected for testing are given 15 minutes to report to the testing location after notification. Drugs tested for include amphetamines, cocaine, cannabinoids, opiates and phencyclidine (PCP).[2047] Reasonable suspicion testing is not limited to these five categories, it can include any Schedule 1 or Schedule 2 drug.[2048] Refusal to participate in a drug test is considered insubordination and the employee may be subject to disciplinary action up to and including dismissal.[2049]

Urinalysis follows a two-step screening and confirmation process, similar to that outlined in the Australian and New Zealand standard. A Medical Review Officer (MRO) is responsible for receiving laboratory results of drug tests and is responsible for interpreting and evaluating all positive test results. A positive drug test result will not be considered a verified positive result until the MRO has determined if there is an alternate medical explanation for the positive test. In doing this, the MRO takes into consideration a range of factors, including the individual's medical history and other relevant biomedical information.[2050]

An internal investigation by the FBI Inspection Division is initiated for each verified positive test. The results of that investigation form the basis for the determination of administrative action by the Office of Professional Responsibility (OPR). The degree of severity of action taken is determined on a case-by-case basis. Criteria used to determine the management action include the nature of the employee's position, the risk to the public from their drug

2045 Reasonable suspicion may be based on observable phenomena, a pattern of abnormal behaviour, arrest for or conviction of a drug-related offence, credible information, evidence of tampering with a previous test, or facts developed in the course of an investigation into an accident or unsafe work practice.

2046 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure*, April 1997, p. 12.

2047 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure*, April 1997, p. 13.

2048 This refers to controlled substances as defined by Section 802(6) of Title 21 of the USC Controlled Substance Act. US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure*, April 1997, p. 24.

2049 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure*, April 1997, p. 21.

2050 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure*, April 1997, pp. 1, 13.

use, and the employee's personnel/performance records. Disciplinary actions available include a written reprimand, enforced leave, suspension, or dismissal.[2051]

Reports on the positive drug test result are also forwarded to an Employee Assistance Program (EAP) counsellor. The EAP run by the FBI provides assessment, short-term counselling and referral services to employees for problems that include drug misuse. A counsellor is expected to initiate contact with the employee to advise them of the assistance available to them.[2052] The FBI will initiate action to dismiss an employee who has been found to use illegal drugs if they refuse counselling or rehabilitation, or if they fail to refrain from further use.[2053]

While any employee found to be using illegal drugs is referred to the EAP, confidential counselling is also available to all employees on a self-referral basis. An employee who voluntarily admits their drug use, completes counselling through the EAP, and thereafter refrains from drug use is not subject to disciplinary measures.[2054] The EAP is also responsible for education and training on drugs and their effects, together with training supervisors in identifying and addressing illegal drug use by employees.[2055]

Supervisory responsibilities with respect to drug misuse matters are described in the policy. These include: [2056]

- responsibility for developing reasonable suspicion of illegal drug use by employees under their supervision
- documenting those suspicions should they arise
- notifying appropriate persons that reasonable suspicion tests may be required, and
- referring employees to the EAP for assistance when there is a finding of illegal drug use.

It would appear from these procedures that the response of supervisors would normally lead to drug testing to confirm possible drug use by the employee. There is nothing in the policy to indicate what the FBI might do if such a test was negative but suspicions remained. Nor does it suggest alternative courses of action that do not involve testing.

Annual Reports from the OPR show that in 2000, 18 FBI employees were the subject of OPR investigations for illegal drug possession or use while employed or prior to

2051 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, p. 38.

2052 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, pp. 23-24.

2053 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, p. 38.

2054 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, p. 39.

2055 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, pp. 26-27.

2056 US Department of Justice, Federal Bureau of Investigation, *Drug Deterrence Program: Drug-Free Workplace Policy and Procedure,* April 1997, p. 28.

employment. Of these, nine employees were disciplined by receiving suspensions without pay or letters of censure and four resigned. In the financial year 2001 (October 2000 to September 2001), 12 employees were the subject of OPR inquiries. One was an inquiry into an employee who reportedly took three puffs of cannabis approximately twenty years earlier, while employed by the FBI. Other inquiries involved an employee who used anabolic steroids illegally and one who was arrested by local authorities for possession of a dangerous controlled substance. Of these 12 cases, eight employees were disciplined. This included three employees who were dismissed, four suspended without pay for 14 days or less and one oral reprimand. Two employees resigned during the investigation into their conduct.[2057]

New York City Police Department

According to the Commanding Officer, Medical Division, it is the aim of the New York City Police Department (NYPD) to create a drug-free work environment by maintaining a credible deterrent to drug use among uniformed members of the service.[2058] The NYPD has a zero tolerance policy for illegal drug use, which is enforced via a series of 'Patrol Guides' that describe its drug screening programs. There are approximately 40 000 sworn members of the NYPD and 15 000 non-sworn staff.[2059]

The NYPD practice of drug testing its members was initiated in 1985 with applicant, probationary and 'for cause' testing. In 1990, drug testing was amended to include a random selection process with the initial projected goal of annually testing 10% of all uniformed members of the service. This percentage was increased to 20% in 1993.[2060]

Today drug testing is undertaken for:

- all applicants
- all probationary officers at some point during their probationary period
- officers applying for transfer or promotion to a range of designated positions
- all uniformed officers on a random basis
- 'for cause' testing (which includes civilian employees), and
- voluntary testing for uniformed and civilian members.

Drug testing takes place for uniformed members transferring into certain units such as the Organised Crime Control Bureau (OCCB), the Detective Bureau or Internal Affairs, as well as for discretionary promotion (promotion not received as the result of a competitive civil

2057 Federal Bureau of Investigation, *Fiscal Year 2000 Report*, Office of Professional Responsibility, p. 21; Federal Bureau of Investigation, *Fiscal Year 2001 Report*, Office of Professional Responsibility, p.23

2058 Correspondence from Commanding Officer, Medical Division, New York City Police Department, 24 October 2003.

2059 K. Mann, *Substance use in a police workplace: Emerging issues and contemporary responses*, Queensland Police Service, 2003, p. 78.

2060 Correspondence from Commanding Officer, Medical Division, New York City Police Department, 24 October 2003.

service examination). The procedures for this form of drug testing are outlined in separate documents to those for the general random testing program.[2061]

Targeted testing, or 'for cause' testing, is used where there is reasonable cause to suspect a member (uniformed or civilian) is using illicit drugs. A representative of the NYPD has informed the PIC that such testing can be conducted when the member concerned is either on or off duty.[2062] An investigation report must be completed for all targeted tests.[2063] Voluntary testing is available to uniformed and civilian members who are the subject of unsubstantiated allegations of illegal drug or controlled substance use where the reasonable suspicion standard has not been met. Prior to requesting permission for this test, members must consult with an attorney or a union representative.[2064]

Urine samples are collected for random testing purposes. Hair is utilised in the case of 'for cause', voluntary and some other forms of testing. While hair analysis tests for fewer drugs, it covers drug use over a greater time span than urinalysis.[2065]

In those 'for cause' tests where the results are negative, the investigators' case folder is sealed and cannot be unsealed without the authorisation of the Deputy Commissioner – Legal Matters. Any references to the administration of the drug screening tests in the personnel folder of the member concerned are to be expunged.[2066]

During the calendar year 2002 there were 5161 officers drug tested in total and there were two positive results (for benzoylecgonine).[2067] According to the Commanding Officer, Medical Division, all members of the NYPD who test positive for illicit drugs are suspended and terminated. Any member who refuses testing or attempts to subvert a test is also suspended and terminated.[2068]

A Membership Assistance Program (MAP) and other support services are available to assist officers who have a substance misuse problem and wish to enter rehabilitation. MAP is a union-sponsored volunteer support program. It works strictly on a self-referral basis and, while not a counselling service as such, it can assist officers find appropriate counselling and rehabilitation services. It is not, however, open to police who have legal or departmental action against them. The city of New York Central Employee Assistance Program Referral Unit also provides free and confidential referrals.[2069]

2061 New York Police Department, *Patrol Guide: Personnel Matters*, Procedures 205-31 to 34.

2062 Correspondence from Commanding Officer, Medical Division, New York City Police Department, 24 October 2003.

2063 Correspondence from Commanding Officer, Medical Division, New York City Police Department, 24 October 2003; New York Police Department, *Patrol Guide: Personnel Matters*, Procedure 205-30.

2064 New York Police Department, *Patrol Guide: Personnel Matters*, Procedure 205-35.

2065 K. Mann, Substance use in a police workplace: Emerging issues and contemporary responses, Queensland Police Service, p.78; New York City Police Department, Patrol Guide: Personnel Matters, Procedure 205-30.

2066 New York City Police Department, *Patrol Guide: Personnel Matters*, Procedure 205-30.

2067 New York City Police Department, *Interim Status Report*, 10 January 2003.

2068 Correspondence from Commanding Officer, Medical Division, New York City Police Department, 24 October 2003.

2069 K. Mann, *Substance use in a police workplace: Emerging issues and contemporary responses*, Queensland Police Service, 2003, p.79

Chicago Police Department

Chicago Police Department has approximately 16 000 members, with civilian members and crossing guards making up approximately 15% of that total.[2070] The Department's General Order on 'Drugs, Drug Abuse and Mandatory Physical and/or Psychological Investigations' states that the use of illegal drugs, cannabis or non-prescribed controlled substances or the abuse of legally prescribed drugs or controlled substances by any Department member is strictly prohibited. Violation of this policy will result in disciplinary action and/or separation from the Department.'[2071]

Chicago Police Department has used drug testing to detect drug abuse since 1990. Drug testing was initially introduced and conducted as part of mandatory physical and/or psychological examinations. According to the General Order, such examinations can be conducted in order to identify the cause of an illness or incapacitation. They can also be ordered when a member has exhibited unusual work habits or behavioural traits and/or has been incapable of performing required duties. In such cases, written documentation of specific instances must be provided by a unit commanding officer. Physical examinations are also required on a regular basis for members working in specific units, including Narcotics or Organised Crime, or when applying for assignment to certain specialised units.[2072]

Chicago Police Department also conducts a random drug testing program and a representative has stated that 'a random testing program is an essential part of any drug testing policy and must work in tandem with a mandatory testing program'.[2073] The General Order 'Random Drug Testing Program' states that all Department sworn members and identified civilian members will be subject to urinalysis drug testing on a random basis. Failure to cooperate or tampering with specimens will be used as the basis for seeking the separation of the involved member.[2074]

According to a representative of Chicago Police Department, the random drug testing program has been in operation since 1990 and it tests approximately one-third of the Department's sworn and select civilian personnel each year. At this time, the Department uses urine as its primary testing medium but hopes to commence the use of hair testing on existing employees in the near future.[2075]

Chicago Police Department also uses drug screening as part of its recruitment process. In this circumstance, it has used hair testing along with urine testing since 1997. The Department reports that it has found pre-employment screening to be very useful. A representative from Chicago Police Department has observed that hair testing enables the

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2070 Figures are correct as at end of 2003; Chicago Police Department, *Annual Report 2003*, p. 39, viewed 14 February 2005, <http://egov.cityofchicago.org/webportal/COCWebPortal/COC_EDITORIAL/03ARUptDte.pdf>.

2071 Chicago Police Department, General Order: Drugs, Drug Abuse and Mandatory Physical and/or Psychological Examinations, August 1990.

2072 Chicago Police Department, General Order Drugs, Drug Abuse and Mandatory Physical and/or Psychological Examinations, August 1990.

2073 Correspondence from Sergeant, Random Testing Unit, Chicago Police Department, 15 December 2003.

2074 Chicago Police Department, *General Order: Random Drug Testing Program*, November 1993.

2075 Correspondence from Sergeant, Random Testing Unit, Chicago Police Department, 15 December 2003.

detection of drug use over a longer period of time and in the Department's opinion this distinguishes the casual user from the 'hard core user' or addict. The Department does recognise that it may miss the recreational or occasional user in pre-employment testing, given that a casual user is likely to have the capability to abstain from drug use for some weeks, but it is willing to accept this in order to eliminate the heavy user.[2076]

The General Order on random testing also calls for the Commanding Officer of the Random Testing Unit to assist in developing drug education and prevention programs. The Commanding Officer is also responsible for evaluating the program. A representative of Chicago Police Department has stated that the Department is 'constantly' evaluating the random testing program. He noted that the Department has a positive test rate of approximately 1%. On that basis the Department wishes to continue the program as long as it continues to obtain positive results.[2077] From this it would appear that, like a number of other police services, the main criterion used in evaluating the effectiveness of the process is the positive test result rate.

Chicago Police may also conduct off-duty drug testing if they receive intelligence that a member is engaging in the use of illegal drugs. In such cases, officers from the Internal Affairs Division will go to the member's home to escort them to the testing facility. It is noted that such action will not be taken on the basis of an anonymous report but only where the complainant is prepared to identify him or herself.[2078] A representative of Chicago Police Department has advised that off-duty testing is most likely to be employed where there is an allegation of aberrant behaviour on the part of the officer or some concern that they may harm themselves or others. An example of such a situation is where there are allegations that an officer is using illegal drugs and is engaging in spousal abuse. The officer would be required to submit to the test as a result of a direct order and refusal may result in the removal of their appointments and eventual dismissal through the disciplinary process.[2079]

In the documents provided by Chicago Police Department, a number of materials were included on counselling and rehabilitation services available to Police Department members. Also included were General Orders describing the Department's Behavioral Intervention System and Personal Concerns Program. Both would seem to date from November 1997. The former includes a statement that 'it is the policy of the Department to support members experiencing personal problems which may be affecting their work performance and offer them counselling resources currently available through the Department'.[2080] This involves mechanisms to identify members for inclusion in the Behavioral Intervention System and outlines what is to occur at a staff meeting to discuss matters with the employee. It is intended that this will lead to the development of an Individualised Performance Plan.[2081]

2076 Correspondence from Commanding Officer, Personnel Division, Chicago Police Department, 16 January 2004.

2077 Correspondence from Commanding Officer, Personnel Division, Chicago Police Department, 16 January 2004.

2078 Correspondence from Acting Manager, Personnel Concerns Division, Chicago Police Department, 28 May 2004.

2079 Correspondence from Lieutenant, Commanding Officer Personnel Division, Chicago Police Department, 18 May 2004; Correspondence from Acting Manager of Personnel Concerns Section, 27 May 2004.

2080 Chicago Police Department, *General Order: Behavioral Intervention System*, November 1997.

2081 Chicago Police Department, *General Order: Behavioral Intervention System*, November 1997.

It should also be noted, however, that a representative of Chicago Police Department has informed the PIC that they take a 'zero tolerance' position and if a member tests positive to illicit drugs they will seek to terminate that member.[2082]

Los Angeles Police Department

The Chief of Support Services of the Los Angeles Police Department (LAPD) has stated that 'illicit substance or drug abuse by both sworn and civilian members of the LAPD is unacceptable and censurable conduct worthy of strong administrative action, up to and including termination'.[2083]

The LAPD's policies and procedures for substance misuse and drug testing are contained within its 'Memorandum of Understanding' with the Police Officers, Lieutenant and Below Representation Unit. The LAPD includes about 9000 sworn members and 3000 non-sworn members.[2084]

The LAPD began a drug testing program for its sworn members in 1988 and as at July 2003 there had been a total of 21 483 urine tests administered. These testing programs are administered by LAPD's Personnel Division.[2085] There are three separate drug testing programs in place:

- The first is a pre-employment drug test administered by the LAPD during the medical examination of applicants.
- The second program is random testing. Entry-level probationary employees are tested on a random basis a maximum of six times during their probationary period with at least one test whilst at the Academy. All sworn personnel of the rank of Lieutenant or below are also subject to random testing. Acceptance of such testing is a condition of employment. Tenured police officers are tested on a random basis up to three times a year. Moreover, random testing is established such that at least one person is randomly selected from specific areas within specific time frames. For example, one person is selected every two weeks from the Organised Crime and Vice Division, and at least one person is tested each week at every Community Police Station and Narcotics group. The aim is for there to be at least 100 tests each week in addition to the probationary officer tests.
- There is also a 'for cause' drug test that is administered by the Professional Standards Bureau (PSB) when information is received that indicates there is probable cause that an employee is under the influence of drugs or has recently ingested drugs.[2086]

2082 Correspondence from Sergeant Random Testing Unit, Chicago Police Department, 15 December 2003.

2083 Correspondence from Chief of Support Services, Los Angeles Police Department, 24 July 2003.

2084 K Mann, *Substance use in a police workplace: Emerging issues and contemporary responses*, Queensland Police Service, 2003, p. 92.

2085 Correspondence from Chief of Support Services, Los Angeles Police Department, 24 July 2003.

2086 Los Angeles Police Department, *Memorandum of Understanding,* July 2001-June 2003, pp.10-11; Correspondence from Chief of Support Services, Los Angeles Police Department, 24 July 2003.

The LAPD has stated that urinalysis is currently considered the most viable and cost effective method of random drug testing. Staff at the LAPD's Scientific Investigation Division conduct the actual analysis rather than an external laboratory. Notification of negative results must be provided to the employee within fourteen days.[2087]

At minimum, the LAPD tests for PCP, cocaine, opiates, barbiturates, amphetamines, cannabinoids and benzodiazepines. Urine samples must be tested within 10 days of their receipt at the laboratory.[2088]

According to the policy, when a member tests positive their commanding officer is informed and the member removed from field duties pending appropriate action.[2089] Officers who test positive for prescription drugs and who have a valid doctor's prescription are not considered for disciplinary action.[2090] Also, employees who voluntarily admit to a problem with prescription or over-the-counter medications can become involved in a rehabilitation program.[2091]

As noted above, information provided by the LAPD Chief of Support Services indicates that the usual outcome for an employee testing positive to illicit drugs would be the termination of their employment or resignation.[2092]

The Chief of Support Services has reported that 'numerous' applicants are disqualified at the beginning of the hiring process due to positive drug test results. In addition, during the calendar year 2003, the PSB recorded eight sustained narcotic allegations against six sworn officers and two civilian employees. Four of the six officers resigned; two who were on probation were terminated. The two civilian employees also resigned. He also has said that because of the constancy of the random testing program, prohibited drug use amongst LAPD personnel is not a significant problem.[2093]

Washington DC Metropolitan Police Department

As of May 2004, the Washington DC Metropolitan Police Department (MPD) had a sworn strength of approximately 3700 members, together with a further 700 civilian members.[2094] The General Orders relating to the Drug Screening Program of the MPD are clear and concise. These Orders state that the use of illicit drugs and controlled substances by members of the MPD will not be tolerated. Urinalysis for illicit drugs is the primary means of detecting and deterring drug use within the MPD. A positive drug test, refusal to submit to a test, or any attempt to circumvent testing procedures results in a recommendation for

2087 Los Angeles Police Department, *Memorandum of Understanding,* July 2001-June 2003, Article 3.5, p. 12.
2088 Los Angeles Police Department, *Memorandum of Understanding,* July 2001-June 2003, p. 12.
2089 Los Angeles Police Department, *Memorandum of Understanding,* July 2001-June 2003, p. 12.
2090 Correspondence from Chief of Support Services, Los Angeles Police Department, 24 July 2003.
2091 Los Angeles Police Department, *Memorandum of Understanding,* July 2001-June 2003, Article 3.4.
2092 Correspondence from Chief of Support Services, Los Angeles Police Department, 24 July 2003.
2093 Correspondence from Chief of Support Services, Los Angeles Police Department, 24 July 2003.
2094 Correspondence from Lieutenant, Washington DC Metropolitan Police Department, 24 May 2004.

termination of the member's employment.[2095] A representative of the MPD has stated that in virtually all cases known to him, members proven to have used illicit drugs have been dismissed.[2096]

Drug testing is conducted on a random basis for all sworn members of the force. The MPD randomly tests 25% of sworn members each year and a member can only be excused if they are on approved leave or a day off.[2097] The General Order relating to the Random Drug Screening Program clearly states what is to happen if a member is selected for testing and, for various reasons, such as court attendance or illness, they are unable to immediately report to the screening clinic.[2098] It is interesting to note the General Order states that any member who reports sick after having been served with a notice to submit to a random drug test will be required to report to the screening clinic as directed, unless the member is physically unable to report to the clinic as a result of an incapacitating illness or injury.[2099] The General Order also allows for members on extended sick leave to be directed to submit to random drug testing.[2100]

Other types of testing that take place in the MPD include recruit testing and reasonable suspicion testing. Testing is also done as part of any routine physical examination conducted by the Medical Services Division. The situations in which such testing occurs are numerous, including: probationary physicals, biennial physicals, promotion physicals, emergency response team physicals, disability retirement physicals and physicals conducted where a member has taken leave in excess of 30 days.[2101]

The drugs screened for by the MPD include: amphetamines, cocaine, PCP, cannabinoids and opiates. There is also a provision which allows for the testing of other drugs if there is reason to suspect that a member has used another illegal or controlled substance.[2102]

Generally, a confirmed positive test results in an appointment between the Medical Review Officer, an MPD liaison official and the member to determine whether there are any medical reasons for the positive test results. The result can be determined to be negative at this stage, for example if prescription drugs were involved. If the result is confirmed, the matter is turned over to an Internal Affairs investigator.[2103]

2095 Washington DC Metropolitan Police Department, *General Order 1002.4: Drug Screening Program*, January 1998, p. 1; Washington DC Metropolitan Police Department, *General Order 1002.5: Random Drug Screening Program*, January 1998, p. 2.

2096 Correspondence from Lieutenant, Washington DC Metropolitan Police Department, 10 December 2003.

2097 Correspondence from Lieutenant, Washington DC Metropolitan Police Department, 10 December 2003.

2098 Washington DC Metropolitan Police Department, *General Order 1002.5: Random Drug Screening Program*, January 1998, pp. 3-5.

2099 Washington DC Metropolitan Police Department, *General Order 1002.5: Random Drug Screening Program*, January 1998, pp. 4-5.

2100 Washington DC Metropolitan Police Department, *General Order 1002.5: Random Drug Screening Program*, January 1998, p. 3.

2101 Washington DC Metropolitan Police Department, *General Order 1002.4: Drug Screening Program*, January 1998, pp. 2-3.

2102 Washington DC Metropolitan Police Department, *Drug Screening Program: Urine Specimen Collection Manual*, Medical Services Division, January 1998, p. 10.

2103 Washington DC Metropolitan Police Department, *Drug Screening Program: Urine Specimen Collection Manual*, Medical Services Division, January 1998, p. 9.

When queried about the effectiveness of their drug testing policy, an MPD representative noted that out of a force of approximately 3700 officers, the Department terminates one to two officers for illegal drug use per year.[2104]

San Francisco Police Department

The San Francisco Police Department (SFPD) has told the PIC that it has approximately 2200 sworn police officers and that they 'have not had an inordinate incidence of drug/alcohol abuse'. On the 'rare occasion' when it is detected, it is taken extremely seriously and termination from employment is recommended to the Police Commission.[2105]

Policies and procedures regarding drug and alcohol use by members are contained within General Orders. These stress both integrity and safety considerations as rationales for the SFPD policy. The 'Drug Use by Members' policy includes a clear prohibition on the possession or use of any drug or controlled substance. The policy states that 'the illegal possession or use of drugs is a crime and as such will not be tolerated'.[2106]

All applicants to the SFPD undergo drug testing. Rejection of an applicant for prior use of illegal drugs is based on the type of substance(s) used and the frequency and recency of use.[2107]

The policy includes a requirement for all members to report reasonable suspicion of possession or use of illegal drugs by another member. Failure to do so will result in discipline.[2108]

Drug tests may be requested by a supervisor when there is reasonable suspicion that a member (this includes both sworn and unsworn employees) has recently used or is under the influence of a drug. A request will lead to an investigation by the SFPD Management Control Division. The decision to test is made by the Chief of Police or the Management Control Division investigator. Tests will definitely be ordered if, during the investigation, the member admits to drug use, shows evidence of prior drug use, appears to be under the influence of a drug or if they are found in unlawful possession of a drug. After supplying a sample for testing the member is allowed to explain or disprove any circumstantial evidence or inferences. If any new evidence refuting the reasonable suspicion is discovered, the Chief of Police or Deputy Chief may decide not to test the specimen and may destroy it.[2109]

The SFPD allows for the collection of a blood sample in cases where a drug detection test has been administered and the investigator deems the member to be under the influence of a drug. A drug detection test involves a series of tests being performed to determine if a

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2104 Correspondence from Lieutenant, Washington DC Metropolitan Police Department, 10 December 2003.

2105 Correspondence from Commanding Officer, Risk Management Office, San Francisco Police Department, 6 August 2003.

2106 San Francisco Police Department, *General Order 2.03, Drug Use by Members*, p. 1.

2107 San Francisco Police Department, 'Testing for Use of Controlled Substances', viewed 20 May 2005, <http://www.sfgov.org/site/police_index.asp?id=30502>.

2108 San Francisco Police Department, *General Order 2.03, Drug Use by Members*, p. 4.

2109 San Francisco Police Department, *General Order 2.03, Drug Use by Members*, pp. 5-6.

person is under the influence of a drug, and what that drug might be. Specific tests include pulse, pupil dilation, papillary reaction, and the Rhomberg internal clock test. These tests are not performed unless there is first an objective symptomology that the person has taken drugs or they admit to usage.[2110]

The General Order on Drug Use by Members states that any member found in possession of a drug or controlled substance, or who tests positive for illegal drugs, will be severely disciplined and may be terminated. Any member who refuses to take a test will also be recommended for termination. However, the General Order also states that when a member's test results fall within specified levels for marijuana and cocaine, there are further options. The member can either be ordered to participate in a two year program of random drug tests, or be recommended for discipline, including possible termination.[2111] While there are a range of possible actions available, as noted above, the Commanding Officer of the Risk Management Office has stated that termination from employment is generally recommended.[2112]

The SFPD policy also includes a provision whereby, when drug possession or use is found by someone other than the member's supervisor, an investigation will be conducted to determine whether the supervisor knew about the situation and failed to take action. The policy goes on to state that negligence, failure to take action, or cover-ups, will lead to the supervisory personnel involved being subject to disciplinary action.[2113]

Like many other police agencies, the SFPD has an Employee Assistance Program. The program provides confidential counselling and referral to external professional resources, including community treatment facilities. It is meant to be considered as a resource available to supervisors when assisting a subordinate who is experiencing personal or job-related problems. The General Order relating to the EAP states that in matters of substance abuse, staff members are to maintain confidentiality of the client as required by federal law.[2114]

San Diego Police Department

The San Diego Police Department has approximately 2000 sworn officers and 600 civilian employees.[2115] The San Diego Police Department has had a random drug testing program in place since 1991. The current program for drug and alcohol screening is detailed in a Memorandum of Understanding (MOU) with the San Diego Police Officers' Association dated July 2000. There are no separate drug and alcohol misuse policies.

Random testing by urinalysis is used by San Diego Police to test all sworn police officers twice in an 18-month period for a specified range of drugs. Officers are informed that they

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2110 San Francisco Police Department, *General Order 2.03, Drug Use by Members*, p. 6; Correspondence from Captain, Risk Management Office, San Francisco Police Department, USA, 25 March 2005.

2111 San Francisco Police Department, *General Order 2.03, Drug Use by Members*, pp. 2-3.

2112 Correspondence from Commanding Officer, Risk Management Office, San Francisco Police Department, 6 August 2003.

2113 San Francisco Police Department, *General Order 2.03, Drug Use by Members*, p. 9.

2114 San Francisco Police Department, General Order 11.09, Employee Assistance Program/Stress Unit.

2115 Correspondence from Sergeant, Medical Assistance Unit, San Diego Police, 19 May 2004.

are to be tested at the start of their shift and are required to present themselves at the Medical Contractor's site within the next four hours.[2116] The actual process for collecting and analysing urine samples is very similar to the procedures outlined in the Australian Standard and includes both screening and confirmatory tests.

Applicants and trainee officers at the Academy are not drug tested but officers at the level Police Officer 1, who are recent Academy graduates in 'phase training', are tested. Officers may also be tested if a supervisor has a reasonable suspicion that they are using illicit drugs. Members are also tested if they are involved in serious off-duty conduct or a shooting off duty. A representative of the San Diego Police has stated that, in practice, he is unaware of any officer being tested on the suspicion of a supervisor other than for alcohol.[2117]

According to the MOU, a positive drug test would lead to the initiation of an investigation by the Professional Responsibility Unit.[2118] If the investigation confirms the positive test for a 'street drug' then the officer's employment is terminated. If they test positive for a prescription drug the outcome will depend on their explanation. Unintentional use of such drugs will result in disciplinary action. If an officer becomes addicted to prescription drugs because of a medical problem this would usually be dealt with through a rehabilitation process, although a representative of the San Diego Police Department has stated that such situations are uncommon and the problem has often advanced to a stage where misconduct is involved by the time their drug use is uncovered.[2119]

The San Diego Police Department operates an Employee Assistance Program (EAP). Officers are able to self-refer for rehabilitation services although, according to a San Diego Police representative, their only experience with officers admitting themselves to a rehabilitation program has been as a result of alcohol addiction.[2120]

A representative of the San Diego Police Department has advised the PIC that a number of officers tested positive to illegal drugs such as cocaine and methamphetamine when the drug testing program was first introduced in 1991. There have not been any cases of officers testing positive to such illegal drugs in a number of years, although there have been some cases relating to prescription drugs. The representative of San Diego Police Department has noted that he can only assume that the small number of positive test results can be attributed to the effectiveness of the random testing program.[2121]

According to that officer, one potential problem they have identified is the possibility that with the rate of testing being known amongst officers, if an officer is tested twice in a relatively short period of time they know they will be free of testing for the next 17 months or so, though they are not completely aware of when the 18 month period begins and ends. Another issue raised is that their procedures would be improved by including some form of 'last chance' element that would accommodate officers who had perhaps

2116 San Diego Police Department, *Memorandum of Understanding*, July 2000, pp. 67-68.

2117 Correspondence from Sergeant, Medical Assistance Unit, San Diego Police, 20 November 2003.

2118 San Diego Police Department, *Memorandum of Understanding*, July 2000, pp. 70-71.

2119 Correspondence from Sergeant, Medical Assistance Unit, San Diego Police, 20 November 2003.

2120 Correspondence from Sergeant, Medical Assistance Unit, San Diego Police, 20 November 2003.

2121 Correspondence from Sergeant, Medical Assistance Unit, San Diego Police, 8 October 2003.

unwittingly ingested drugs that would normally result in their termination. A hypothetical example of this would be an officer who used a medication purchased legally outside of the USA that contained drugs that are illegal in the USA. Another would be an officer who had illicit drugs placed unknowingly into their food or drink.[2122]

Charlotte-Mecklenburg Police Department, North Carolina

The Charlotte-Mecklenburg Police Department (CMPD) has nearly 2000 employees and is the largest police agency between Washington DC and Atlanta, Georgia.[2123] The CMPD has a drug misuse policy that prohibits the use of unlawful drugs and provides for drug testing of all applicants, all employees where there is reasonable suspicion of drug use, and all sworn officers and specified civilian staff on a random basis.[2124]

There is one main point that differentiates the CMPD policy from many other USA drug policies. It specifically states that employees are not eligible to participate in the Employee Assistance Program (EAP) in connection with any use of an illegal drug or substance, including dependency on or addiction to any illegal drug or other illegal substance.[2125]

Positive drug test results are reviewed by a Medical Review Officer and any test result that is confirmed positive by this process is then investigated by the Internal Affairs Bureau. A positive drug test may result in termination of the involved officer's employment or other disciplinary action.[2126]

The Chief of the CMPD has told the PIC that the CMPD has had very few cases of officers being involved in the use of illegal drugs. However, where an officer is discovered to be engaging in such behaviour, the likely outcome is termination. In the case of an officer abusing prescription drugs, the circumstances would be taken into consideration and there would most likely be sanctions, treatment and the opportunity to continue employment.[2127]

The Chief of the CMPD has advised the PIC that pre-employment drug testing is one step in a wider strategy that is designed to detect drug users from the inception of the application process. Candidates are first sent an information letter which clearly outlines certain types of illegal drug use that will automatically disqualify them from gaining employment with the CMPD. They are also advised that they will be required to undergo a polygraph examination and questions regarding drug use will be canvassed.[2128]

All candidates attend a police applicant written and physical ability testing session. Immediately prior to the testing, an orientation session is conducted where issues such as drug use, truthfulness and integrity are discussed. Candidates are advised that the CMPD requires full disclosure on their part about drug related issues, as questions relating to

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2122 Correspondence from Sergeant, Medical Assistance Unit, San Diego Police, 8 October 2003 and 20 November 2003.

2123 Charlotte-Mecklenburg Police website, 'About Us', viewed 16 February 2005, <http://www.charmeck.org//Departments/Police/About+Us/Home.htm>.

2124 Charlotte-Mecklenburg Police Department, *CMPD Directive 300-009: Drug Testing*, December 1998, pp. 1-2; 4-9.

2125 Charlotte-Mecklenburg Police Department, *CMPD Directive 300-009: Drug Testing*, December 1998, pp. 2-3.

2126 Charlotte-Mecklenburg Police Department, *CMPD Directive 300-009: Drug Testing*, December 1998, p. 9.

2127 Correspondence from Chief, Charlotte-Mecklenburg Police Department, North Carolina, USA, 2 February 2004.

2128 Correspondence from Chief, Charlotte-Mecklenburg Police Department, North Carolina, USA, 6 February 2004.

drug use will be canvassed in the application package, at a videotaped oral interview and during a polygraph examination. The Chief of the CMPD has advised the PIC that on a number of testing dates, some candidates have admitted to disqualifying drug use and have removed themselves from the process. Others have chosen simply to leave during the break between orientation and testing. Only after successfully passing the pre-employment testing are candidates mailed application packages. All candidates selected for employment must submit to a drug test and medical examination within 60 days prior to employment as a police officer with the CMPD.[2129]

City of Charlotte Regulations designed to maintain a drug and alcohol-free workplace also prescribe training for supervisors that emphasises their responsibilities regarding the detection and recognition of substance abuse amongst their personnel. This training is provided to assist supervisors in recognising the physical, behavioural, speech, and performance indicators of substance abuse. It also provides them with guidance regarding methods of confronting suspected substance abusers, together with information regarding the rehabilitation processes and resources that are available to individuals who are identified as having a substance abuse problem.[2130]

Denver Police Department, Colorado

The Denver Police Department has a strength of approximately 1400 sworn officers and 300 civilian employees.[2131] The policy relevant to illegal drug use in the Denver Police Department is found in the *City and County of Denver Employees' Alcohol and Drug Policy*, under Executive Order No. 94. This document is dated October 2002 and is interesting in its layout, as alcohol, legal drugs and illegal drugs are dealt with separately in each section of the policy. This document contains a prohibition of the use of illegal drugs, or being under their influence, while performing City business. Employees are also prohibited from selling, purchasing, transferring or possessing an illegal drug. In special reference to police or sheriff's department employees, it also states that it is grounds for immediate dismissal for members to sell, purchase, transfer or possess illegal drugs at any time other than as part of their official duties.[2132]

Under Executive Order No. 94, the Denver Police Department is able to undertake drug and alcohol testing in the following circumstances[2133]:

- Pre-employment / pre-placement
- Reasonable suspicion when an employee is believed to be in violation of the Executive Order (the policy states that testing should be administered within eight hours of making a reasonable suspicion determination and failure to do so may result in the relevant supervisor facing discipline)

2129 Correspondence from Chief, Charlotte-Mecklenburg Police Department, North Carolina, USA, 6 February 2004.

2130 City of Charlotte Regulations, Policy HR4: Maintenance of a Drug and Alcohol-free Workplace, March 2002, p. 13.

2131 Correspondence from Sergeant, Professional Standards Unit, Denver Police Department, USA, 20 May 2004.

2132 Mayor, City of Denver, Executive Order No. 94: City and County of Denver Employees' Alcohol and Drug Policy, p. 3.

2133 Mayor, City of Denver, Executive Order No. 94: City and County of Denver Employees' Alcohol and Drug Policy, pp. 3-11.

- Post-accident – when the accident may have been the fault of the employee and involves a fatality, a serious injury to a person or disabling damage to a vehicle or any equipment
- Return to duty after violating the prohibited conduct sections of the Executive Order itself[2134]
- Unannounced testing when an employee has been placed on a 'Stipulation and Agreement', and
- Random testing for employees deemed to perform a safety-sensitive function.[2135]

The policy states that all employees and supervisors must receive training that should include, at a minimum, study of the Executive Order and instruction on the recognition of drug and alcohol impairment and use. It states that training for new employees must take place within the first year of employment and within the first six months following promotion for supervisors.[2136]

Section IV of the policy describes certain circumstances in which a breach of Executive Order 94 will result in dismissal of the employee, even for a first offence. These circumstances include, but are not limited to, the following:

- where the employee's behaviour has endangered the lives of others or foreseeably could have endangered the lives of others
- where the employee refuses to submit to any testing under the Order, and
- where the employee uses or attempts to use a masking agent to alter the testing sample and hence the alcohol and/or drug test result.[2137]

Dismissal will also be the disciplinary outcome if an employee breaches the Order for a second time in their career or where the employee's disciplinary history compels dismissal as a matter of progressive discipline. In cases where the employee has committed a first time violation that does not result in automatic dismissal, the employee will be subject to lesser disciplinary action in conjunction with a Stipulation and Agreement for treatment.[2138] It is not clear from the policy document whether this lesser disciplinary action is applicable to Denver Police. However, a representative of the Denver Police has stated that the

2134 That is, Sections 1 (A) and 1 (C) of Order No. 94, which prohibit employees from consuming, being under the influence of, or impaired by alcohol or illegal drugs whilst at work.

2135 Random drug testing applies only to those Denver Police officers required to have a Commercial Driver's License (CDL). As of March 2005, only two officers fell within this category (although a further five officers were in the process of applying for a CDL); Correspondence from Sergeant, Professional Standards Unit, Denver Police Department, 2 March 2005.

2136 Mayor, City of Denver, Executive Order No. 94: City and County of Denver Employees' Alcohol and Drug Policy, pp. 11-12.

2137 Mayor, City of Denver, Executive Order No. 94: City and County of Denver Employees' Alcohol and Drug Policy, pp. 12-13.

2138 Mayor, City of Denver, Executive Order No. 94: City and County of Denver Employees' Alcohol and Drug Policy, p. 13.

sanction for use of a controlled substance is termination if the violation can be proven by a preponderance of the evidence.[2139]

Aurora Police Department, Colorado

The Aurora Police Department has a strength of approximately 580 sworn officers and 170 non-sworn employees.[2140] The substance abuse policy of the Aurora Police Department is found in Section 14.5 of its Directives Manual and was last revised in June 2004. The policy clearly prohibits illegal possession and use of controlled substances. It is unusual in that it includes specific procedures for anabolic steroids. It notes that they are controlled substances and indicates that reasonable cause testing may be used to test for anabolic steroids.[2141]

The Aurora Police Department policy defines the term 'members' to include both sworn and civilian staff. All probationary staff, both sworn and civilian, are subject to random drug tests during their probationary period. Probationary members who have a past history of drug use may be required to submit to mandatory testing more than other probationary members. Members are also subject to random testing as a condition of assignment to certain specialised units such as the Narcotics Section and Intelligence Unit (sworn members) and the Crime Laboratory Section and Property and Evidence Unit (all members). The Aurora Police Department drug misuse policy specifies that such drug tests are not to be administered more than twice a year without advance notice. In addition, 5% of all sworn members not tested as a condition of assignment to specialised units are subject to random drug testing each year. The tests are organised by the Internal Affairs Section.[2142]

A representative from the Aurora Police Department has suggested that it is the randomness with which members are selected for testing rather than the actual quantity (being 5%) that is the relevant factor in creating a deterrent to drug use.[2143]

All staff can be drug tested on the basis of reasonable suspicion. Also, any member who has employed 'deadly force' or 'potentially deadly force' or any sworn member involved in a duty-related automobile accident involving serious harm or death is also drug tested. The results of mandatory critical incident drug tests may only be used for internal administrative investigation purposes.[2144]

Most police services only use urine samples as the basis for their drug testing. The Aurora Police Department policy is unusual in that it includes provisions for hair testing (which may only be ordered by the Chief of Police). Hair testing may be ordered to supplement an internal affairs investigation, or for reasonable suspicion, or for confirmation of reasonable

2139 Correspondence from Deputy Chief of Administration, Denver Police Department, 30 December 2003.

2140 Correspondence from Lieutenant, Investigative Section Commander, Aurora Police Department Colorado, USA, 25 May 2004.

2141 Aurora Police Department, *Directives Manual, Section 14.5 - Substance Abuse*, last revised 17 June 2004, pp. 4-5.

2142 Aurora Police Department, *Directives Manual, Section 14:5 - Substance Abuse*, last revised 17 June 2004, pp. 5-6.

2143 Correspondence from Lieutenant, Investigative Section Commander, Aurora Police Department, 14 January 2004.

2144 Aurora Police Department, *Directives Manual, Section 14.5 - Substance Abuse*, last revised 17 June 2004, pp. 6-7.

suspicion testing. A representative of the Aurora Police has informed the PIC that while hair testing is possible it has not been done in practice because it is 'cost-prohibitive'.[2145]

If a member tests positive for drugs or alcohol during a periodic, unannounced drug test, the member may be placed on administrative leave with pay or limited duty work detail of a non-safety sensitive, non-driving nature if such work is available. The Chief of Police or designee may elect to administer a second test. If the second test is negative the member may return to duty. If positive, the Chief of Police may proceed towards formal discipline or treatment programs for the member.[2146]

While the main strategy used for detecting substance misuse is drug testing, the Aurora Police Department has a 'Personnel Early Intervention System'. This is a broad-based approach used to identify a number of issues affecting employee performance, including stress.[2147] This system uses a series of risk indicators to alert supervisors to a need to initiate a formal review process. The review process can result in a range of determinations including the referral of the employee to a drug or alcohol rehabilitation program.[2148]

The Aurora Police Department drug misuse policy also encourages members to seek voluntary treatment for alcohol and/or drug abuse problems. The Chief of Police may authorise successful completion of a treatment program as an alternative to formal discipline. Treatment is at the member's expense and they must sign a waiver permitting the release of all relevant treatment information to the Chief of Police.[2149] A representative of the Aurora Police Department has noted, however, that the treatment option is really only available in a limited number of instances. It would mainly apply to members who had been found to misuse alcohol or prescription drugs. According to this officer, even cannabis use would be likely to result in termination of employment.[2150]

Other USA policies and procedures

In conducting research into the approaches being taken by overseas agencies to detect and deter illegal drug use amongst their personnel, the PIC examined the policies and procedures of a further 11 USA law enforcement agencies.[2151] These policies were obtained from internet searches and from the Senior Project Officer, Drug and Alcohol Coordination, of the Queensland Police Service (QPS). While many of the policies obtained from the QPS were not dated, it would appear, from the manner in which they were collected, that they were all current as at July 2000. As the PIC did not make direct

2145 Correspondence from Lieutenant, Investigative Section Commander, Aurora Police Department, 14 January 2004.

2146 Aurora Police Department, *Directives Manual, Section 14.5 - Substance Abuse*, last revised 17 June 2004, p. 7.

2147 Correspondence from Lieutenant, Investigative Section Commander, Aurora Police Department, 14 January 2004; Aurora Police Department, *Personnel Early Intervention System No. 8.35*, November 2002.

2148 Significant Incident Logs are kept for each employee and a review is to be initiated when there are two or more entries for like risk indicators or three entries in a sixty day period. Logs are reviewed quarterly by the next level supervisor to ensure they are being properly utilised.

2149 Aurora Police Department, *Directives Manual, Section 14.5 - Substance Abuse*, last revised 17 June 2004, p. 16.

2150 Correspondence from Lieutenant, Investigative Section Commander, Aurora Police Department, 14 January 2004.

2151 Baltimore Police Department; Detroit Police Department; Jacksonville Sheriff's Office; Kansas City, Missouri Police Department; Kentucky State Police; Las Vegas Metropolitan Police Department; Memphis Police Department; St Louis Metropolitan Police Department; San Jose Police Department; and Tucson Police Department.

contact with these USA agencies, their policies and procedures will not be commented on in detail in this appendix. However, it is possible to make some general comments.

An examination of the policies and procedures of the 11 different USA agencies showed that drug testing is commonplace amongst all of these agencies. All had a range of circumstances in which drug testing is conducted, including: pre-employment testing, for cause or reasonable suspicion testing, random testing, post-incident testing, and, testing upon transfer or appointment to high-risk units or safety-sensitive posts. While it was not always stated whether the policies of these agencies applied to all staff, a number of policies noted that mandatory random testing applied to sworn officers and civilian employees engaged in certain high-risk areas (such as those working in drug enforcement units). The involvement of a Medical Review Officer in the test verification process was also a common feature of many of these policies.

A number of the policies indicated a 'zero tolerance' stance towards illegal drug use, with 'one strike' rules being applied to officers who test positive to illegal drugs. While some of these policies state that a positive test result for illegal drugs or a refusal to submit to a drug test will result in dismissal, others state that a positive test or refusal will result in disciplinary action up to and including dismissal. Some deviations from this stance include one agency which takes a softer approach towards officers testing positive to cannabis. This policy states that officers testing positive to cannabis may be suspended without pay for 30 days and required to undergo drug education. They will also be subject to random testing for the next five years.

A further two policies contain a second chance provision for officers testing positive to illegal drugs for the first time. One of these policies states that if an officer tests positive to illegal drugs, in the absence of an ongoing criminal investigation into their conduct, they will be charged administratively. Administrative action will result in a hearing in which the employee may sign an undertaking to remain drug-free for the remainder of their career. According to this agency's policy, a written reprimand will be issued for a first offence, but a second offence will result in termination. The second agency has a policy that aims to rehabilitate rather than punish employees with substance abuse problems. This policy states that if an employee tests positive to illegal drugs and it is a first offence, the officer will be referred to the Employee Assistance Program (EAP). If they decline to be evaluated or to cooperate with the EAP, they may be made subject to disciplinary action. Interestingly, in the instance of a second offence the officer may be given another opportunity to avail themselves of the EAP, although they will also be subject to disciplinary action that may result in termination.

APPENDIX 16: OTHER AUSTRALIAN ORGANISATIONS – POLICIES AND PRACTICES REGARDING ILLEGAL DRUG USE BY PERSONNEL

WHY DID THE PIC CONDUCT THIS RESEARCH?

Policing agencies are not alone in considering how best to deal with the problem of illegal drug use by personnel. Organisations in various industries and areas of government throughout Australia have developed policies to address the problem.

In addition to considering the policies of Australian and overseas policing agencies, which are discussed in Appendices 14 and 15 respectively, the PIC also considered the approach taken by a number of non-policing organisations in Australia. Policies of these organisations will be looked at in this appendix. In addition to approaching other agencies and organisations, the PIC examined community approaches to minimising recreational drug use and these will be discussed in Appendix 17.

The PIC acknowledges that there are some fundamental differences in the working conditions and the responsibilities of employees in a private company, or even in other areas of government, from those of sworn police officers. However, the PIC approached non-policing organisations in the expectation that its appreciation of NSW Police policy would be improved by a better awareness of developments and debates on illegal drug use by personnel in the wider Australian workforce. The organisations canvassed included:

- Australian Defence Force
- Australian Customs Service
- Ambulance Service of NSW
- NSW Department of Corrective Services
- RailCorp[2152]
- Civil Aviation Safety Authority
- Qantas
- Building Trades Group of Unions
- Coal Services (mining industry).

2152 RailCorp was formerly the NSW State Rail Authority and parts of the Rail Infrastructure Corporation.

HOW DID THE PIC CONDUCT THIS RESEARCH?

Each organisation was contacted by the PIC to seek its assistance in relation to the research regarding illegal drug use by police personnel. Each of the organisations assisted by providing requested information regarding any policies the organisation had in relation to illegal drug use by personnel or drug testing programs that the organisation had in place.

WHAT DID THE PIC FIND OUT?

Like the Australian police agencies, other government and private organisations remain divided over the question of the extent to which drug testing should be relied upon to detect and deter illegal drug use by employees. Drug testing has been an established practice in some industries for several years, such as the mining industry where safety is the paramount concern. However, the PIC found a range of responses to the issue of illegal drug use by employees amongst the organisations canvassed.

The key lessons obtained from this research into the approaches taken by other Australian organisations are outlined in Chapter 3 of this report. Further comments regarding the policies from which the key lessons in Chapter 3 have been derived are included in this appendix. These comments pertain to the official policies of the organisations represented or other available documentation regarding their approaches to minimising illegal drug use by employees. It is important to remember that the realities of practice may vary from the impressions gained by reading the written documents. In some cases representatives of the organisations have provided additional information on the operation of aspects of their policies which elaborates on the information contained in the written documents.

Because of the complexity of the situation surrounding the Australian Defence Force and its policy on illegal drug use, it is described separately from the other organisations in this appendix.

RATIONALE

Unlike Australian police services, which are usually concerned about illegal drug use by their officers for both safety and integrity reasons, non-police organisations do not generally use integrity as a rationale for their policies on illegal drug use. Instead, their concern lies almost entirely with occupational health and safety issues. For example, the main group focusing on illegal drug use in the construction industry, the Building Trades Group of Unions (BTG) Drug and Alcohol Committee, stresses safety concerns repeatedly in its publications. Concern for employee health and safety, workplace safety and the ability to perform duties safely is also the main rationale found in the policy of the Ambulance Service of NSW.[2153]

2153 Building Trades Group of Unions, Drug and Alcohol Committee, policy and other documents, viewed at <http://www.btgda.org.au>; Ambulance Service of NSW, *Policy and Procedures for dealing with Drug and Alcohol Use by Staff*, July 2003.

For some organisations the need to address substance misuse as a safety issue is seen as necessary in order to comply with legislation on occupational health and safety and other industry requirements. For example, the coal mining industry in NSW needs to be cognizant of the requirements of both the NSW *Occupational Health and Safety Act 2000* and the NSW *Coal Mines Regulation Act*.[2154] In the rail sector, the guidelines of the Independent Transport Safety and Reliability Regulator (ITSRR) in NSW state that operators, members of the public and railway employees need to have confidence that safety hazards posed by alcohol and other drugs are monitored and controlled. [2155]

While the need to comply with legislation is an important consideration, some organisations also believe that it is important to have procedures in place as a proactive measure. The Ambulance Service of NSW has noted in its policy that while the incidence of drug and alcohol impairment of staff is considered to be low, its responsibilities make it essential that it has a mechanism for dealing with such problems when they arise.[2156]

Because law enforcement services are usually concerned with integrity, as well as safety, a number of policing agencies have policies or codes of conduct that include statements prohibiting the use of illegal drugs by their officers at any time.[2157] Such prohibitions are rarely found in the policies of non-law enforcement agencies. Their priority is ensuring fitness for work and that employees do not work while impaired by drugs. By implication, what an employee does outside of work hours is not the responsibility of the employer, unless those activities impact on the employee's capacity to perform his or her duties. The policy of the Ambulance Service of NSW for example states, amongst other requirements, that employees must not consume alcohol or drugs while on duty or attend work whilst under the influence of alcohol or drugs.[2158] The program policy of the BTG Drug and Alcohol Committee, used within the construction industry, simply states that 'A person who is dangerously affected by drugs or alcohol will not be allowed to work until that person can work in a safe manner.'[2159] A regulation made under the *Coal Mines Regulation Act 1982* states that a person at a mine site must not take drugs that may impair their ability to work safely or attend work while impaired.[2160]

This distinction between work and outside-of-work behaviour becomes less clear, however, amongst some of the public sector organisations. An organisation may, without explicitly proscribing the use of illegal drugs while off duty, require their employees to act in a lawful manner at all times. The NSW Department of Corrective Services' policy includes statements that prohibited drugs are not permitted in any Departmental workplace and that an employee must not be affected by alcohol or other prohibited drugs in any

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2154 Sharon Buckley, General Manager JCB Health (now Coal Services Health). 'Drugs and Alcohol – An Issue for the Coal Industry'. *A presentation to the Queensland Mining Industry Health and Safety Conference 2000*, viewed 21 January 2005, <www.coalservices.com.au/images/db_images/publications/DrgAlc.pdf>.

2155 Independent Transport Safety and Reliability Regulator, 'Guidelines relating to drug and alcohol programs', January 2004, viewed 27 January 2005, <www.transportregulator.nsw.gov.au/downloads/accredGuidelines_Drug_Alcohol.pdf>.

2156 Ambulance Service of NSW, Policy and Procedures for dealing with Drug and Alcohol Use by Staff, July 2003.

2157 This includes the Australian Federal Police, Northern Territory Police, the Queensland Police Service and Victoria Police.

2158 Ambulance Service of NSW, Policy and Procedures for dealing with Drug and Alcohol Use by Staff, July 2003.

2159 Building Trades Group of Unions, Drug and Alcohol Committee, 'Program Policy', viewed 16 December 2004, <http://www.btgda.org.au>.

2160 Coal Mines (General) Regulation 1999, reg 43.

Departmental workplace. In addition, the policy has the objective of meeting community expectations that employees of the Department will at all times act in a lawful and professional manner.[2161] The Department's Code of Conduct and Ethics also states that when staff are 'off duty' they have an obligation to act in accordance with the spirit and intent of the law. It is expected that these requirements will serve to deter off-duty consumption of illegal drugs. In addition, if staff engage in a criminal act, including the use of illegal drugs while off duty, they may have disciplinary action taken against them for bringing the Department into disrepute.[2162]

The only organisation, amongst those examined in this section, to provide a clear prohibition against any illicit drug use by its staff is the Australian Customs Service (ACS). The ACS 'Ethics and Standards of Conduct' includes a clear statement to this effect:

> Customs employees must not participate in, or knowingly have an ongoing association with persons involved in, the illegal importation, possession, traffic or use of illicit drugs or other prohibited substances. Customs is to be drug free.[2163]

This statement is repeated in the 'Alcohol and Drugs' policy. Under the heading 'Other Illegal Drugs', it is noted that:

> It is Customs job to prevent the illegal importation of certain drugs and to be part of the national strategy for dealing with the drug problem. Clearly, Customs must remain free of drugs.
>
> All employees must not participate in, or knowingly have a continuing association with people who illegally import, possess, traffic or use illicit drugs or other prohibited substances. Employees who breach this direction will be subject to action under the Breach of the Code of Conduct provision and/or criminal charges.[2164]

This emphasis on both integrity as well as safety is understandable given that the ACS has, as part of its Corporate Border Protection role, a priority to maximise the detection of illicit drugs and precursor chemicals.

ILLEGAL DRUG USE POLICIES AND DRUG TESTING

Like the Australian law enforcement agencies examined in Appendix 14, other government organisations and private enterprises are divided over the question of the extent to which drug testing should be relied upon as a method of detecting or deterring employee drug use.

2161 NSW Department of Corrective Services, *Employee Alcohol and Other Drugs Policy*, August 2004.

2162 Communication with A/Manager, Employee Health & Safety, Human Resources, Department of Corrective Services, 3 February 2005.

2163 Australian Customs Service, Ethics and Standards of Conduct for the Australian Customs Service, June 2001, p. 15.

2164 Australian Customs Service, *OHS Policy Guideline (PG1): Alcohol and Drugs*, Canberra, 2004, p. 2.

Drug testing has been common in some industries for a number of years. As might be expected, given the safety rationale discussed above, testing has been an established practice for some years in those industries, such as mining, where safety concerns are the greatest.

There are suggestions, however, that the Australian workplace is in the midst of a rapid expansion in the use of drug testing across the workforce. Media reports in 2003 argued that there was a growing momentum amongst Australian businesses to conduct drug testing of their workforces in keeping with the USA trend. Representatives of companies that conducted workplace drug testing were quoted as reporting that business was growing rapidly.[2165] It was also noted that in many cases this extended beyond testing workers in traditional safety-sensitive positions to include management and other white-collar workers. One justification offered was that this was done in the interest of equal treatment for all employees.[2166] According to the media reports, other companies expected that extending the range of workers tested would provide benefits such as improved productivity, lower absenteeism and fewer costly mistakes resulting from poor judgment by substance abusers.[2167] This demonstrates an interesting development in the concept of 'impairment' at work. Whereas in the past impairment was largely concerned with reduced physical capacity that could lead to health and safety problems, there may be a 'new' impairment of concern to private enterprise, the impairment of judgment.

The PIC found a range of responses to drug testing amongst the organisations it contacted. Random drug testing by urinalysis has been commonplace in the mining industry for a number of years. Tests are conducted using the workplace agreement at each mine. Some mines also conduct pre-employment drug testing.[2168]

More recently the NSW Department of Corrective Services included drug testing in its policy, released in June 2004. The policy provides for testing after a specified range of critical incidents, targeted testing and random testing. The legislative backing for testing is found in the NSW *Crimes (Administration of Sentences) Act 1999* sections 236E – 236I. This legislation allows for the taking of 'non-invasive' samples for testing from a variety of sources including urine, hair, sweat, etc. The Department policy, however, only utilises urine sampling and it specifically states that hair sample testing will not be used at this time and that employees cannot elect to provide a hair sample in place of any other sample for testing.[2169]

It should be noted that the Department does not rely solely on drug testing. Self-disclosure is promoted by the offer of an amnesty from disciplinary action, except where employees are already under investigation for a breach of discipline.[2170] The policy also encourages

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2165 A. Hepworth, M. Priest & A. Day, 'Drug tests in the office: you may be next', *The Australian Financial Review,* 3 October 2003, pp. 1, 72; Robin Robertson, 'Drug testing at work: do we need protection?' *The Australian Financial Review*, 13 November 2003.

2166 A. Hepworth, M. Priest & A. Day 'Drug tests in the office: you may be next', *The Australian Financial Review,* 3 October 2003, p. 72.

2167 A. Hepworth, M. Priest & A. Day 'Drug tests in the office: you may be next', *The Australian Financial Review* 3 October 2003, p. 72.

2168 Communication with General Manager and Newcastle Manager, Coal Services, 24 August 2003; Communication with a representative of the Queensland Mining Council, 28 July 2003.

2169 NSW Department of Corrective Services, *Employee Alcohol and Other Drugs Policy*, August 2004.

2170 NSW Department of Corrective Services, *Employee Alcohol and Other Drugs Policy*, August 2004.

employees to report reasonable suspicion that another employee has a problem with alcohol or prohibited drugs.

The rail sector in NSW has also moved towards greater use of drug testing for railway staff in safety-sensitive positions. The *Rail Safety Act 2002* includes a requirement at s.42 that railways must establish a drug and alcohol program that complies with guidelines issued by the Independent Transport Safety and Reliability Regulator (ITSRR). It also states that the ITSRR may arrange for random alcohol or drug testing of any person on duty carrying out railway safety work. The regulations set out in the *Rail Safety (Drug and Alcohol Testing) Regulation 2003* created offences for employees carrying out rail safety work while under the influence of a drug. The regulations also set out procedures for drug testing. In addition, the ITSRR has published 'Guidelines relating to drug and alcohol programs'. These set out the necessary elements of a drug and alcohol program and refer not only to the potential to use drug testing but also prevention through education, personnel management, improved working conditions and rehabilitation.[2171]

RailCorp responded to these requirements by initiating random drug testing in February 2004. The capacity to drug test after critical incidents and on a targeted or 'for cause' basis had been available to RailCorp prior to the recent legislative changes and these forms of testing continue to be used. A voluntary self-identification program had also existed in previous years under State Rail and continues under RailCorp. This program allows employees who voluntarily disclose a drug or alcohol problem to be provided with rehabilitation and alternative non-safety related duties until they are ready to return to their previous work. In such instances, employees do not face disciplinary procedures.[2172] A number of employees have availed themselves of the RailCorp program since the introduction of random drug testing.[2173]

However, not all sectors are embracing the trend towards drug testing. The Ambulance Service of NSW is one such organisation. Mandatory drug testing was not incorporated into the policy and procedure document that was implemented in July 2003 (although some testing may take place with the employee's consent on a case-by-case basis). Drug testing was rejected for inclusion in the new policy for a number of reasons:

- the Ambulance Service of NSW does not have a legislative basis to support mandatory (in contrast to voluntary) testing of employees
- there are considered to be problems with using drug testing to measure impairment
- cost versus efficacy, and
- worker acceptance.[2174]

2171 Independent Transport Safety & Reliability Regulator, *Guidelines relating to drug and alcohol programs*, January 2004, viewed 27 January 2005, <www.transportregulator.nsw.gov.au/downloads/accredGuidelines_Drug_Alcohol.pdf>.

2172 Communication with Project Manager, Health Standards, Safety Division, RailCorp, 20 January 2004.

2173 Communication with Project Manager, Health Standards, Safety Division, RailCorp, 10 December 2004.

2174 Communication with Investigation and Policy Officer, Professional Standards and Conduct Unit, Ambulance Service of NSW, 2 October 2003.

Instead, the Ambulance Service policy encourages employee self-disclosure and the use of managers to identify employees with potential drug and alcohol problems.

The Australian Customs Service (ACS) is also of interest in this regard. As was noted previously, the ACS has a strong prohibition on illegal drug use by its staff. However, the ACS does not have a policy of alcohol or drug testing for its employees. The ACS considers that relevant legislation and guidelines are sufficient in governing the behaviour and conduct of its employees. This includes the *Public Service Act 1999* with its associated Australian Public Service (APS) Values and Code of Conduct and the *OHS Commonwealth Employment Act 1991* and associated ACS policy and guidelines.[2175]

It might have been expected that the safety risks inherent in the construction industry would have meant that it followed the same path as the mining industry into widespread drug testing. However, this has not occurred. There is instead a much greater reliance on the use of peer support and peer pressure.[2176] A drug and alcohol safety and rehabilitation program has been developed by the BTG Drug and Alcohol Committee and adopted as BTG policy. This program is reported to be widely used within the industry through the Enterprise Bargaining Agreements.[2177] Instead of relying on testing, the BTG program aims to prevent problems created by illegal drug use through education, the use of peer-education strategies where fellow-workers undertake interventions and by providing prevention and rehabilitation responses. Site Safety Committees are to be used in this process and interventions include asking the affected worker to leave the building site, securing the site around the affected worker and notifying the worker's union official if he/she refuses to leave the building site, and providing information about treatment and counselling to the worker when he/she next returns to the site unaffected.[2178]

The BTG Drug and Alcohol Committee stated that it rejected testing for illegal drugs for a number of reasons:

- it is costly
- it can undermine and divert resources from other strategies
- it invades employee privacy and demands the employee demonstrate innocence of drug use, not impairment
- drug testing, in the form of urine testing, 'does not detect impairment, has not been demonstrated to reliably predict or reduce drug-related hazard or reduce accident-risk, has not been demonstrated to be cost effective and unless carefully conducted, can be error prone.'[2179]

2175 Communication with Manager, Human Resource Management, Australian Customs Service, 15 February 2005.

2176 Communication with Kathryn Heiler, Australian Centre for Industrial Relations Research and Training, 20 August 2004.

2177 Building Trades Group of Unions, Drug and Alcohol Committee, *Drug and Alcohol Program*, viewed 16 December 2004, <http://www.btgda.org.au>.

2178 Building Trades Group of Unions, Drug and Alcohol Committee, 'Drug and Alcohol Program', viewed 16 December 2004, <http://www.btgda.org.au>.

2179 Building Trades Group of Unions, Drug and Alcohol Committee, *Policy on Alcohol and Other Drug Testing in the Workplace*, viewed 16 December 2004, <http://www.btgda.org.au>.

With respect to this last point, the BTG argues that, rather than establishing a measure of actual impairment, urine testing only measures recent exposure to the drug, as these tests will detect drugs in a person's system well after the time the drugs could be causing impairment. This can range from several hours to days, depending on the drug. As the BTG Drug and Alcohol policy on workplace drug testing notes:

> In short, the rationale for drug testing is to measure impairment. Drug testing, in the form of urine testing, does not do this, and so the rationale for the strategy is not supported. [2180]

This argument has been repeated in a number of forums, including the WA Industrial Relations Commission, where, in upholding a company's fitness for work policy that included drug testing employees, Senior Commissioner Beech acknowledged that testing for the presence of drugs in urine does not establish whether or not that employee was impaired in the performance of their work.[2181]

Concerns about relying on the use of drug testing to measure impairment have also been raised by the Rail, Tram and Bus Industry Union. One of the concerns specified was that reliance on drug testing meant that other causes of impairment, specifically fatigue, were not being addressed. [2182]

Another concern raised about drug testing is that tests would reveal the use of prescription drugs, including those that would have no impact on performance. This concern encompasses not only the potential for unwarranted punishment, but also a loss of privacy by the employee. A representative from RailCorp has noted that, when introducing the random drug testing program, RailCorp held information sessions with staff and provided a hotline to answer any questions. Feedback from this indicated that one of the main concerns of its staff was that the drug tests would pick up on prescription medication. The representative noted that staff had been assured that measures were in place to ensure that anyone using prescription medications would not be adversely affected by positive drug test results.[2183]

Many of these arguments against the use of drug testing were raised by unions when, in 2003, Qantas unveiled a draft drug and alcohol policy for its staff that included drug testing – not just for staff in safety-sensitive positions, but all of its 38 000 staff. According to press reports at that time, one of the main concerns amongst the ten unions involved was that the testing would force workers to reveal any use of prescription medications or over-the-counter drugs. Another concern was the perception that a reliance on drug and alcohol testing meant that other factors that could impair performance, such as fatigue, were neglected.[2184] Qantas has noted that its main aim was to have staff report use of any

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2180 Building Trades Group of Unions, Drug and Alcohol Committee, *Policy on Alcohol and Other Drug Testing in the Workplace*, viewed on 16 December 2004, <http://www.btgda.org.au>.

2181 Jerry Prately, 'IRC upholds drug testing at work', *The West Australian*, 18 November 2003.

2182 'Drugs and alcohol: testing issues', *Human Resources,* 30 November 2004, viewed 30 November 2004, <http:www.humanresourcesmagazine.com.au/articles>.

2183 Communication with Project Manager, Health Standards, Safety Division, RailCorp, 10 December 2004.

2184 Sydney Morning Herald, 'Drugs, grog not the only problems, bosses told', *Sydney Morning Herald*, 5 August 2003, viewed 19 September 2003, <http://www.smh.com.au>.

medications that could affect performance; tests would not be run for other forms of medication.[2185]

Qantas and the unions agreed to the implementation of a more restricted drug testing program in December 2003 that would include applicant testing, 'for cause' testing and critical incident testing. The introduction of random testing remained a point of contention. Qantas still intends to move towards implementation of random testing; however, further negotiations with unions and the introduction of testing have been placed on hold, pending the outcome of a government review. In March 2004, the federal government announced a review of the safety benefits of drug and alcohol testing for safety-sensitive personnel in the aviation industry, to be carried out by the Department of Transport and Regional Services and the Civil Aviation Safety Authority. The decision to conduct the review came in the wake of the March 2004 Australian Transport Safety Bureau report on a fatal accident that occurred at Hamilton Island in 2002. A finding of the report was that pilot performance might have been affected by fatigue, recent cannabis use and post-alcohol impairment.[2186]

Submissions for that review have elicited many of the concerns about drug testing that have been noted earlier in this chapter. In particular the submission of the Alcohol and other Drugs Council of Australia (ADCA) specified the following points:

- the lack of a clear relationship between levels of drug consumption and levels of impairment, thus demonstrating the inadequacy of drug testing as a measure of impairment
- the possibility that the results of drug tests will trigger a highly punitive response, regardless of the presence of impairment
- other causes of impairment may go undetected and unaddressed
- the potential, when drug testing is implemented in isolation rather than as part of a broad alcohol and other drug workplace program, for there to be a failure to address potential cultural and social issues within the workplace that can contribute to alcohol and other drug-related harm.[2187]

Other submissions discussed the need to balance safety and the public interest against employees' right to privacy. Some also questioned the extent of the problem in the industry and whether drug testing was a cost effective way to respond to these concerns. A number of other industry specific points were also made in these submissions.[2188]

2185 Communication with Manager, Occupational Health Services, Qantas, 13 October 2003.

2186 Civil Aviation Safety Authority, 'Drug and alcohol testing review', viewed 29 November 2004, <http://www.casa.gov.au>.

2187 Alcohol and other Drugs Council of Australia, 'Submission to the Department of Transport and Regional Services and the Civil Aviation Safety Authority Review of the safety benefits of introducing drug and alcohol testing for safety-sensitive personnel in the aviation industry', June 2004, viewed 17 December 2004, <http://www.casa.gov.au/hotpics/drugsubmissions/09adca.pdf>.

2188 Australian Federation of Air Pilots, *AFAP comments about drug and alcohol testing in the aviation industry*, June 2004, viewed 17 December 2004, <http://www.casa.gov.au/hotopics/drugsubmissions/12afap.pdf>; Aircraft Owners and Pilots Association of Australia, *Submission*, August 2004, viewed 17 December 2004, <http://www.casa.gov.au/hotopics/drugsubmissions/02aopa.pdf>.

In all, the concerns about drug testing raised by specific unions or other groups mentioned here are part of a much wider debate about the efficacy of drug testing and the benefits and problems with particular types of testing. Some of these debates are discussed in detail in other sections of this report.

Response

A number of the organisations approached by the PIC stated that they rely on a rehabilitative approach towards employees found to be using illegal drugs. Disciplinary consequences or termination of employment are often used only when other measures do not succeed or when the breach of duties is considered to be very serious.

The Ambulance Service of NSW has an Employee Assistance Scheme and employees are encouraged to seek assistance if they consider they have a problem that 'could impact on their capacity to perform their duties'. The policy also makes clear that an employee who advises the Service that he or she has a drug or alcohol problem will not be subject to disciplinary action as a consequence.[2189] A representative from the Ambulance Service of NSW also noted that the Service has a strong chaplaincy service and a peer support network. The latter provides an avenue for staff to discuss matters of concern with a trained peer rather than go to a supervisor or use more formal counselling measures.[2190] Disciplinary action is considered to be a last resort used when an employee is unable to comply with the procedures set out in the policy. An incident involving negligence or misconduct in the performance of duties as a result of intoxication by drugs or alcohol may result in the employee being charged with a breach of discipline and suspended.[2191]

According to an Ambulance Service of NSW representative, where the rehabilitation procedures of the policy have been used they have been very successful and this is seen as a positive outcome for the policy.[2192]

As noted previously, the NSW Department of Corrective Services does not take disciplinary action against employees who self-disclose an alcohol or drug problem. Employees who wish to self-report drug misuse can access the 'Staff AOD Counselling' or use the Employee Assistance Program to obtain advice and counselling. The Department is also willing to assist an employee who is participating in a rehabilitation program.[2193] When responding to employees who return a positive drug test, but have not tested positive for a prohibited drug in the preceding three years, the Department may request that they undergo counselling and/or rehabilitation. However, the Department may also consider, having regard to the circumstances, that the matter should be dealt with as a

2189 Ambulance Service of NSW. Policy and Procedures for dealing with Drug and Alcohol Use by Staff, July 2003, pp. 6-7.

2190 Communication with Investigation and Policy Officer, Professional Standards and Conduct Unit, Ambulance Service of NSW, 2 October 2003.

2191 Ambulance Service of NSW, Policy and Procedures for dealing with Drug and Alcohol Use by Staff, July 2003.

2192 Communication with Investigation and Policy Officer, Professional Standards and Conduct Unit, Ambulance Service of NSW, 29 November 2004.

2193 NSW Department of Corrective Services, *Employee Alcohol and Other Drugs Policy*, August 2004.

disciplinary issue. Employees who test positive twice within a two-year period will be subject to disciplinary action and their fitness to remain an employee will be assessed.[2194]

The recently completed drug and alcohol program guidelines written by the ITSRR for the rail industry have a clear rehabilitative focus. The first principle listed in the guidelines is that 'alcohol and other drug problems are to be dealt with as health and lifestyle problems, with an emphasis on education and rehabilitation…'.[2195]

The guidelines also state that 'supporting measures' for an alcohol and other drugs program shall include 'measures to reduce alcohol and other drug related problems in the workplace through proper personnel management, good employment practices, improved working conditions and the proper arrangement of work…'. Education and training measures are mentioned along with the development of measures relating to intervention, treatment and rehabilitation. The guidelines also require alcohol and other drug programs to include education and assistance for employees who self-identify. It should be noted that the guidelines also call for the development of workplace conduct rules relating to alcohol and other drugs, the violation of which could lead to disciplinary or criminal proceedings. [2196]

As noted above, RailCorp had a self-disclosure program in place to assist such employees when it operated as State Rail. Also under State Rail, staff who were found to be misusing drugs faced a range of responses, from an offer of rehabilitation to entry into the disciplinary process, which entailed a variety of potential penalties, including dismissal.[2197] A revised policy for RailCorp, which incorporates the requirements of the ITSRR guidelines and the Rail Safety (Drug & Alcohol Testing) Regulation, was not yet finalised at the time of drafting this report. The revised policy is envisaged to outline the response that will be made to employees who are detected using illegal drugs. When drug testing commenced in February 2004, RailCorp announced that there would be a moratorium on dismissal for a first positive test to a drug of abuse during the first six months of random drug testing. Staff who tested positive for drugs during this period would be offered counselling and rehabilitation support.[2198]

The BTG Drug and Alcohol Committee program has effect where it is adopted as a site policy. The program states that a person dangerously affected by drugs or alcohol will not be allowed to work until they can work in a safe manner. The judgment of whether they are able to work in a safe manner is made by the site safety committee or, on projects with no safety committee, by a body of employee/employer representatives.[2199] According to a BTG representative there are no set criteria by which the safety committee will make the assessment. Another point made was that the groups making these decisions are small

2194 NSW Department of Corrective Services, *Employee Alcohol and Other Drugs Policy*, August 2004.

2195 Independent Transport Safety & Reliability Regulator, *Guidelines relating to drug and alcohol programs*, January 2004, viewed 27 January 2005, <http://www.transportregulator.nsw.gov.au/downloads/accredGuidelines_Drug_Alcohol.pdf>.

2196 Independent Transport Safety and Reliability Regulator, *Guidelines relating to drug and alcohol programs*, January 2004, viewed 27 January 2005, <http://www.transportregulator.nsw.gov.au/downloads/accredGuidelines_Drug_Alcohol.pdf>.

2197 Communication with Project Manager, Health Standards, Safety Division, RailCorp, 20 January 2004.

2198 Communication with Project Manager, Health Standards, Safety Division, RailCorp, 10 December 2004.

2199 Building Trades Group of Unions, Drug and Alcohol Committee, *Policy and Program Outline*, viewed 16 December 2004, <http://www.btgda.org.au>.

and non-bureaucratic and could be brought together quickly to make a decision. The representative had also stated that they had not had problems with having affected workers abide by the decision of committees that they should leave the site.[2200]

If a person is prevented from working because drugs or alcohol have affected them on three occasions they will be given a written warning and made aware of the availability of treatment and counselling. If the worker refuses help, he or she may be dismissed the next time they are dangerously affected. The policy clearly states that a worker will not be sacked if he or she is willing to get help. But it is also noted that they must undertake and continue with recommended treatment to maintain the protection of this program.[2201]

The BTG Drug and Alcohol Committee is also able to provide rehabilitation services in Sydney either through a residential treatment facility that can take 100 patients a year, or through outpatient counselling. Safety committees may also refer workers to a range of recognised treatment and counselling services.[2202]

In a similar manner, the practice of most coal mining companies in NSW would be to stand down a miner who tested positive, or refused to submit to a drug test. Employees of mining companies are likely to be offered counselling for first and second positive tests. A third positive test is likely to result in dismissal.[2203]

The ACS policy also incorporates counselling and the use of confidential Employee Assistance Programs to help employees whose personal or work related problems are affecting their work performance.[2204] It should be noted, however, that support for rehabilitation *may* be restricted to misuse of licit drugs, such as medicines, as the 'Guidelines for managers and supervisors' states that support for staff is for staff members 'with alcohol or other legal substance misuse problems'.[2205]

AUSTRALIAN DEFENCE FORCE (ADF)

The Department of Defence is amongst the largest employers in Australia. It includes the 53 000 permanent and 25 000 part-time members of the ADF and a further 17 000 Australian Public Service (APS) employees. The PIC had an interest in examining the ADF illegal drug policies for a number of reasons. The ADF bears some similarities to a police service in that most of its personnel are required to use weapons and engage in a range of safety-sensitive tasks. In addition, many ADF members work with security sensitive information and the ADF considers that there is a community expectation that members of the ADF will maintain a high standard of responsibility and readiness to properly perform their duties. As a result of several high profile drug cases in 2003, and in order to support its policy of zero tolerance to illegal drug use by its members, the ADF commenced

2200 Communication with Building Trades Group of Unions, Drug and Alcohol Committee, 22 January 2004.

2201 Building Trades Group of Unions, Drug and Alcohol Committee, *Policy and Program Outline*, viewed 16 December 2004, <http://www.btgda.org.au>.

2202 Communication with Building Trades Group of Unions, Drug and Alcohol Committee, 22 January 2004.

2203 Communication with Occupational Health Nurse, Coal Services, 24 August 2003.

2204 Australian Customs Service, *OHS Policy Guideline (PG1): Alcohol and Drugs*, Canberra, 2004, p. 2; Australian Customs Service, *Alcohol in the Workplace,* Attachment A, Canberra, 2004, p. 3.

2205 Australian Customs Service, Alcohol in the Workplace: Guidelines for managers and supervisors, Attachment B, Canberra, 2004, p. 2.

random drug testing of uniformed personnel in late 2003.[2206] The PIC was interested in the steps taken by the ADF and the Department of Defence in responding to this problem and plans to observe the measures being introduced to manage the issue into the future.

The ADF is divided into three Service branches – Army, Navy and Air Force. The ADF and APS work under different employment frameworks, with APS conditions of employment determined by industrial law and a certified agreement that has been negotiated. As at early 2005, there are no legislative provisions or policy to conduct drug or alcohol testing of APS staff in the Department, though the *Defence Amendment Bill 2005* would change this for a limited range of 'defence civilians'.[2207] For ADF members, however, disciplinary and administrative provisions relating to drug use have existed for some years.

Policy on alcohol and illegal drug use for all of the branches of the ADF is centrally determined. The relevant illegal drug policy for the ADF is Defence Instruction (General) PERS 15-2, 'Involvement by Members of the Australian Defence Force with Illegal Drugs', dated 28 November 1994. During 2002, an ADF Drug and Alcohol Program was established as part of the ADF Mental Health Strategy. Programs are run by each of the Service branches. In early 2003, a revised Alcohol Policy was released which incorporated random alcohol testing. An ADF representative has noted that the separation of alcohol and illegal drug use into two separate policies has been deliberate and it is considered important that they be kept separate.[2208]

Legislation relating to the use of illegal drugs by ADF personnel is found in the *Defence Act 1903*, particularly in Part VIIIA, and in the *Defence Force Discipline Act 1982*. In February 2005 the *Defence Amendment Bill 2005* was introduced in the House of Representatives. It is the intention of the government that the Bill will amend Part VIIIA to establish a more comprehensive regime for drug testing members of the ADF.[2209]

Prohibition of illegal drug use

The ADF illegal drug use policy commences with a consideration of the variety of adverse consequences that can result from drug misuse by ADF personnel. Those listed include reduced performance, health impairment, security risks and danger to personnel.[2210] The policy also considers the need to protect younger ADF members, based on a perceived responsibility for them on behalf of their parents.[2211] Integrity considerations are not overlooked and the policy recognises community expectations and the potential for substance misuse to adversely affect the public image of the ADF.

2206 Newspapers reported on positive drug tests at Darwin's Robertson Barracks, raids on soldiers in Adelaide and Townsville that had caught army personnel using drugs, incidences of drug use at the Amberly air force base in Queensland and reports of drug use in the navy; C. Stewart, Drugs war on home front, *The Australian*, 17 November 2003.

2207 The *Defence Amendment Act 2005* was assented to on 21 March 2005.

2208 Communication with representatives from the Australian Defence Force - Personnel Policy, 25 September 2003.

2209 *Defence Amendment Bill, 2005*. 'Explanatory Memorandum', viewed 15 February 2005, <http://parlinfoweb.aph.gov.au/piweb/Repository/Legis/explan/Linked/10020502.pdf>. The *Defence Amendment Act* was subsequently assented to on 21 March 2005.

2210 Department of Defence, Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drug, Canberra, 1994, p. 1.

2211 Department of Defence, Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drugs, Canberra, 1994, p. 1.

The policy clearly states:

> Involvement with illegal drugs by members of the ADF is not condoned. Disciplinary and/or administrative action that may result in termination of a member's appointment or discharge is to be initiated against any member involved with illegal drugs.[2212]

'Illegal drugs' prohibited by this policy include those drugs whose possession or use is prohibited or restricted by either the *Defence Force Discipline Act 1982*, any other Commonwealth, State or Territory laws which are applicable to the member or the law in any country where a member is deployed.

Detection and drug testing

Under the existing policy, self-referral and drug testing are the main mechanisms for detecting drug use. The policy does not include the use of peers, supervisors or managers in detecting possible drug use, or in referring staff for counselling.

A 'command directed' urinalysis testing program to detect illegal drug use was to have come into effect in July 1995.[2213] Testing did not commence for a number of reasons. It was not until 1999 that the *Defence Act 1903* was amended to include Part VIIIA provisions. Part VIIIA allows for urinalysis testing for narcotic substances for members who are taking part in combat or combat-related duties. Supporting regulations were not developed for this legislation, however, and no systematic testing was done using Part VIIIA.[2214] As an interim measure, pending amendments to that legislation, random drug testing was introduced under the command authorities of the Chief of the Navy, Army and Air Force. Random testing of personnel took place from February to September 2004, as will be discussed further below. Also, targeted testing is conducted where there is reasonable cause to suspect a member is using illicit drugs.[2215]

Provision for drug testing also exists under s.101Q of the *Defence Force Discipline Act 1982*. Under this section the taking of a sample for the purposes of drug testing is permitted where an investigating officer believes on reasonable grounds that an analysis of a specimen taken from a member in lawful custody is likely to provide evidence that that member has used illicit drugs, and the person has consented to give the sample or an authorised officer has approved the taking of the sample.[2216]

2212 Department of Defence, Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drugs, Canberra, 1994, p. 2.

2213 'Command directed' means that the direction has been made by the relevant Service Chief (Army, Navy, or Air Force) under s.9A *Defence Act 1903*.

2214 Col. Ross Boyd, 'Legal Considerations for the Introduction of drug and Alcohol Testing in the Defence Workplace' *Australian Defence Force Journal* 160, May/June 2003, pp 31-37; Communication with Director, Military Personnel Policy, Australian Defence Force, 8 December 2003.

2215 Communication with Director, Military Personnel Policy, Australian Defence Force, 5 September 2003.

2216 Col. Ross Boyd, 'Legal Considerations for the Introduction of drug and Alcohol Testing in the Defence Workplace' *Australian Defence Force Journal* 160, May/June 2003, pp. 31-32.

Response

The policy provides for limited discretion when reviewing whether or not to retain an ADF member who is involved with illegal drugs.[2217] Factors to be taken into account as listed in the policy include the type and quantity of illegal drugs involved, frequency of use, age and rank of offender, voluntary disclosure, likelihood of repetition, and others. It is also clear from the policy that this discretion is intended for use with younger personnel as it notes that involvement in drug use by officers, including non-commissioned officers, indicates 'severe shortcomings in personal leadership qualities and should lead to termination or discharge'.[2218]

If a member is retained after they are found to be involved with illegal drugs they are advised that further involvement will result in termination of appointment or discharge. In addition, retention is conditional upon the member providing written consent for ongoing drug testing through urinalysis, initially once in every 30 days on a random basis, and undertaking drug education or counselling as directed. The testing will continue for 12 months.[2219]

While the policy provides some scope for rehabilitation, the stated position of the ADF is one of 'zero tolerance'.[2220] In weighing up whether to retain a member or to dismiss them, the option of dismissal appears to be favoured in most instances at this time. This will be discussed below in further detail.

Counselling and amnesty

ADF members may request a referral to counselling for substance misuse and voluntary disclosure cannot be used to initiate disciplinary action against a member. This protection from disciplinary action is not complete, however. A member who requests assistance under the self-referral program is not eligible for protection from disciplinary action if they have a Service or civil conviction for a drug-related offence; the members' retention is already conditional; or they are under investigation for illegal drug involvement. That is, amnesty is only available prior to detection.

A member who has entered counselling voluntarily is required to provide a written undertaking that includes a consent for further drug testing and an agreement to undertake drug education or counselling. Failure to comply will result in the initiation of action to terminate or discharge.[2221]

2217 Involvement with illegal drugs is defined in the policy as the use of any drug which is inconsistent with, or is unrelated to, its prescribed use. 'Involvement' in this context includes possession, selling, dealing in or administering the illegal drug to oneself or another. Department of Defence, *Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drugs*, Canberra, 1994, p. 1.

2218 Department of Defence, Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drugs, Canberra, 1994, pp. 2-3.

2219 Department of Defence, Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drugs, Canberra, 1994, p. 4.

2220 Department of Defence, 'Army Drug Investigation Results Released', Defence Media Release, 6 November 2003.

2221 Department of Defence, Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drugs, Canberra 1994, p. 6.

Applicants

Under the ADF policy, applicants are to have their appointment or enlistment rejected if they admit to 'habitual drug involvement'; are found to have an addiction; or there is evidence of a conviction for use, possession or trafficking of an illegal drug. Some discretion is advised for applicants no longer involved who admit to minor, non-habitual use.[2222] Applicants are not drug tested at this time.[2223]

Recent developments

In the latter part of 2003, a number of instances of illegal drug use by ADF personnel became public. On 12 October 2003, ninety-seven soldiers were drug tested at the Robertson Barracks in Darwin, following allegations of widespread drug use. Forty-seven soldiers tested positive for drugs including cannabis, amphetamines and opiates, and some prescription medications, all were male and aged between 18 and 24. The highest ranked soldier was a lance corporal. Media reports at that time quoted Brigadier Ash Power as saying that these soldiers would be dismissed.[2224]

Shortly before this incident, a member of the Royal Australian Air Force (RAAF) had made claims that a major drug syndicate was operating inside the Air Force. In October the RAAF conceded that 22 personnel at the Amberley base in Queensland had admitted using illegal drugs. In contrast to the soldiers who tested positive to drugs in Darwin, these staff were placed on a year's probation and threatened with expulsion if they offended again.[2225]

On 23 October 2003, a young private died of a heroin overdose at the Holsworthy Army base near Sydney. His family were reported as being aware of allegations that heroin was being supplied to soldiers at Holsworthy.[2226]

In late October 2003 it was announced that the Senate Defence Committee would conduct an investigation into the effectiveness of Australia's military justice system. The inquiry would look at a number of issues, including allegations of drug abuse by ADF members.[2227]

The response of the Department of Defence to the findings of drug use at a range of ADF facilities was to introduce a command directed random and targeted urinalysis drug testing program. In November 2003, the Chief of the Army, Lieutenant General Peter Leahy produced a directive on random and targeted drug testing for the Army. It was reported that the program would cover ten per cent of the Army over the next 12 months. The

2222 Department of Defence, Defence Instructions (General) PERS 15-2: Involvement by Members of the Australian Defence Force with Illegal Drugs, Canberra, 1994, p .2.

2223 Communication with representatives Personnel Policy, Australian Defence Force, 25 September 2003.

2224 C. Smith, '47 soldiers face sack over drugs', www.news.com.au, 7 November 2003, viewed at <http://www.news.com.au>.

2225 D. Macfarlane, 'Air force drug use 'must be assessed'', *Weekend Australian,* 18 October 2003, p. 6.

2226 F. Walker and M. O'Neill, 'Grieving family wants answers over son's suspected overdose', *The Sun-Herald*, 2 November 2003, p. 33.

2227 Parliament of Australia, Senate, 'Inquiry into the effectiveness of Australia's military justice system', viewed 4 December 2003, <www.aph.gov.au/Senate/committee/FADT_CTTE/milijustice/index.htm>.

directive is also reported as stating that leniency would not be granted to members who 'self-refer' *after* being selected for drug testing. It also reinforced the 'zero tolerance' approach of the ADF and described involvement in illicit drugs as a career-threatening choice.[2228] The Navy and Air Force also announced the commencement of random testing in 2004, with an aim of testing ten per cent of personnel, or approximately 5000 tests per annum.

From 1 February 2004 to 30 September 2004, the ADF conducted 7637 drug tests, meeting the 10% target within the seven months. The tests were conducted under the command authorities of the Chiefs of the Army, Navy and Air Force. Of those tests there were 110 positive tests, or 1.44%. Funds for this testing came from existing service budgets.[2229]

Random testing was suspended after a case against an ADF officer was dismissed in September 2004. A Defence Force Magistrate acquitted the officer on the basis that the command to provide a urine sample was not a lawful command. The Defence Force Magistrate held that Part VIIIA of the *Defence Act* is an exclusive code for urinalysis testing. As a consequence, in the view of the Defence Force Magistrate, there is no scope for command initiated urinalysis drug testing and the only basis on which such testing could be instituted is under regulations made under Part VIIIA.[2230] The ruling does not apply to targeted testing as this testing is done based on other disciplinary procedures.

As noted above, the ADF appears to be pursuing a disciplinary rather than rehabilitative approach for many of the personnel found to be using illicit drugs. Reports on the results of drug investigations in Adelaide and Townsville during 2003 indicated that 29 of 39 army personnel found to be using illegal drugs were discharged.[2231] Of the 47 soldiers who tested positive at the Darwin Army base eight have been retained (some because of youth and low levels of drug use, others because the drugs they had used were prescribed for medical purposes) and a decision has been made to discharge the other 39.[2232] In addition, when nine soldiers from Townsville tested positive for drugs in February 2004, their Commander, Brigadier Morrison, was reported as stating that it was likely they would be dismissed from the service. In justifying the strong approach being taken by the Army on this issue Brigadier Morrison was quoted as saying:

> We are sending a clear message to those who are taking illegal drugs – be prepared to be dismissed from the army.
>
> It's a dangerous business. There are weapons, large moving vehicles, complicated activities and we need our people sober and focused, drug and alcohol free.[2233]

2228 Pte. J. Wellfare, 'Don't think you won't be caught: Random drug testing to begin', *Army* #1087, 20 November 2003.

2229 Communication with Director, Military Personnel Policy, Australian Defence Force, 25 November 2004.

2230 Correspondence from Director, Military Personnel Policy, Australian Defence Force, 14 December 2004.

2231 C. Stewart, 'Drugs war on home front', *The Australian,* 17 November 2003.

2232 Correspondence from Director, Military Personnel Policy, Australian Defence Force, 14 December 2004.

2233 H. Sweeney, 'Drug tests may ruin 9 troops' careers', *Townsville Bulletin* 29 April 2004.

In addition, the Chief of the Army, Lieutenant General Peter Leahy, gave evidence before the Senate Committee in March 2004, stating that in most cases members who test positive will be issued a notice to show cause and may be discharged from the Army. He went on to say that he has sought amendments to the *Defence Force Discipline Act* and other legislation to enable prosecution and to expedite the removal of those convicted of involvement with illicit drugs.[2234]

According to the Department of Defence a strong and effective prohibited substance testing regime for ADF members will act as a strong deterrent to prohibited substance use. In an effort to resolve the problem of instituting random testing the *Defence Amendment Act 2005* commenced on 21 March 2005. The intention of this legislation is to provide for a more comprehensive prohibited substance testing regime for members of the ADF through substantial amendment of Part VIIIA of the *Defence Act 1903*. Key features of the Bill include an expansion of the range of substances that may be tested for beyond the narcotic substances currently provided for under Part VIIIA. According to the second reading speech made in Parliament, this means that testing may include steroids and other prohibited substances, including 'party drugs'. Prohibited substances will include narcotic substances as listed in the *Customs Act 1903* and other substances as determined by the Chief of the Defence Force, which determinations are a legislative instrument. The Bill will also broaden the circumstances in which testing can be required beyond testing those employed in combat and combat related duties. This will allow for the testing of all members of the ADF and 'defence civilians' who accompany members overseas (but only where those defence civilians have consented to being subject to military discipline). In simple terms, the Bill will allow Defence to test any Defence person, anywhere, anytime, by any means (currently only urinalysis) and for any prohibited substance. It is interesting to note that the Bill also makes provision for testing by means other than urinalysis. It is expected that this will enable the adoption of new forms of testing as they are developed and accredited.[2235]

The Bill is also intended to clarify the power to terminate after return of a confirmed positive test result and clarify the power to take other administrative action. Amendment to s.9A of the *Defence Act 1903* will enable details of the prohibited substance testing regime to be set out in Defence Instructions to provide for flexibility in the testing regime's administration.[2236]

With the introduction of the *Defence Amendment Bill* the ADF appears to be close to resolving the problems of establishing a prohibited substance testing program for the Services. The extent to which prohibited substance testing will deter prohibited substance use is a matter that will be of interest to follow in the future.

2234 Lt. General Peter Leahy, Chief of Army. Evidence before the Foreign Affairs, Defence and Trade Committee Senate Inquiry into the effectiveness of Australia's military justice system, 1 March 2004.

2235 Correspondence from Squadron Leader, Directorate of Military Personnel Policy, Australian Defence Force, 13 April 2005; *Defence Amendment Bill, 2005*. 'Explanatory Memorandum', viewed 15 February 2005, <http://parlinfoweb.aph.gov.au/piweb/Repository/Legis/explan/Linked/10020502.pdf>; D. Kelly, Minister for Veterans' Affairs, 'Defence Amendment Bill 2005: Second Reading', viewed 15 February 2005, <http://parlinfoweb.aph.gov.au/piweb/view_document.aspz?ID+988081&TABLE+HANDARDR>.

2236 *Defence Amendment Bill, 2005*. 'Explanatory Memorandum', viewed 15 February 2005, <http://parlinfoweb.aph.gov.au/piweb/Repository/Legis/explan/Linked/10020502.pdf>; D. Kelly, Minister for Veterans' Affairs, 'Defence Amendment Bill 2005: Second Reading', viewed 15 February 2005, <http://parlinfoweb.aph.gov.au/piweb/view_document.aspx?ID+988081&TABLE=HANSARDR>.

APPENDIX 17: COMMUNITY APPROACHES TO RECREATIONAL DRUG USE

WHY DID THE PIC CONDUCT THIS RESEARCH?

The PIC chose to examine recent literature on community approaches to minimising 'recreational' drug use to inform its assessments of current NSW Police policies and procedures and also its recommendations about minimising illegal drug use by officers.

In addition to considering community approaches to minimising illegal drug use, the PIC also examined the approaches used by a number of different agencies and organisations. These included Australian and overseas policing agencies, which are discussed in Appendices 14 and 15 respectively, as well as non-policing organisations in Australia, which are discussed in Appendix 16.

HOW DID THE PIC CONDUCT THIS RESEARCH?

The PIC examined government policy, reports of recent government inquiries, and research papers on community approaches to minimising recreational drug use.

WHAT DID THE PIC FIND OUT?

From the information reviewed on approaches to minimising illegal drug use in the community, it is clear that there is no one accepted solution to the problem. This appendix provides a summary of some of the central themes that emerge from literature on minimising recreational drug use in the community.

NATIONAL DRUG STRATEGY

The National Drug Strategy is a cooperative venture between the Australian, State and Territory Governments and the non-government sector. Its mission statement is:

> To improve health, social and economic outcomes by preventing the uptake of harmful drug use and reducing the harmful effects of licit and illicit drugs in Australian society.[2237]

The National Drug Strategy is the responsibility of the Ministerial Council on Drug Strategy. The Strategy is based on the principle of harm minimisation, which is defined as encompassing:

2237 Ministerial Council on Drug Strategy, *The National Drug Strategy: Australia's Integrated Framework 2004-2009*, May 2004, p. 1.

- Supply reduction – strategies to disrupt the production and supply of illicit drugs, and the control and regulation of licit substances
- Demand reduction – strategies to prevent the uptake of harmful drug use, including abstinence orientated strategies and treatment to reduce drug use
- Harm reduction – strategies to reduce drug-related harm to individuals and communities. [2238]

One of the specific priority areas of the Strategy is 'prevention'. Prevention is described as 'measures that prevent or delay the onset of drug use as well as measures that protect against risk and prevent and reduce harm associated with drug supply and use'.[2239] Other priority areas include improved access to quality treatment, strengthened partnerships and identification and response to emerging trends.[2240] These priorities are reflected in the National Illicit Drug Strategy, 'Tough on Drugs', which was launched in 1997 and forms a significant part of the National Drug Strategy.

As part of the 'Tough on Drugs' Strategy, the Australian Government has provided funding for a range of supply reduction measures being implemented by Commonwealth law enforcement agencies that play a role in protecting Australia's borders and its community from illicit drugs. Other initiatives and programs being funded under the Strategy that focus more on demand reduction and harm reduction include, but are not limited to:

- The Illicit Drug Diversion Initiative - This initiative supports the diversion of illicit drug users from the criminal justice system into education and treatment, including the establishment of assessment services and additional treatment places.
- The Non-Government Organisation Treatment Grants Program - This program provides funding for the establishment, expansion, upgrading and operation of non-government organisations that provide treatment, rehabilitation and support for those affected by illicit drugs.
- School Drug Education - This campaign focuses on improved preventative drug education to help reverse the increase in the use of illicit and other drugs by school students. The first stage of the campaign, which was launched in March 2001, focused on informing parents and community members about the harms of illicit drug use and the role they can play in preventing illicit drug use amongst young people. This involved a national delivery of booklets and pamphlets to all households in Australia.
- The Training Frontline Workers Initiative - This initiative focuses on enhancing education and training for those working with illicit drug users

2238 Ministerial Council on Drug Strategy, *The National Drug Strategy: Australia's Integrated Framework 2004-2009*, May 2004, p. 2.

2239 Ministerial Council on Drug Strategy, *The National Drug Strategy: Australia's Integrated Framework 2004-2009*, May 2004, p. 6.

2240 Ministerial Council on Drug Strategy, *The National Drug Strategy: Australia's Integrated Framework 2004-2009*, May 2004, p. 6.

> and at-risk groups. These frontline workers include general practitioners, hospital staff and police officers.[2241]

The Strategy clearly comprises a range of initiatives that are aimed at reducing drug use and supply, and preventing and minimising the harm caused by illicit drugs in the Australian community.

MAIN LESSONS FROM COMMUNITY APPROACHES

The PIC found two government reports, both published in 2004, to be useful resources from which to identify lessons from community approaches with potential relevance to Operation Abelia. One of these was the Australian Government Department of Health and Ageing's *Models of intervention and care for psychostimulant users,* which was released as one of the National Drug Strategy Monograph Series. The second was the final report of the Drugs and Crime Prevention Committee of the Victorian Parliament's *Inquiry into amphetamine and 'party drug' use in Victoria.* The PIC also reviewed recent literature that comments on the effectiveness of policies and programs aimed at minimising recreational drug use.

There is no one solution

The main lesson from the approaches to minimising illegal drug use in the community is that there is no one accepted solution. For example, the Victorian Drugs and Crime Prevention Committee (DCPC) has argued that that there is no 'one size fits all' response to amphetamines and party drug use:

> Given the complexities of amphetamine and 'party drug' use and the differences between and within these classifications, it is quite clear that a 'one size fits all' approach will be inadequate to address this issue. The strategies required to prevent MDMA use among party goers will be very different to interventions needed for the chronic adult amphetamine abuser. Multifaceted strategies will therefore be required.[2242]

Any solution must recognise that many 'recreational drug' users are polydrug users

Many of those who use illegal drugs, use more than one drug type. The DCPC has observed that the problem of appropriate treatment 'is compounded by the fact that so many users of amphetamine may also be using other drugs, including alcohol, as part of their drug taking "repertoire"'.[2243]

2241 Australian Government, National Illicit Drug Strategy, Department of Health and Ageing website, viewed 11 February 2005, <http://www.health.gov.au/internet/wcms/Publishing.nsf/Content/health-pubhlth-strateg-drugs-illicit-index.htm>.

2242 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 634.

2243 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 610.

Any solution must recognise that many who use illegal drugs find their drug use pleasurable

Duff has argued that, given that many who use illegal drugs find their drug use pleasurable, any policy that seeks to minimise illegal drug use must address this aspect of illegal drug use:

> If one accepts for a moment that the majority of illicit drug users are attracted to this behaviour because of the subjective experience of pleasure that is associated with it, and there is ample evidence to support this contention, then it is clear that drug policy needs to address this aspect of drug use in addition to the issue of harms and risk.[2244]

Any solution must consider the user's perspective

One criticism of the current approach to minimising illegal drug use is that this approach is not targeted at the level of drug use by an individual. For example Duff, the Coordinator of Research at the Australian Drug Foundation Centre for Youth Drug Studies, has stated that:

> The vast majority of drug policies and programs in this country fail to adequately address the needs of illicit drug users because they largely miss their target. What I mean by this is that the majority of drug programs in Australia are targeted not at the level of individual use, but rather at the level of manufacturing and supply, and/or research and training.[2245]

Duff and others have emphasised the importance of understanding the drug user's perspective in order to increase the effectiveness of policies to minimise illegal drug use. These commentators have identified the value of understanding the different patterns and cultures of illegal drug use as a step towards minimising such drug use.[2246]

Lack of specialised treatment for amphetamine and other stimulant users

The DCPC has observed that there are 'few, if any, specialist drug and alcohol services in Australia catering exclusively for problematic, dependent or heavy users of amphetamines'.[2247] It has noted that while the number of people presenting to drug and alcohol services with amphetamine problems is increasing, there are no specific services

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2244 C. Duff, Drug use as a 'practice of the self': Is there any place for an 'ethics of moderation' in contemporary drug policy? *Paper presented at 15th International Conference on Drug Related Harm, Melbourne, 20 –24 April 2004*, pp. 12-13.

2245 C. Duff, Drug use as a 'practice of the self': Is there any place for an 'ethics of moderation' in contemporary drug policy? *Paper presented at 15th International Conference on Drug Related Harm, Melbourne, 20 –24 April 2004*, p. 10.

2246 C. Duff, Drugs and youth cultures: Is Australia experiencing the 'normalization' of adolescent drug use? Journal of Youth Studies, 6(4), pp. 444, 445; C. Duff, Drug use as a 'practice of the self': Is there any place for an 'ethics of moderation' in contemporary drug policy? *Paper presented at 15th International Conference on Drug Related Harm, Melbourne, 20 –24 April 2004*, pp. 19-20; M. Keenan, The social context of drug use. In M. Hamilton, T. King. & A. Ritter (Eds) *Drug use in Australia: Preventing harm*. Melbourne: Oxford University Press, 2nd Edition, 2004, pp. 65, 72, 74.

2247 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 568.

for amphetamine users. All current available treatments are abstinence based.[2248] Furthermore the DCPC has stated that, 'because of the variation in the types of amphetamines available and the use to which they are put, it is very difficult to target programmes to meet the particular needs of any particular user, unlike targeting needs in the areas of alcohol and heroin use'. [2249]

This Committee also noted that while there is little information available about the treatment of (meth)amphetamine use and dependence, there is even less information available concerning the treatment of ecstasy use.[2250]

Those working in the area have noticed that, 'relative to opioid drugs or alcohol, methamphetamine users appear to have relatively low contact with treatment services, specifically for their amphetamine use … The low level of contact with services may reflect a low demand for services, or lack of appropriate and accessible services for this population'.[2251] Those who do seek assistance tend to seek advice from a general practitioner in the first instance. Such stimulant users generally seek assistance for associated problems such as malnourishment, sleeping disorders and mood disorders rather than seeking assistance specifically for drug use.[2252]

One of the reasons offered for why some drug users may not seek treatment is that those who use a range of party drugs do not see themselves as drug users or junkies.[2253] For example the DCPC has noted that 'young people who take ecstasy do not necessarily view themselves as "*taking drugs"* and are therefore unlikely to appear at specialist drug services'.[2254]

With some other forms of illicit drug use (such as the use of opiates), drug users may be directed into treatment as a result of their contact with the criminal justice system. However, 'occasional' or 'recreational' drug users are unlikely to come into contact with the criminal justice system and as such they are unlikely to be offered assistance. Duff, for example, has observed:

> Until such time as an individual comes into contact with law enforcement and/or treatment services, s/he is essentially 'invisible' to governments and other agencies and so is his or her drug use behaviour

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2248 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 570.

2249 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 196.

2250 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 603.

2251 A. Baker, N. K. Lee, & L. Jenner, Models of intervention and care for psychostimulant users. 2nd edition. National Drug Strategy Monograph Series No. 51. Canberra: Australian Government Department of Health and Ageing, April 2004, p. 30.

2252 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, pp. 194, 599.

2253 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 197.

2254 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 487.

and

> If like most drug users, one's use is social or recreational, and one doesn't arouse the interests of law enforcement authorities or treatment services, then essentially one is left to one's own devices in this country, irrespective of how harmful or problematic this drug use may be at present or in the future.[2255]

Education and information dissemination – while media scare campaigns do not work with young people, some users are interested in practical, evidence-based information focusing on safe use and reducing harm

The report by the Department of Health and Ageing observed that 'users are often naïve to the risks associated with using psychostimulants and many believe that these drugs are relatively safe and benign'. For this reason this report recommended that 'users should be made aware of the potential health and other risks and given information to reduce the possible harms associated with psychostimulant use'.[2256] This report identified that one of the primary risks to users was a lack of knowledge of the contents of the drug.[2257]

The Victorian Drug and Alcohol Association has stated that mass media scare campaigns targeting young people do not work as young people do not identify with them.[2258]

Educational messages need to be reinforced. Duff has observed that available research suggests that drug education for students has a limited 'lifespan' in its impact on a student's attitudes and behaviour. He has said that it is for this reason that most educationalists recommended that students receive 'booster' or refresher courses in later years.[2259]

A UK study of recreational drug and alcohol use by young people who attend mainstream commercial nightclubs found that 'clubbers do actively seek out information about the consequences of their drug use and as such they are likely to be receptive towards the provision of practical, evidence-based information focusing on safe use and reducing harm'.[2260] As a result this Home Office study recommended that the following types of information should be provided to 'clubbers':

2255 C. Duff, Drug use as a 'practice of the self': Is there any place for an 'ethics of moderation' in contemporary drug policy? *Paper presented at 15th International Conference on Drug Related Harm, Melbourne, 20 –24 April 2004*, pp. 10, 12.

2256 A. Baker, N. K. Lee, & L. Jenner, *Models of intervention and care for psychostimulant users*. 2nd edition. National Drug Strategy Monograph Series No. 51. Canberra: Australian Government Department of Health and Ageing, April 2004, p. 51.

2257 A. Baker, N. K. Lee, & L. Jenner, *Models of intervention and care for psychostimulant users*. 2nd edition. National Drug Strategy Monograph Series No. 51. Canberra: Australian Government Department of Health and Ageing, April 2004, p. 53.

2258 Victorian Alcohol and Drug Association, *Beyond 'e': exploring the impact of party drugs on current day youth and culture*. Victorian Alcohol and Drug Association Symposium Report, August 2003, p. 12.

2259 C. Duff, Drug use as a 'practice of the self': Is there any place for an 'ethics of moderation' in contemporary drug policy? *Paper presented at 15th International Conference on Drug Related Harm, Melbourne, 20 –24 April 2004*, p. 11

2260 A. Deehan, & E. Saville, Calculating the risk: recreational drug use among clubbers in the South East of England. *Home Office Online Report 43/03, 2003*, p. 28.

> A holistic approach covering short, medium and longer-term consequences could be considered and could incorporate not only physical health issues but also psychological and social risks, For example, the increased vulnerability to physical or sexual assault is an important message. Given that a substantial proportion of clubbers mixed different drugs and alcohol on a night out, emphasis should be given to the heightened risks associated with polydrug use'.[2261]

Similarly, in its report the DCPC recommended that accurate and relevant information on the effects of drug use and how to obtain help when needed should be provided to users, including occasional users and polydrug users. It also recommended that the information should be tailored to a range of users in different settings and contexts (such as clubs, raves, schools, universities, workplaces, sports and community clubs).[2262] Providing the information in a range of different settings where drug use takes place is considered important so that the information can reach drug users who would not otherwise come in contact with treatment programs or the criminal justice system.[2263]

2261 A. Deehan, & E. Saville, Calculating the risk: recreational drug use among clubbers in the South East of England. *Home Office Online Report 43/03*, 2003, p. 28.

2262 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into amphetamine and 'party drug' use in Victoria: Final report*. Melbourne: Government Printer for the State of Victoria, May 2004, p. 486.

2263 C. Duff, Drug use as a 'practice of the self': Is there any place for an 'ethics of moderation' in contemporary drug policy? *Paper presented at 15th International Conference on Drug Related Harm, Melbourne, 20 –24 April 2004*, pp. 18-19.

APPENDIX 18: INSTRUMENT OF APPOINTMENT, DIRECTION AND DELEGATION

INSTRUMENT OF APPOINTMENT, DIRECTION AND DELEGATION

Whereas:

(i) It is intended that The Hon Mervyn David Finlay QC be appointed an Assistant Commissioner of the Police Integrity Commission ("the Commission") for the purpose of exercising some of the functions and powers of the Commission and Commissioner of the Police Integrity Commission in connection with the investigation codenamed "Operation Abelia" ("the Investigation");

(ii) The Hon Mervyn David Finlay QC has special legal qualifications within the meaning of subsection 4(2) of the *Police Integrity Commission Act 1996* ("the Act"); and

(iii) Hearings are to be held for the purpose of Operation Abelia ("the Hearings").

Appointment, direction and delegation

I, **Terence Peter Griffin**, being Commissioner and Chief Executive Officer of the Commission hereby:

(a) pursuant to subsection 8(1) of the Act, appoint **THE HON MERVYN DAVID FINLAY QC** as an Assistant Commissioner of the Police Integrity Commission;

(b) pursuant to subsection 32(2) of the Act, determine that the Hearings shall be conducted by **THE HON MERVYN DAVID FINLAY QC**;

(c) pursuant to section 9 of the Act, direct **THE HON MERVYN DAVID FINLAY QC** to exercise, for the purposes of the Hearings, the functions of the Commissioner delegated by paragraph (d) below as **THE HON MERVYN DAVID FINLAY QC** considers appropriate and desirable;

(d) pursuant to subsections 11(1) and (2) of the Act delegate to **THE HON MERVYN DAVID FINLAY QC**, for the purposes of the Investigation and Hearings:

(i) the powers of the Commission or Commissioner, as the case may be, under Divisions 4, 5 and 8 of Part 3 of the Act at or in connection with a hearing, including the power to issue a warrant for the arrest of a person under section 39;
(ii) the powers of the Commissioner under Part 10 of the Act at or in connection with a hearing;
(iii) the power of the Commission to require a public authority or public official to produce a statement of information under section 25 of the Act; and

(iv) the power of the Commission to require a person to attend and produce a document or other thing under section 26 of the Act.

Term of appointment, direction and delegation

This instrument shall remain in force until such time as it is revoked or the Commission's functions in relation to Operation Abelia, including the making of its report to Parliament, are discharged, whichever occurs sooner.

T P Griffin
Commissioner

Dated: 22 August 2003

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