



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON THE DRUGS OF DEPENDENCE (PERSONAL USE)
AMENDMENT BILL 2021

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Submission Cover Sheet

Inquiry into the Drugs of Dependence
(Personal Use) Amendment Bill 2021

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Drugs of Dependence (Personal Use) Amendment Bill 2021

NSW Police Force Submission

5 July 2021

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1. NSW Police Force - Organisational Context

- 1.1. The NSW Police Force (**NSWPF**) exists to protect the citizens of New South Wales by providing police services that include, but are not limited to:
 - (a) Preventing and detecting crime;
 - (b) Protecting persons from injury or death, and property from damage; and
 - (c) Providing essential services in emergencies.
- 1.2. NSWPF officers see the adverse effects of drugs on the people whom police are sworn to serve and protect. Substance misuse is associated with a wide range of health, economic and social harms which impact individual users as well as the broader community.
- 1.3. There is a strong association between illicit drug use and crime, and NSWPF is committed to the three pillars of harm minimisation as identified in the Australian Government National Drug Strategy 2017-2026¹ (**NDS**) through supply reduction, demand reduction and reducing drug-related harm to create a safer community.
- 1.4. To address illicit drug use, supply and manufacture within the community, NSWPF has implemented a number of effective strategies, which are outline below.

2. NSW Police Force - Statement of Strategic Intent

- 2.2. NSWPF has created the Statement of Strategic Intent 2019² (**the Statement of Strategic Intent**).
- 2.3. In the Statement of Strategic Intent, the message of the NSWPF Commissioner Michael Fuller APM is that:

"To realise our vision for 'A safer NSW' we must now focus on prevention disruption, response and capability. We need to be proactive and to collaborate with communities across NSW and establish partnerships to impact the underlying causes of crime and disorder. For victims of crime and our customers we need to provide care and protection communicate effectively and deliver efficient services to maintain trust and confidence in policing".
- 2.4. The Statement of Strategic Intent focuses on prevention, disruption, response and capability. NSWPF achieves this through collaboration with communities across NSW, establishing partnerships with external stakeholders to impact the underlying causes of crime and disorder, providing care and protection to victims of crime and

¹ Commonwealth of Australia, Department of Health 2017, *National Drug Strategy 2017-2026*, available at <https://www.health.gov.au/sites/default/files/national-drug-strategy-2017-2026_1.pdf>.

² Fuller, M J, *Statement of Strategic Intent*, NSW Police Force available at <https://www.police.nsw.gov.au/__data/assets/pdf_file/0008/628460/Statement_of_Strategic_Intent.pdf>.

customers, and delivering efficient services to maintain trust and confidence in policing.

- 2.5. Wherever possible, NSWPF will intervene early and minimise unnecessary contact with the criminal justice system and rigorously disrupt the behaviour of high-risk offenders and criminal groups through the latest policing tactics and technologies.
- 2.6. The Statement of Strategic Intent does not itself specifically refer to illicit drug crime and particularly crystal methylamphetamine and illicit amphetamine type stimulants (**ATS**). Focus on an illicit and non-illicit drug strategy framework is derived from the Statement of Strategic Intent and is delivered through action plans by the NSWPF Corporate Sponsor for Drug Related Crime.

3. NSW Police Force – Corporate Sponsor for Drug Related Crime

- 3.1. Under the NSWPF Corporate Sponsor's Program, a Corporate Spokesperson represents the NSWPF Commissioner within their portfolio, which has been identified as an area of key strategic importance to NSWPF and supports the Executive Team in achieving its corporate priorities.
- 3.2. In late 2017, Corporate Spokesperson for Alcohol and Drug-Related Crime was established. As such, the Corporate Spokesperson is responsible for leading policy, strategy and practice in responding to alcohol and drug related crime, supporting the implementation of those strategies and monitoring their progress.
- 3.3. A requirement of the Corporate Sponsor's Program is that a strategic action plan be developed for each portfolio. Given the significant differences between the two policy areas (i.e. drugs and alcohol), and to better allow the organisation to implement appropriate strategies that focus on these issues, it was determined that NSWPF would develop separate Alcohol and Illicit Drug Strategies.
- 3.4. The Corporate Spokesperson for the Illicit Drug Strategy is supported in undertaking his function by a Regional Spokesperson, who is a Superintendent nominated by each of the regions, the Head of Profession for Drugs and Policy Officer at Capability, Performance and Youth Command. A Drugs Steering Committee was established in 2018 to oversight the portfolio. It is chaired by the Corporate Spokesperson and attended by each of the Regional Spokespersons, the Commander of the NSWPF Drugs and Firearms Squad (**DFS**) and other relevant Commands whose collaboration is essential to the implementation of Alcohol Action Plans (**AAP**) and Illicit Drug Action Plans (**IDAP**), such as the Capability, Performance and Youth Command, Marine Area Command and the Traffic and Highway Patrol Command.
- 3.5. APPs and IDAPs created and implemented at a local level, by Police Area Commands (**PAC**) and Police Districts (**PD**). They focus on the individual needs of the community and allow for the implementation of different strategies based upon prevalent issues within the community and resources.

4. NSW Police Force - Illicit Drug Strategy

- 4.1. The NSWPF Illicit Drug Strategy (2020-2027) (**the Illicit Drug Strategy**) is a state level strategy that aims to provide direction for police in the context of evolving criminal methodologies and the use of sophisticated technologies to evade drug detection.
- 4.2. In developing Illicit Drug Strategy, data sets were examined, like strategies were reviewed at a state, territory and a national level, literature reviews were undertaken, and extensive consultation was conducted across the NSWPF to determine the extent and nature of the problem, and to identify potential strategies and activities that might be implemented to better address the issues.
- 4.3. As a result, the Illicit Drug Strategy takes account of key emerging operational challenges currently facing police, such as drug distribution via mail and online, and the increasing diversion of pharmaceuticals. It also highlights the need to enhance existing policing approaches to achieving drug related outcomes, such as providing leadership and direction, coordinating efforts, collaborating and sharing information, and maximising organisational capability.
- 4.4. The Illicit Drug Strategy also focuses on capability, both in terms of staff development and the development of agile systems that support police drug work in a rapidly changing operational environment. Part of this involves key performance indicators and activities that the regions and specialist Commands are required every six months to report on in Command Performance Accountability System (**COMPASS**), which is an intranet based corporate performance management system.
- 4.5. The Illicit Drug Strategy has resulted in NSWPF implementing a number of state level strategies in response to illicit drugs, particularly ATS, and crime which have included:
 - Increasing the NSWPF capacity to undertake drug investigations and response to local drug issues through the establishment of Regional Enforcement Squads with a range of skills including criminal investigation and surveillance, in all non-metropolitan policing regions;
 - Since submitting a proposal to National Drug Law Enforcement Research Fund for funding to build a business case to develop a national system for capturing end-user declarations, NSWPF has driven the development of the National End User Declaration On-line (EUDO) system project and the supporting harmonised legislation required to make such a system operational and effective;
 - Establishing a Chemical Diversion Team in 2014 in response to concerns about significant increases in methylamphetamine detections and manufacture;
 - Being one of the first jurisdictions to sign up to the National Cooperation Scheme on Unexplained Wealth recommended under the NIAS;
 - Actively participating on the *Drug Misuse and Trafficking Act 1985* (NSW) (**DMT Act**) Scheduling Committee. The Committee was established following the recommendations arising from the Legislative Assembly of the NSW Inquiry into Law Reform Issues Regarding Synthetic Drugs (2013) and enables NSW to

quickly identify and schedule emerging dangerous drugs and / or chemicals that are used in the manufacture of illicit substances.

- 4.6. In addition, action plans can be employed at a local level under the four areas of strategic intent - prevention, disruption, response and capability. Ultimately, this means all police will bear some responsibility in ensuring the Illicit Drug Strategy is implemented. That said, for some actions (particularly corporate level responses) primary responsibility rests with specialised Commands, PAC's and PD's have the discretion to tailor their responses based on local circumstances, resources and need.
- 4.7. Of note, these strategies and action plans are consistent with the NSWPF Commissioner's message in the Statement of Strategic Intent as well as any relevant national (NDS, National Ice Action Strategy³ (**NIAS**)) and state-based policies. The NDS and NIAS identify a broad range of high-level strategies, often in the case of the NIAS, more relevant to Commonwealth agencies. As such, the purpose of the NSWPF Illicit Drug Strategy is to focus on areas of greatest priority and relevance to law enforcement in NSW, identifying specific activities or strategies to enhance the NSWPF response to illicit drugs to reduce their negative impact of substance misuse on the community.
- 4.8. Prior to the implementation of the Illicit Drug Strategy, the NSWPF employed other strategies that focused on illicit drugs, including Drug Expert Evidence Workshops and the Drug Squad Strategy.

Drug Expert Evidence Workshops

- 4.9. In 2014, the Drug Squad (at that time the Drug Squad was independent of the Firearm Squad) developed a strategic assessment document '*Targeting Methylamphetamine Supply in New South Wales: Current Operating Environment*'. The objective of the assessment was to consider strategies which might be implemented to reduce the supply and availability of methylamphetamine in NSW. The project was to be delivered in three phases: *first*, an overview of the current NSWPF response, *second*, examine the market enablers and drivers and *third*, identify and bring forward recommendations. In total 13 workshops were conducted across the state with over 250 participants. These participants included officers, sworn and non-sworn, from all Commands, including Field, Specialist and Corporate.
- 4.10. Workshops were additionally conducted with external health practitioners and academics. Phase two of the project was not delivered and the project moved to phase three with the release of the paper '*Strategies to Reduce the Supply and Availability of Methylamphetamine in New South Wales*' in mid-2016 (**the Drug Squad Strategy**).

The Drug Squad Strategy

- 4.11. While methylamphetamine was and is the current imperative, there are new and emerging drugs and others which will re-emerge. The Drug Squad Strategy was

³ Commonwealth of Australia, Department of the Prime Minister and Cabinet 2015, *National Ice Strategy* 2016, available at <<https://www.coag.gov.au/sites/default/files/communique/2015%20National%20Ice%20Action%20Strategy.pdf>>.

required to impact across the range of illicit drugs. Therefore, it was proposed that NSWPF develop a new Illicit Drug Strategy. All other initiatives documented within the report fell within the umbrella of that overall Illicit Drug Strategy.

4.12. Key recommendations of the Drug Squad Strategy included:

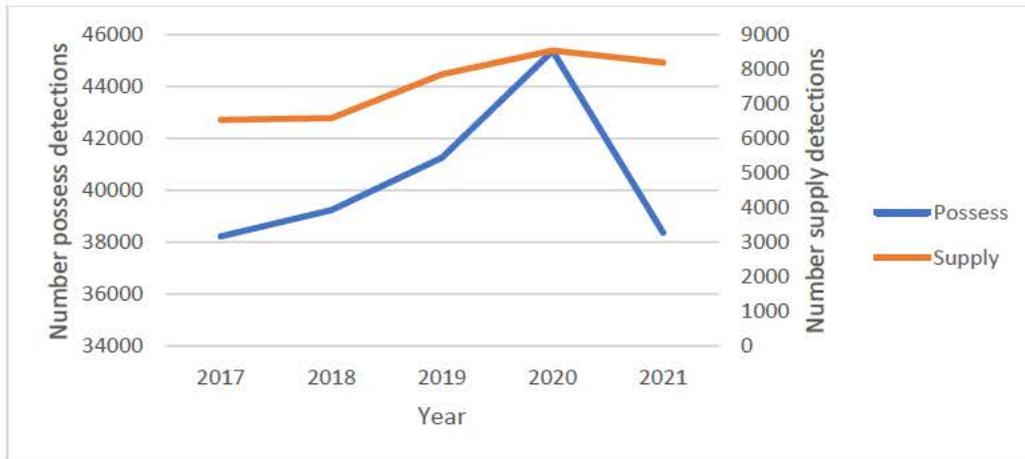
- The development of an Illicit Drug Strategy;
- The establishment of the Drug Squad Stakeholders Group Implementation of Drug Prohibition Orders;
- A number of amendments being made to the DMT Act;
- Amendments to Commonwealth legislation creating offence/s for use of encrypted technologies;
- The establishment of a working party to explore investigative techniques in response to encrypted technologies;
- The development of a range of products regarding the diversion programs that are available.
- The development of a range of smart phone / tablet drug related apps.

4.13. Whilst not considered strategies, there are a number of state level activities being conducted in response to illicit drug crime and, in particular, crystal methylamphetamine and illicit ATS. NSW Police are working closely with the Australian Border Force (**ABF**) and the Australian Federal Police (**AFP**) in developing a policy that will see an increase in the capacity of law enforcement to investigate illicit drug importation and execute seizures of methylamphetamine and other illicit drugs at the border. The DFS have an ABF Intelligence Analyst embedded in the office to allow the exchange of intelligence and information quickly between agencies and allow the utilising of information retained in both Commonwealth and State jurisdictions.

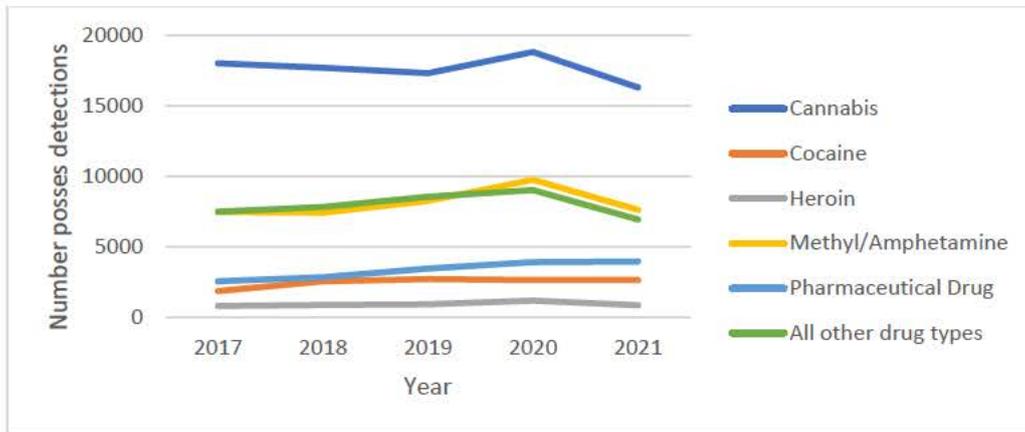
5. Drug detection data in NSW – Detections/Drug Types

- 5.1. NSWPF also utilises detection data to analyse drug trends and implement appropriate strategies to disrupt the possession and supply of illicit drugs. The data is collected by the NSW Bureau of Crime Statistics and Research.
- 5.2. The graphs depicted below show drug detection data for 2017 – 2021 in respect to supply and possession of illicit drugs, main drug types for possession offences and main drug types for supply offences.

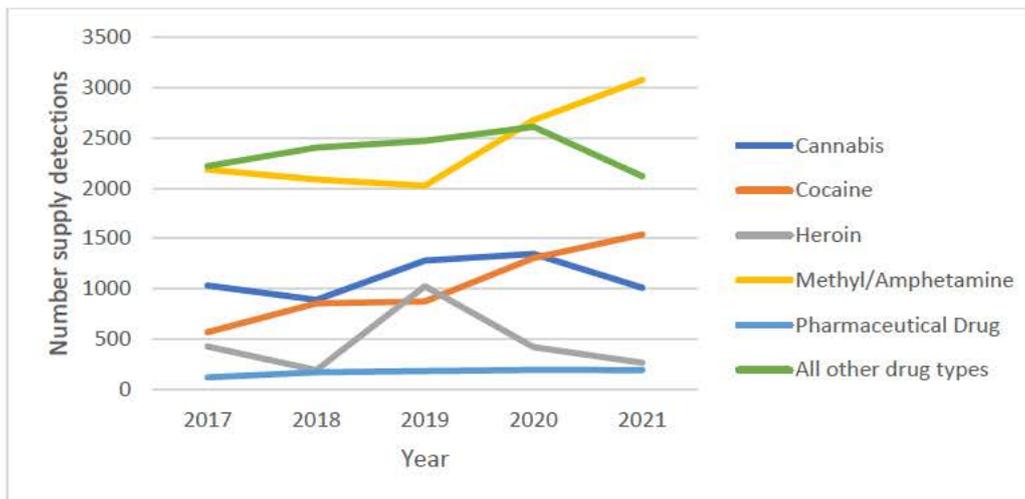
Graph 1. Supply and possess detections



Graph 2. Possess detections – main drug types



Graph 3. Supply detections – main drug types



6. NSWPF Resources and training available to front line Policing of illicit drug crime

6.1. There are a range of resources available to front-line police officers engaged in drug response work. The NSWPF Intranet contains operational policies, guidelines and

educational products available to all police officers through NSWPF issued computer devices and Mobipol, which is a smart phone mobile device used by operational police. In particular, the NSWPF Handbook, available on the NSWPF Intranet is a guide to all police on operational issues and policy in respect to prohibited drugs and plants, drug and alcohol policy, crime scenes, exhibits management, search warrants and investigation referral and assessment.

- 6.2. The Mobipol device also allows access to open source material on the internet. Mobipol also provides the ability to issue electronic infringement notices, conduct person, location and vehicle inquiries and record information in the Computerised Operational Policing System (**COPS**). There are more than 2050 devices deployed that allow access to contact details of specialist units, Standard Operating Policies and Procedures (SOPS) relating to drugs and drug crime and a range of information useful to front line police.
- 6.3. In January 2015 a number of TruNarc devices were issued to police in the field that allow presumptive screening of substances to assist in identifying if the substance is a prohibited drug or precursor. Alternatively, Scene of Crime Officers (SOCO's) can be contacted and attend scenes with more sophisticated devices to identify substances that may be illicit drugs. The DFS is also a point of contact where advice can be provided to officers in the field in relation to drug matters.
- 6.4. A hierarchical escalation model is in place in PD's and PAC's. When information is received, or an incident occurs that involves a drug response the initial responsibility remains with the local police command and the officer who first receives the information or investigation. If that officer is not capable of attending to the matter. it will be escalated through a supervisor to a specialist drug team (pro-active crime team) or to criminal investigators attached to that officer's Command. If the matter requires further escalation a 'Request for Assistance ' process allows a specialist Command or another relevant squad to either assume control of the investigation or assign an experienced investigator to provide consultation to the local investigators.
- 6.5. When drug investigations are being conducted by front line police officers, this will primarily involve criminal investigators or drug teams. Specialist support units including the State Surveillance Branch, the Undercover Branch, the Telephone Interception Branch, the Digital Forensic Unit, the State Technical investigation Unit, Drug Detection Dogs, Forensic Officers and a range of additional resources can be utilised through a 'Request for Assistance' process. There is no cost or very little cost associated with the use of these resources as each unit has a budget to allow the provision of services. The Request for Assistance must be supported by a Commissioned Police Officer i.e. of the rank of Inspector or above.
- 6.6. Training is also delivered by NSWPF Education and Training Command to officers and comprises the following relevant courses and training:
 - The Safe Custody course includes the following sessions specific to drug use;
 - Drugs and Alcohol - This session focuses on drug and alcohol intoxication and withdrawal inclusive of associated risks and looks at what the drug 'Ice' is, how Ice affects an individual, medical intervention methods, and treatment options in custody;

- Clinical Forensic Medicine - This session focuses upon the healthcare management of detainees. It provides learners with an overview of common medical problems with the aim of them gaining insight to increased accuracy of detainee assessments to develop appropriate management strategies;
- Associate Degree in Policing Practice (**ADPP**) is the entry level qualification for all police officers and includes the One-Day Mental Health Workshop is delivered to policing students enrolled in the ADPP by the Mental Health Intervention Team, which comprise topics on what ATS is, the effects of ATS, strategies for police intervention, communication and de-escalation techniques when dealing with mental health, officer safety skills when dealing with persons in exhibiting mental health, and the harm minimisation policy. Policing students enrolled in ADPP are also introduced to the Magistrate's Early Referral into Treatment (MERIT) Program and the Cannabis Cautioning Scheme as part of the Harm Minimisation Policy;
- Mandatory Continuing Police Education Scheme provide ongoing training and education to serving police officers. The '0809/2 Psychostimulant Drugs Training Package' was an elective training package created in 2008/2009 and delivered face-to-face by Education Development Officers (**EDOs**) to selected Local Area Commands. The package was designed to assist Commanders in customising the learning program to meet the training needs of their Command. The learning outcomes of the training package are to provide police with up to date information on; which psychostimulant are being used in NSW identification of the different drug forms the effects of psychostimulant drugs recognition of signs of intoxication and drug use; and the NSWPF guidelines 'The management of people affected by methylamphetamine and other stimulant drugs';
- Six Minute Intensive Training sessions are also available to officers for MERIT, Cannabis Cautioning, New Psychoactive Substances and Methylamphetamine;
- Further information is available in the Policing Issues & Practice Journals which are published by Education Services and articles are published in the Police Monthly, as required;
- NSWPF utilises an ongoing web-training facility where police officers are required to complete Commissioner's Training Directives, online modules for both mandatory and non-mandatory packages as well as the requirement to complete Employee Acknowledgements for packages of significant importance where a permanent record is maintained of the completion of these learning packages.

7. Organisational relationships leveraged with partners to address illicit drug crime

- 7.1. NSWPF participates in a number of multi-agency working groups including the Drug Misuse and Trafficking Act Scheduling Committee with NSW Ministry of Health and NSW Department of Justice where changes to legislation and regulation concerning prohibited drugs and precursors are considered and actioned.
- 7.2. NSWPF lead a national project to implement a national real-time End User Declaration system that will identify the sale of precursor chemicals and apparatus used in the manufacture of illicit drugs. NSWPF currently chairs the National Law Enforcement

Methylamphetamine Strategy Group, which when established, was known as Operation Vitreus.

- 7.3. This group coordinates the operational response at both a State and Commonwealth law enforcement level against methylamphetamine and more recently, other emerging drugs. The working group includes all state and territory police forces, the AFP, ABF, AUSTRAC, Australian Taxation Office, Human Services, the Australian Criminal Intelligence Commission and the Australian Defence Force. This group reports to the Serious and Organised Crime Coordinating Committee which comprises of Assistant Commissioners (or equivalent) in charge of investigating crime in each participating jurisdiction.

8. The Drug and Alcohol Package

- 8.1. The NSW Government State Budget 2019-20 for alcohol and other drugs is \$231.6 million, which includes the 2016 NSW Drug Package funding of \$75 million over four years, to tackle drug misuse in NSW communities. As a result of this funding, the NSWPF is able partake in various NSW Government programs and initiatives.

- 8.2. In addition, funding is allocated to local health districts and non-government organisations to provide core drug and alcohol services, including:

- inpatient withdrawal management, hospital-based drug and alcohol consultation liaison services, specialist drug and alcohol treatment services;
- advice, referral and counselling services, brief and early intervention programs;
- community based education and information programs;
- residential rehabilitation and aftercare services;
- partnerships with Non-Government Organisations.

- 8.3. A key focus of the package is to increase access to treatment and ongoing care for more vulnerable people in our communities. To enable this, the funding aims to support integrated service models and strong and assertive partnerships between government health services and non-government organisations, allocated as follows:

- \$24 million over four years is being invested to help more young people including:
 - \$16 million over four years to expand access to youth specific services for more than 1,000 young people so they can access a range of treatment options across the health system. The investment includes support for new treatment services for detoxification, residential rehabilitation and counselling services;
 - \$8 million for an Early Intervention Innovation Fund to help build the evidence-base for early intervention models and support people at risk with a focus on young people using drugs.
- \$24.5 million over four years to help more families including:

- \$15 million to expand substance use in pregnancy services. Eight local health districts are being funded to develop and expand ‘Substance Use in Pregnancy and Parenting Services’ to provide specialist medical and nursing throughout pregnancy and post-delivery, including a plan for appropriate support for up to two years;
- \$8 million to increase residential rehabilitation and on-going care for women and parents with dependent children;
- \$1.5 million to boost support for families and carers, additional resources will support and carers by providing access to information including de-escalation strategies, parenting programs and understanding relapse.
- \$26.5 million over four years to help more people into treatment including:
 - \$12 million for community treatment and aftercare to support more people to stay in community-based treatment by providing them with intensive case coordination and enhanced wrap around support;
 - \$14.5 million to help more people with severe substance dependence. Seven local health districts and one speciality health network are being funded to develop Assertive Community Management programs for people with severe substance dependence and highly complex needs. It will provide access to holistic treatment and ongoing support for people who may not otherwise be able to receive the specialised treatment they need.

9. NSWPF Initiatives - Engaging with the community on illicit drug use

- 9.1. NSWPF participates in a number of initiatives which contribute to engaging with the community in relation to drug use and, in particular, methylamphetamine.
- 9.2. The Magistrate's Early Referral into Treatment (**MERIT**) Program MERIT is an interagency initiative involving the NSW Attorney General's Department, NSW Health and the NSWPF. The NSW Attorney General is the lead agency. MERIT aims to break the drug-crime cycle by diverting eligible offenders into treatment and rehabilitation programs addressing illicit drug use problems, early in the legal process. The intended outcomes for participants and the community are decreased offending behaviour, decreased drug use, improved health and social functioning and increased community protection.
- 9.3. A further initiative is the Drug Court of NSW. Drug Courts are designed to be specialist courts that deal with offenders who are dependent on drugs. Drug Courts aim to assist drug-dependent offenders to overcome both their drug dependence and their criminal offending. Drug Courts are governed by the *Drug Court Act 1998* (NSW), the *Drug Court Regulation 2015* (NSW), previous case law and the policies of the Drug Court. There are currently three Drug Courts located at Parramatta, the Hunter and Sydney.
- 9.4. The Drug Court works in collaboration with a number of organisations including the NSWPF, NSW Department of Community Corrections, the NSW Department of Health through Justice Health and the Area Health Services, Solicitors from the NSW Office of the Director of Public Prosecution and NSW Legal Aid Commission.

- 9.5. In addition, Drug Summit Funding is provided to NSWPF to enhance its capacity in responding to emerging and problematic substance misuse issues. Utilising these funds, NSWPF established a Drug Summit Grants Program in 2017/2018 (**the Grants Program**) which enables PACs and PDs to seek funding to develop and implement projects / strategies aimed at addressing local drug problems and reducing the harmful impacts of substance misuse on their communities.
- 9.6. The Grants Program is targeted at PACS and PDs who are best placed to identify and address local issues. Applications for funding can only be made by members of the NSWPF, but projects may involve other agencies and community groups. Initiatives eligible for funding include community education campaigns, programs that support families affected by drug misuse, resource development, research and evaluation, and staff training. Funding of \$60,000 is allocated to the Grants Program as a whole. There is no set limit on the amount available for each approved program and any one application will be assessed on merit.
- 9.7. NSWPF also recognises Community Drug Action Teams (**CDATs**) as a significant community engagement initiative complementing policing and law enforcement activities. CDATs are groups of volunteer community representatives working with local agencies to prevent and reduce the harmful impact of drugs and alcohol in their local community. The Alcohol and Drug Foundation (**ADF**) supports the CDATs through the Community Engagement and Action Program (**CEAP**) funded by NSW Health.
- 9.8. CDATs provides police with the opportunity to develop positive working relationships with their local communities and develop community-based responses to emerging local issues. Police are encouraged to be involved in CDATs as committee members and/or in project implementation. Any officer, both sworn and unsworn, may participate as a committee member or on CDAT's projects. Liaison roles are most appropriate depending on the identified PAC issues and the direction CDATs wish to direct their efforts.
- 9.9. Crime Prevention Officers have also been established at PACs and PDs to work with the community to reduce and prevent local crime. As such, they are a conduit to the community on all crime issues including drug-related crime. They can distribute materials developed by the Drug Policy Officer, attached to the Capability, Performance and Youth Command, to members of the community in relation to crystal methamphetamine and illicit ATS in the course of enquiries from members of the public or at community events at which the NSWPF is present. They can also refer matters and raise issue of concern with DAC where relevant.
- 9.10. School Liaison Police also deliver presentations to high schools across the state on a number of crimes, anti-social behaviour and public order related issues. These presentations include some which address the issues of illicit drug use and addiction. In 2018, 261 presentations on drugs and addiction were delivered in NSW. The Youth and Crime Prevention Command is currently reviewing all presentations delivered by School Liaison Police and will work closely with the DAC in relation to awareness-raising presentations on drugs and alcohol.

- 9.11. Youth Case Managers are also able to deliver a module on 'Alcohol and Other Drugs' with the young people they are case managing. This module looks at the factors underlying drug and alcohol misuse, the process of change and the development of strategies to stop or reduce drug and alcohol misuse.
- 9.12. The Capability, Performance and Youth Command participates in community events, awareness days and specific initiatives to engage with the community in relation to drug use. For example, the recent Hogs for Homeless tour by former NSW Rugby League players through regional NSW which raised money for Father Chris Riley's 'Youth Off the Streets', a non-denominational community organisation working for young people who are homeless, drug dependent and recovering from abuse, was supported by the Capability, Performance and Youth Command. This included engaging the community and former rugby league players in 'Fit For Life' sessions under the Commissioner's RISEUP Strategy and providing opportunities to discuss illicit drug use and strategies to enable positive change.
- 9.13. In addition, recognising the disproportionate impact that the use of pharmaceuticals and particularly 'ice' was having on Aboriginal and Torres Strait Islander communities, in 2016-2017 the NSWPF developed a series of resources for Aboriginal Communities called the 'Not Our Way' Campaign. In 2018, Mid-North Coast PD sought to develop these resources further to cover 'heroin' which identified as growing concern amongst their local Aboriginal community.
- 9.14. The aim of the 'Not Our Way' Campaign is to increase the communities' awareness and knowledge of the drug and the associated harms, to enable and empower communities to respond, and to encourage them to seek help and support. It aims to provide advice for parents, families and friends of Aboriginal people with a pharmaceutical, 'ice' or heroin dependency.
- 9.15. There are also 55 Aboriginal Community Liaison Officers (**ACLOs**) employed in 33 PACs or PDs that have large populations of Aboriginal people. Their role is to liaise, develop and maintain open communication with the Aboriginal community to assist in breaking down the barriers between NSWPF and the community.
- 9.16. ACLOs assists in the development of Aboriginal Alcohol and Other Drugs (**AOD**) Action Plans and other crime prevention initiatives within their local Aboriginal community. They are also required to assist with the facilitation of community workshops known as Police Aboriginal Consultative Committees (**PACCs**). PACCs are forums that permit both police and the Aboriginal community to address Aboriginal issues associated with crime, crime prevention and community safety with the view to working in partnership to find local solutions to local problems.
- 9.17. ACLOs are provided with yearly training and development that enables them to offer appropriate advice and assistance to the community and police in their day to day interactions and keep them abreast of problems such as methylamphetamine and ATS. Information regarding methamphetamine and other substances that negatively affect Aboriginal people is updated regularly by the experts within NSWPF and NSW Health through both annual training and the bi-annual ACLO conference. ACLOs also develop or assist in the development of crime prevention programs and initiatives that work towards reducing the over-representation of Aboriginal people in the justice system especially youth.

- 9.18. ACLOs are part of the Crime Management Unit (**CMU**) within the PAC or PD. The Crime Manager is their direct manager and they are supervised daily by the Crime Coordinator or assigned officer. They also have a reporting relationship with the Aboriginal Engagement Officer who is an Inspector and manages the Aboriginal Engagement Portfolio, as well as the Aboriginal Coordination Team, through the ACLO State Coordinator who receive the ACLOs' monthly reports and support the ACLOs in personal development, developing crime prevention programs and assisting when needed.
- 9.19. The work priorities of ACLOs are determined by the PAC/PD Business Plan, and the PAC/PD Aboriginal Action Plan which is developed in partnership with the local Aboriginal community through the PACC and addresses key issues for the Command in which they are located. ACLOs undertake a mix of proactive and reactive work, depending on the needs of the PAC or PD and the local community.
- 9.20. NSWPF also monitors and reports outcomes through COMPASS, which enables comparison of actual results against state plan, corporate plan and command business plan priorities and targets for key performance indicators.
- 9.21. Commands reporting under the Aboriginal Strategic Direction 2018-2023⁴ (**ASD**) are monitored against the four priorities of the ASD and report against six key objectives of the ASD. To assist commands to maintain their reporting compliance a Dashboard has been developed, linked to COMPASS which allows real time data to be available and greater visibility with regards to reporting compliance. The dashboard is interfaced through COMPASS and "pops up" as required.
- 9.22. ACLOs have a limited role in the NSWPF's response to illicit drug use. However, through the PACCs and attendance at Aboriginal Inter-Agency forums, interaction with individual community members and community groups, they can disseminate not only information and concerns that police hold regarding methamphetamines or ATS and other addictive substances, but also information about what services are available for help. It was because of concerns raised by the Aboriginal Coordination Team that DAC collaborated with them to develop the 'Not Our Way' Campaign. This was a partnership between NSWPF and the Aboriginal Community.

10. Drug Diversionary Schemes in NSW

- 10.1. The Statement of Strategic Intent recognises the importance of diversion for minor offenders and at-risk groups (e.g. young persons, Aboriginal people) to reduce reoffending and avoid unnecessary contact with the criminal justice system.
- 10.2. Under s 10, 11 and 12 of the DMT Act it is an offence for a person to be in possession of prohibited drugs, to be in possession of equipment for the administration of prohibited drugs and / or to administer a prohibited drug.
- 10.3. However, NSWPF can divert adult offenders from the criminal justice system for minor drug offences under the following schemes:

⁴ NSW Government, NSW Police Force 2018, *Aboriginal Strategic Direction 2017 – 2023*, available at <https://www.police.nsw.gov.au/__data/assets/pdf_file/0003/481215/ASD_2018-2023_Book_Updated_4Web.pdf>.

The Cannabis Cautioning Scheme

- 10.4. The Cannabis Cautioning Scheme (**CCS**) gives police the discretion to formally caution, rather than charge offenders for minor cannabis offences. It applies to use of possession of not more than 15 grams of dried cannabis and/or possession of equipment for the use of cannabis.
- 10.5. The NSWPF '*Guidelines for Police – Cannabis Cautions Scheme*' provides further advice on issuing a cannabis caution.
- 10.6. The CCS is not legislated and has been in operation since 2000. Police can exercise their discretion to issue a caution where offenders meet the eligibility criteria. A person can only be cautioned twice and cannot be cautioned if they have prior convictions for drug offences or offences of violence or sexual assault.
- 10.7. The eligibility criteria for being issued a cannabis caution, includes:
- Use or possession of not more than 15 grams of dried cannabis and/or possession of equipment for the use of cannabis;
 - Must be an adult (over 18 years old);
 - The cannabis must be for personal use;
 - No other offence involved or detected for which a brief of evidence is required;
 - There must be no prior convictions for any drug offence, sexual offence or offence involving violence, unless the prior conviction is spent;
 - The offender must admit the offence and consent to the caution.
- 10.8. The formal NSWPF caution warns of the health and legal consequences of cannabis use. The caution notice provides contact telephone numbers for the Alcohol and Drug Information Service (**ADIS**). ADIS provides a dedicated, confidential service to a cautioned offender that includes information about treatment, counselling and support services.
- 10.9. People who receive a second and final caution are required to contact ADIS for a mandatory education session about their cannabis use. Court Attendance Notices are issued for subsequent offences.

Drug Criminal Infringement Notices

- 10.10. Following the deaths of two people at the Defqon1 festival in September 2018, the NSW Premier established an expert panel to consider ways to improve safety at music festivals.

10.11. In October 2018, the expert panel released a report titled '*Keeping People Safe at Music Festivals – Expert Panel Report*'⁵. In response to the report recommendations, the NSW Government endorsed a trial of Drug Criminal Infringement Notices (**CINs**) for drug possession offences at or in the vicinity of music festivals.

10.12. Under Schedule 4 of the *Criminal Procedure Regulation 2017* (NSW) Police can issue a \$400 fine for possession of a prohibited drug (excluding cannabis leaf which is covered under the Cannabis Cautioning Scheme) in certain circumstances.

10.13. The eligibility criteria for being issued a CIN is:

- The drug detection takes place at or in the vicinity of a music festival.

A 'music festival', as defined by the *Music Festivals Act 2019*, is:
an event, other than a concert, that-

- a) is music-focused or dance-focused, and
- b) has performances by a series of persons or groups that are engaged to play or perform to live or pre-recorded music, or to provide another form of musical or live entertainment, and
- c) is held within a defined area, and
- d) is attended by 2,000 or more people, and
- e) is a ticketed event.

- A singular prohibited drug is detected.

The drug detected is:

- No more than a small quantity of a prohibited drug under Schedule 1 of the DMT Act, excluding cannabis leaf: or
- In the case of 3,4-methylenedioxymethamphetamine (**MDMA**),
 - (i) in capsule form – does not exceed a small quantity, and
 - (ii) in any other form – is less than a traffickable quantity.

- The drug is for personal use only;
- Police must be certain of the identity of a suspect prior to issuing a CIN;
- Police can only issue one (1) Drug CIN on any one occasion;
- The suspect is an adult;
- The suspect is not a serving police officer;
- The suspect cannot be seriously intoxicated, or drug affected (where the person is not able to comprehend the procedure);
- The suspect makes admissions to the offence;

⁵ NSW Government 2018, *Keeping People Safe at Music Festivals*, available at <<https://apo.org.au/sites/default/files/resource-files/2018-10/apo-nid211816.pdf>>.

- There is no other offence detected for which a brief of evidence is required;
- The suspect has no prior convictions for any drug offence, sexual offence or offence involving violence, unless the prior conviction is spent;
- The suspect has not previously received two CINs for drug possession.

10.14. There have been 847 CINs issued at music festivals since January 2019 (488 in 2019, 337 in 2020 and 22 in 2021). See tables below for CINs issued each month. The COVID pandemic, and restrictions put in place in NSW in response, has impacted upon the number of CIN's issued in the 2020 and 2021 reporting periods.

2019	
2019-01	38
2019-02	58
2019-03	75
2019-04	96
2019-05	16
2019-06	27
2019-07	30
2019-08	14
2019-09	3
2019-10	56
2019-11	39
2019-12	36
2019	488

2020	
2020-01	170
2020-02	70
2020-03	84
2020-04	8
2020-05	2
2020-06	1
2020-07	0
2020-08	1
2020-09	0
2020-10	0
2020-11	0
2020-12	1
2020	337

2021	
2021-01	1
2021-02	1
2021-03	1
2021-04	14
2021-05	4
2021-06	1
2021	22

10.15. The NSWPF *'Drug Criminal Infringement Notices - Standard Operating Procedures'* provides further advice on issuing a drug criminal infringement notice.

11. Recent Inquiries in NSW and the implementation of further illicit drug strategies

11.1. There have been several drug-related inquiries in NSW that may be of interest to the Committee. These include the Special Commission of Inquiry into the Drug 'Ice' and the Inquest into Deaths arising at Music Festivals and both have resulted in the implementation of further strategies focussed on drug use and harm minimisation.

12. Special Commission of Inquiry into the Drug 'Ice'

12.1. The Special Commission of Inquiry into the Drug 'Ice' (SCII) was established in November 2018 to inquire into, and report to the NSW Governor concerning, the following:

- The nature, prevalence and impact of crystal methamphetamine in NSW.
- The adequacy of existing measures to target ice in NSW.
- Options to strengthen NSW's response to ice, including law enforcement, education, treatment and rehabilitation responses.

- 12.2. The SCII Commissioner made 109 recommendations in relation to a number of issues across the NSW Government including greater coordination of alcohol and other drug policy; decriminalisation; reframing substance use as a health issue; a greater investment in treatment, diversion and workforce initiatives; education and prevention programs; better data, reporting and research; a clear focus on priority populations, especially Aboriginal people who experience disproportionate impacts from ATS, rural and regional people and people in contact with the criminal justice system.
- 12.3. Of relevance to this Inquiry are the recommendations related to decriminalisation of the use and possession for personal use of prohibited drugs (Recommendation 11) and the introduction of a legislated police diversion scheme for the criminal offences of use and personal possession of an illicit drug (Recommendation 12).
- 12.4. The NSW Government has indicated that it does not support the decriminalisation of illicit drug use and possession offences. This is consistent with the view of the NSW Commissioner of Police that the possession and administration of illicit substances should remain criminal offences under the DMT Act .
- 12.5. As noted above, since January 2019, the NSWPF has been issuing CINs for people in possession of small quantities of prohibited drugs as music festivals on a trial basis. The trial is continuing indefinitely.
- 12.6. The NSWPF Commissioner supports the use of CINs noting that to date, the CINs trial has been an effective harm reduction mechanism. There has been good compliance with those CINs that have been issued, which infers they are being well received by young persons and the community.
- 12.7. The NSWPF Commissioner has also noted that if CINs are accompanied with an educational and/or support component to the user, the overall effect of the scheme on drug use in the community could be profound.
- 12.8. The NSW Government has published an interim response to the SCII recommendations and will deliver a final response in due course.

13. Inquests into Deaths arising from Music Festivals

- 13.1. In November 2019, the NSW Deputy State Coroner Magistrate Harriet Grahame released her report arising from the Inquest into the deaths of six patrons at music festivals (**the Music Festivals Inquest**).
- 13.2. In its response to the recommendations of the Deputy State Coroner, the NSW Government recognised several harm reduction initiatives underway in NSW. In addition to trialling the use of drug CINs at music festivals, these include:

Combined Surveillance and Monitoring of Seized Samples (CoSMoSS) project

- 13.3. NSW Ministry of Health and NSWPF are working to test seized samples to inform harm reduction messaging in the community.
- 13.4. NSWPF, NSW Ministry of Health and NSW Health Pathology Forensic and Analytical Science Service (**FASS**) have jointly commenced the Combined Surveillance and

Monitoring of Seized Samples (**CoSMoSS**) project. The CoSMoSS project aims to develop a system whereby a sample of drugs seized by NSWPF are sent for toxicology analysis, to enhance surveillance and monitoring of the composition of the NSW drug supply and to inform NSW Health and NSWPF operational responses.

- 13.5. Phase 1 of the CoSMoSS Project commenced in November 2019 was restricted to particular music festivals and suspected MDMA seizures. Where high-risk substances are identified, an appropriate public health response is developed, including providing health messages to appropriately targeted audiences.
- 13.6. Five alerts have been issued by NSW Health from six CoSMoSS samples that contained a high dose of MDMA (ranging between 128mg and 201mg). This project complements existing clinical and toxicological surveillance work performed by FASS' Illicit Drugs Analysis Unit (IDAU); as well as other collaborations with FASS, the NSW Poisons Information Centre and the NSW Ministry of Health.
- 13.7. In January 2021, NSW Health released the '*Combined Surveillance and Monitoring of Seized Substances (CoSMoSS), music festival pilot – Brief Report*⁶ which outlined the progress of the CoSMoSS project.
- 13.8. Phase 2 of the CoSMoSS Project is currently being rolled out in the Northern and South West Metropolitan Regions and will sample street level samples.

Development of Guidelines for Music Festival Event Organisers

- 13.9. The NSW Health '*Guidelines for Music Festival Event Organisers: Music Festival Harm Reduction – December 2019*⁷ (**the Guidelines**) have been written to support event organisers to deliver safer music festivals. The Guidelines combine existing event planning guidance with harm reduction strategies, such as free cold water at multiple stations throughout festivals.
- 13.10. These harm reduction strategies are based on information obtained from events where a number of festival patrons have presented with serious drug-related illness that required immediate and intensive medical management prior to and during transfer to hospital. The Guidelines describe harm reduction strategies with checklists to support implementation.

Trial of amnesty bins at music festivals

- 13.11. The Music Festivals Inquest called on the Government to install drug amnesty bins at music festivals. As part of the Government response to the Coroner's Report the NSW Premier announced that NSW would trial amnesty bins. The bins provide patrons with an opportunity to discard illegal drugs without fear of prosecution in a continuing effort to reduce drug-related deaths and harm.

⁶ NSW Government, NSW Ministry of Health 2021, *Combined Surveillance and Monitoring of Seized Substances (CoSMoSS), music festival pilot – Brief Report*, available at <<https://www.health.nsw.gov.au/aod/resources/Publications/cosmoss.pdf>>.

⁷ NSW Government, NSW Ministry of Health 2019, *Guidelines for Music Festival Event Organisers: Music Festival Harm Reduction – December 2019*, available at <<https://www.health.nsw.gov.au/aod/Publications/music-festival-guidelines.PDF>>.

13.12. The trial was led by NSW Health with involvement by NSWPF at high risk festivals where a Safety Management Plan and Risk Assessment was required. The trial remains ongoing but its implementation has been impacted by COVID.

14. Drug Supply Prohibition Order Pilot Scheme Act 2020

14.1. In November 2020, NSW Parliament enacted the *Drug Supply Prohibition Order Pilot Scheme Act 2020* (NSW) (**DSPOS Act**) to provide NSWPF with new powers to search homes and vehicles of convicted drug offenders to disrupt drug supply and manufacture. SOPS have been developed to ensure proper use of those powers by NSWPF officers.

14.2. The powers provided for in the DSPO Act **can only** be exercised in the nominated Pilot Scheme Area. The Pilot Scheme Areas are Bankstown Police Area Command, Coffs-Clarence Police District, Hunter Valley Police District & Orana Mid-Western Police District.

14.3. Under s 5 and 6 of the DSPOS Act, a Drug Supply Prohibition Order (**DSPO**) can be applied for by police on any person who:

- Has been convicted of a serious drug offence within 10 years before the application date; and
- Is at least 18 years of age on the application date.

14.4. Pursuant to s 4 of the DSPOS Act, once a DSPO is served on the subject, NSWPF officers will have the power, without warrant, to do one or more of the following -

- (a) stop, detain and search the person, and no other person,
- (b) enter and search the following premises (**searchable premises**) -
 - (i) a dwelling at which the person resides,
 - (ii) premises that the police officer reasonably suspects are owned by the person or under the direct control or management of the person,
 - (iii) premises that the police officer reasonably suspects are being used by the person for an unlawful purpose involving the manufacture or supply of a prohibited drug,
- (c) stop, detain and search a vehicle -
 - (i) being driven by or otherwise under the control or management of the person or occupied by the person or
 - (ii) parked on an area that is part of, or provided for the use of, searchable premises, but not if the area is shared with another dwelling or premises, or
 - (iii) parked on an area that is part of, or provided for the use of, searchable premises and that is shared with another dwelling or premises, but only if the police officer reasonably suspects that the vehicle is being used by the person in relation to the manufacture or supply of a prohibited drug.

15. Road Trauma - Road Safety Plan 2021

- 15.1. NSWPF delivers the response to illicit drug driving through the *'Road Safety Plan 2021'*⁸ including a number of enhanced enforcement programs testing for alcohol and drugs.
- 15.2. NSWPF enforcement strategy maximises the benefit of enforcement and seeks to reduce deaths on country roads and serious injuries in urban areas, whilst ensuring safe heavy vehicle movements.
- 15.3. In support of policing strategies the NSW Governments initiatives include:
 - Increasing penalties for driving under the influence of a drug, and powers to take offenders off the road after an offence;
 - Doubling mobile drug testing to 200,000 tests by the end of 2020;
 - Including cocaine testing in roadside drug enforcement;
 - Ensuring tough penalties, including licence suspension notices and fines, are consistently and swiftly applied to all lower range drink driving and drug presence first offenders;
 - Extending the requirement for mandatory alcohol interlocks to mid-range offenders;
 - Exploring the option for vehicle sanctions at the roadside for high risk offenders;
 - Extending the availability and requirement to complete a proven impaired driving education course to more offenders;
 - Identify appropriate restrictions and safeguards to reduce the risk of driving while impaired by prescription drugs, balanced with the needs of people taking medication;
 - Work in collaboration with the NSW Sentencing Council to review sentencing of high risk, repeat traffic offenders who may pose an ongoing risk to the community.

16. Cross Border Effects – South Region Command

- 16.1. The propose change in legislation within the ACT will have adverse impacts on policing capabilities, safety to communities and demands on other government and non-government supports services, and in particular those areas within the Monaro Police District.

⁸ NSW Government, Transport for NSW 2018, *Road Safety Plan*, available at <<https://towardszero.nsw.gov.au/sites/default/files/2018-02/road-safety-plan.pdf>>.

Policing Capabilities

- 16.2. Recent region facilitated drug focused operations within the Monaro area suggests there is a strong network between offenders residing in the Monaro area with drug supply networks operating within the ACT. The types of drugs trafficking from the ACT to NSW include methylamphetamines, MDMA and cocaine. NSWPF and the ACT Police (**ACTPOL**) continue to effectively work together to conduct cross boarder drug focused operations. The proposed changes will not only add an element of confusion to the enforcement of cross jurisdictional legislation but will contribute to an increase in drug related crime.

Safety to Communities

- 16.3. The NSWPF Southern Region has recorded a significant increase of drug related major traffic crash incidents for the period 2020 as compared to 2019. Any dilution of current associated legislation will only exacerbate this situation and, in turn, cause significant risk to members neighbouring communities.
- 16.4. The ACT legislated cannabis in September 2019. In the past 12 months 12.5% of offenders detected drug driving provided residential addresses within the ACT. Drug driving offences have increased within the Monaro Police District in the last 3 years from 153 incidents for the period 2018/19 to 231 incidents for the period 2020/21. ACTPOL currently conduct roadside testing for drug impaired drivers are only testing for methylamphetamine and cannabis. Other drugs are not tested for.

Impact on other services

- 16.5. Operational Police in South Region have concerns that the propose changes will create an increase in interactions between police and drug induced persons as well as creates greater demands on health departments and other government and non-government support agencies in dealing with the short and long term related mental health issues.

17. Priorities for the NSWPF more generally with respect to illicit drugs

- 17.1. The NSWPF remains committed to the three pillars of supply, demand and harm reduction under the NDS.
- 17.2. This approach is both comprehensive and pragmatic but requires the whole of government support and agency collaboration if it is to be effectively implemented.
- 17.3. NSWPF is focused on disrupting and reducing the supply, possession and manufacture of illicit drugs. These activities are undertaken in NSW on a broad scale by organised crime groups who have vast amounts of cash and resources at their disposal.
- 17.4. Whilst NSWPF recognises that 'supply' reduction is its core business, it is also aware of the important role the organisation plays in 'demand' and 'harm' reduction.
- 17.5. The NSWPF has, and continues to, advocate for sufficient and suitable treatment services to meet the needs of those struggling with substance misuse. It is also of the

view that greater emphasis needs to be placed on effective prevention programs and projects that can reduce both the rate of uptake and the age at which people first use drugs.

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