



## **SUBMISSION TO JOINT PARLIAMENTARY INQUIRY INTO METHAMPHETAMINES**

### **Who is AIVL?**

The Australian Injecting & Illicit Drug Users League (AIVL) is the national peak body representing people who use/have used illicit drugs. AIVL's members are the state and territory peer-based drug user organisations (DUO). As peer-based organisations, AIVL and its members are run by and for people with direct experience of the issues we represent including issues for people who use/have used methamphetamines. This submission is provided on behalf of the AIVL National Network.

AIVL represents a voice that is frequently overlooked or absent in discussions focused on drug control policy and legislation. In this regard we have sought to bring our unique expertise and experience together in this brief submission to the Inquiry to ensure the perspective, needs and issues for people who use/have used methamphetamines are represented and heard in both the process and outcomes associated with the Inquiry's deliberations.

Our submission is part of the work of the AIVL National Network Methamphetamine Working Group which aims to ensure a consistent approach is taken by all drug user organisations to issues relating to methamphetamines and to respond in a timely manner to new issues as they arise. The Working group is also focused on encouraging a balanced, evidenced-based approach to addressing methamphetamine related issues and to promoting the health and human rights of people who use/have used methamphetamines. It should be noted that the work of the AIVL National Network Methamphetamine Working Group is unfunded.

### **Introduction**

Although available evidence shows that the total number of people using methamphetamine across Australia does not appear to have increased in recent years, the number of people who are using the crystalline form of methamphetamine, commonly referred to as 'ice', does appear to have increased as people have shifted from using other forms of methamphetamine (powder and base) to using the crystalline form (see IDRS Drug Trends & ANSP Survey reports). These shifts in overall patterns of illicit drug use are common - not just with amphetamine-type substances (ATS) but opioids, cannabinoids and other drug classes as well. Such changes in drug use patterns are generally driven by issues of price, purity and availability. This is also the case with recent shifts to increased use of crystal methamphetamine.

Such changes in drug use patterns can also heighten awareness and 'visibility' of many issues surrounding the use of certain substances including heightened community awareness (as well as potentially fear and even hysteria), calls for urgent action leading to greater government/political focus on the issue and the risk of over-reaction and/or inappropriate responses that can have significant unintended consequences – particularly for people using methamphetamines, their families and friends. It is critical therefore, that in addition to other relevant and recognised experts, the direct experience and understanding of drug users should be central to this submission/consultation process and any outcomes from the work of the Inquiry.

Indeed it is important to recognise that organisations such as AIVL and its state and territory member groups act as a critical conduit to individuals and groups that governments cannot otherwise reach due to the illegal status of methamphetamines and the impact of ongoing criminalisation on the people who use them. One of the important insights that consulting with drug users will provide is that the vast majority of people who use illicit drugs are ‘poly drug users’ - meaning in this case, methamphetamines will be only one of the substances they may be using. The combinations drugs used and the frequency, patterns and reasons for their use will vary as much as the individuals themselves.

Responding to an issue such as methamphetamines requires an understanding of such issues. A media headline might grab attention but it will not support the development of a response that directs resources where they are needed and where they will have maximum efficacy and cause minimal harm. To this end, the AIVL National Network believes those directly affected by methamphetamine must be key in any discussions and we hope the Inquiry will identify peer based drug user organisations as a key stakeholder in all efforts moving forward to address the impact of methamphetamine use in Australia.

### **AIVL Response to the Terms of Reference**

The terms of reference for the Inquiry state that:

*“...the committee will examine the criminal activities, practices and methods involved in the importation, manufacture, distribution and use of methamphetamine and its chemical precursors, including crystal methamphetamine (ice) and its impact on Australian society.”*

Below AIVL has taken the opportunity provided to address each of the terms of reference with a brief statement.

**a. *The role of Commonwealth law enforcement agencies in responding to the importation, manufacture, distribution and use of methamphetamine and its chemical precursors:***

From AIVL’s perspective it is impossible to comment on the role of Commonwealth law enforcement agencies in responding to all aspects of methamphetamines and precursor chemicals without focusing on the system and framework which underpins that work. Largely for political reasons, our society decided some decades ago that preventing what is viewed as the harms associated with certain drugs would require a prohibitionist approach not only to the importation, manufacture or supply of certain substances but to their use and possession as well.

The enforcement of that prohibitionist approach through the criminal law continues to this day and has, by any objective assessment resulted in significant unintended harmful consequences including high rates of preventable diseases including HIV and hepatitis C, increasing and unsustainable levels of imprisonment and extreme levels of stigma, discrimination and human rights violations. In relation to methamphetamines in particular, it is important to note that one of the other many unintended negative consequences to the current emphasis on law enforcement is that such an approach carries the very high risk of forcing people away from methamphetamines (substances that are known to us and have been used in Australia and elsewhere for decades) towards new or novel substances with lesser or even unknown effects and harms.

Further it is clear from all the evidence around us that the current approach to drug control has not achieved its primary aims of reducing the supply of illicit drugs or acting as a deterrent to their importation, manufacture, supply, possession or use. In addition to the over 30,000 individuals incarcerated in Australian prisons for drug-related offences (including an over-representation of Aboriginal & Torres Strait Islander people) the current drug laws can also be questioned on the basis of natural justice including undermining the presumption of innocence, reversing the onus of proof and increasingly raising questions about the proportionality of the response (i.e. the severity of the sentence or punishment relative to the nature and seriousness of the offence).

On the one level it could be argued that high levels of incarceration for drug-related offences (in this case in relation to methamphetamines) and prevailing social attitudes that lead people who use methamphetamines to be socially isolated and publicly ostracized represents an effective response by Commonwealth law enforcement agencies. On the other hand however, an increasing number of highly regarded groups of eminent people and experts in the area are stating that the 'war on drugs' led by our law enforcement agencies, has really become a 'war on people' (and some of the most marginalised people in our community) and that the failure to deter the use and possession of illicit drugs such as methamphetamines or significantly reduce their supply, quality and availability can only amount to a failure of the current prohibitionist approach.

It is also argued that it can be difficult to assess the effectiveness or otherwise of law enforcement in relation to its primary goal of supply reduction as it is not routinely subjected to independent assessment and evaluation. The underground and secretive nature of the black-market is also identified as a barrier to assessing the true effectiveness of law enforcement in relation to an issue such as methamphetamine and associated chemical precursors. The evidence however that law enforcement through its implementation of supply reduction approaches is creating significantly more harm than it averts in terms of imprisonment rates, health problems and human rights violations is evident and increasingly documented in both Australian and international reports, papers and studies.

Largely because we do subject it to meaningful assessment and evaluation, we do have strong and credible evidence of the overwhelming effectiveness of approaches such as harm reduction which is identified as one of the 3 'pillars' of Australia's much lauded harm minimisation approach to illicit drugs including methamphetamines. Interestingly, harm reduction also must deal with the vagaries of the black-market in assessing its impact (positive or negative) but it seems able to address this barrier via the fundamentals of the approach itself which is based on the meaningful involvement of people who use/have used illicit drugs, the best available evidence and taking a non-judgemental and 'first of all, do no harm' approach.

Before the "*role of Commonwealth law enforcement agencies in responding to the importation, manufacture, distribution and use of methamphetamine and its chemical precursors*" can be accurately and appropriately assessed, AIVL believes a standard for independently assessing and evaluating all 3 pillars of the Australian approach to drug policy under the *National Drug Strategy 2010-2015* including supply reduction/law enforcement is required.

**b. *The adequacy of Commonwealth law enforcement resources for the detection, investigation and prosecution of criminal activities involving the importation, manufacture, distribution and use of methamphetamine and its chemical precursors:***

In 2013 Australia published report by the Drug Policy Modelling Program (DPMP) on Australian Government drug policy expenditure in the domains of law enforcement, prevention, treatment and harm reduction. It showed that of the \$1.7 billion spent in 2009/2010 on illicit drugs 65% was spent on law enforcement approaches, 33% on demand reduction (prevention and treatment) and only 2% on harm reduction approaches. The report also shows that there has been close to a 50% reduction in the Australian Government's investment in harm reduction approaches since 2002/2003. It's noteworthy that harm reduction does not include opioid substitution treatment (OST) in this report which is captured under the treatment domain. Harm reduction equates almost exclusively to investment in Needle & Syringe Programs (NSP). Since the time of the above DPMP report, the level of resourcing for Commonwealth and jurisdictional law enforcement approaches in relation to methamphetamine have increased significantly.

By way of comparison, NSP in Australia has been the focus of two highly regarded studies reviewing the 'return on investment' for the Federal Government in relation to their investment in NSP over two separate 10 year periods (from 1999-2009). These studies show that Australia's investment in NSP (and therefore harm reduction) has provided a significant return on investment in public health, social and personal terms. In the ten years to 2009, the Australian Government invested \$243 million in NSP. This resulted in the prevention of approximately 32,000 new HIV infections and almost 100,000 new hepatitis C infections. During this period, over \$1 billion dollars was saved in healthcare costs and if individual and quality of life costs such as loss of productivity are included, the net value of NSPs is close to \$6 billion. That equates to \$27 in health cost savings for every \$1 invested in NSPs.

While these figures do not only include the effectiveness of harm reduction in relation to methamphetamines, they do highlight unprecedented levels of effectiveness for the resources that are comparatively made available, and underline the importance of a more balanced approach to drug policy investment in Australia. AIVL believes it is important to outline such outcomes in detail because the Inquiry is seeking to understand the "*adequacy of resources for Commonwealth law enforcement agencies*" in relation to their primary work in the reduction of the supply of methamphetamines and chemical precursors. We hope an evidence-based 'comparison' in relation to the levels of resourcing is useful for the Inquiry in relation to assessing current and most importantly, future investment in law enforcement approaches in relation to methamphetamines.

The *National Drug Strategy 2010-2015* describes Australia's approach to addressing illicit drugs as a balanced approach consisting of elements: supply reduction, demand reduction and harm reduction. The evidence provided above suggests the Australia approach is far from 'balanced' – whether that be in relation to emphasis, levels of resourcing or indeed, outcomes. Far too many people in prison. Too many people (particularly young people) with criminal records for minor drug offences that will negatively affect their entire lives. Too many people acquiring preventable diseases and far too much stigma, marginalisation, shame and fear for people using methamphetamines, their families and communities. For this reason, AIVL recommends to the Inquiry the need for a full and frank review of

Australia's 'harm minimisation' approach to ensure the most effective and least harmful response and best use of available resources in relation to methamphetamines in the future.

**c. *The effectiveness of collaborative arrangements for Commonwealth law enforcement agencies with their regional and international counterparts to minimise the impact of methamphetamine on Australian society:***

Obviously recent events in Indonesia with the execution of 2 Australian nationals for drug offences has focused the minds of a significant proportion of the Australian public on not only the use of death penalty, but on its use for drug-related offences and the general issue of proportionality as it applies to the law. In AIVL's view, whether drug related offences can be classified as a capital offence must be repealed internationally under the most basic principles of human rights and international and we seek the support of the Australian Parliament in pursuing this important outcomes.

In addition to the heart-rending and deplorable circumstances surrounding of the execution of Mr Sukamaran and Mr Chan, it is also fair to say, that many Australian's were given pause to think about the standing collaborative arrangements between Australian law enforcement agencies and their regional and international counterparts on the basis of this issue. While AIVL is very conscious of the sensitivities involved for many parties in raising this issue with the Inquiry, we feel it would be remiss of us as the national peak organisation representing people who use/have used illicit drugs (including people in drug treatment) if we were not to take this opportunity to request that the Federal Parliament to review all collaborative arrangements with regional and international counterparts in the context of the recent events.

In particular, we believe it is essential to ensure that no Australian national could in the future face the application of the death penalty for a drug related offence (regardless of the 'seriousness' of the offence/s and/or whether the person/s concerned are remorseful or have undertaken 'rehabilitation'). AIVL raises these issues not because we do not understand or value 'remorse' or 'rehabilitation' but rather because we believe such concepts to be relative and very open to personal (cultural, political, economic and social) interpretation and because there are many barriers (often systemic) for individuals seeking to achieve those outcomes for themselves and those they love and who love and care for them.

In short AIVL does not believe that collaborative arrangements between Australian law enforcement agencies or their regional or international counterparts in relation to methamphetamines or other substances should ever result in the death penalty being applied or in significantly harsher penalties than the individual/s concerned would have received for same offence if charged, prosecuted and convicted in Australia.

**d. *The involvement of organised crime including international organised crime and outlaw motorcycle gangs in methamphetamine related criminal activities:***

On this issue AIVL believes it is important to highlight that it is 'black market' profits that largely dictate, regardless of who is manufacturing or supplying (bikers or other suppliers) that the demand for substances will be met. By their own admissions and reports, drug seizures through law enforcement efforts are at best approximately 5% of the total illicit market and do not make a significant impact on availability. With the exception of the occasional 'high-level drug bust' as with many other illicit substances it is largely the

‘user/street-level dealers’ who bear the vast majority of the impact of law enforcement efforts as they are more accessible and visible in massive global illicit market.

***e. The nature, prevalence and culture of methamphetamine use in Australia, including in indigenous, regional and non-English speaking communities:***

In addition to the statements made in the introduction to this submission about the ‘reality’ of the levels of regular crystal methamphetamine use in the Australian community, there are of course a range of unique issues that have been identified in relation to regional and rural communities in Australia including:

- The smaller size of these communities that often highlight issues such as changes in drug patterns and/or changes in behaviour within a relatively small number of people that can make an issue among a small group seem more pronounced;
- Less availability of services for information, support and particularly treatment;
- In some regional and remote communities the nature of the employment that people are undertaking can lend itself to work long and/or irregular hours that can lead to greater use of ATS (particularly methamphetamines);
- General lack of confidentiality that can make people reluctant especially in small communities to access services; and
- Of course, being arrested, charged and convicted of an offence relating to methamphetamines (other illicit drugs) in a small community can have a devastating impact for the individual concerned and for their family, friends and their future.

It is important to understand that in relation to illicit drugs including methamphetamines there is often a distrust and suspicion of law enforcement and their activities (what they do and who they are). It is important for law enforcement agencies to understand that for many communities, particularly Aboriginal and Torres Strait Islander and CALD communities the approach taken by law enforcement, regardless of how it is conducted is unlikely to result in positive outcomes because of ‘who’ law enforcement represent for many of those communities on many levels. Please see the attached AIVL submission to the Prime Minister’s “Ice” Taskforce for further exploration of the impact of the social determinants of health particularly for Aboriginal and Torres Strait Islander and CALD communities.

Finally, in relation to migrants – depending on country of origin - issues such as blood borne viruses particularly HIV, hepatitis C and hepatitis B can be an important issue to address and ensure they have access to appropriate BBV prevention and harm reduction service and programs.

***f. Strategies to reduce the high demand for methamphetamines in Australia:***

In response to this term of reference, AIVL would refer introductory comments on the reality of the extent or otherwise of methamphetamine (particularly crystal methamphetamine use in Australia over the past 10 years). Available evidence shows the use of methamphetamine is not/has not been increasing overall but rather represents a shift between the different forms of methamphetamine available. It also shows the vast majority of people (over 85%) who do identify methamphetamines as their primary drug of use are using less than weekly and close to 70% approximately monthly. This indicates that the primary need for people using methamphetamines including crystal methamphetamine is the need for trusted, credible and accurate harm reduction information and reliable and accessible NSP for those who are injecting (particularly after-hours access and access to sufficient amounts of

injecting equipment free of charge). Resourcing for both harm reduction based information, peer education is urgently needed. For those who seek and require it, access to evidence-based treatment including pharmacotherapy based treatments and other evidence-based treatment options need to be made readily available to people who are experiencing problems associated with amphetamine-related drug dependence. Like all other drugs, this will need to include a full range of the best, evidence-based treatments available for methamphetamines. It will also require investment in appropriate workforce development for those working in AOD and harm reduction based services including training provided by appropriately resourced and supported peer trainers and educators.

**g. Other related issues:**

Please see attached AIVL's submission to the Prime Minister's "Ice" Taskforce.