

Police Powers and Drug Law Enforcement in NSW

by

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STATISTICS AND RESEARCH, APRIL 2001**

EXECUTIVE SUMMARY

Proposed reform package: This paper discusses issues relevant to Premier's Carr's Ministerial Statement of 27 March 2001 in which he outlined a strategy to combat drug use in Cabramatta. This was part of what the Premier described as 'an evidence-based plan, to be mounted in three stages, which will apply statewide – not just at Cabramatta. Stage one is a criminal justice plan. Stage two is a plan for compulsory treatment and stage three is a plan for prevention and early intervention' (pages 1-2).

Background issues: Among the key background issues are the recent approaches to policing in Cabramatta, plus the drug trends and crime rates in NSW generally and, more specifically, in the Fairfield Local Government Area (pages 4-11).

Viewpoints in the contemporary debate: As one would expect, the proposed reform package has generated a diverse range of comments, especially in relation to the stage one criminal justice plan. Amongst legal commentators, the plan's suggested reversal of the onus of proof has proved to be particularly controversial (pages 11-18).

Recent developments in police powers in NSW: These include the *Crimes Legislation Amendment (Police and Public Safety) Act 1998* which, among other things, created a new offence relating to having custody of a knife in a public place. The operation of that Act is the subject of reviews by the Ombudsman and the Minister for Police. The NSW Bureau of Crime Statistics and Research has also reported on the use of these knife laws (pages 18-23).

Recent developments in drug law enforcement: Recent developments in NSW include the findings of the Royal Commission into the NSW Police Service, the recommendations of the 1999 Drug Summit and the establishment of the NSW Drug Court and Youth Drug Court. The policies pursued in NSW are part of the broader policy approach associated with the National Drug Strategy. On 19 November 1998, the Ministerial Council on Drug Strategy (MCDS), which comprises Commonwealth, State and Territory Health Ministers and Law Enforcement Ministers, endorsed the National Drug Strategy Framework 1998-99 to 2002-03. This framework reflected the agreement of MCDS to reaffirm Australia's commitment to harm minimisation as the philosophy underpinning approaches to harmful drug use nationally (pages 24-32).

Selected review of the literature on drug law enforcement: A brief survey of the literature indicates that there are no ready made answers to the problems associated with the use of illicit drugs. From a policy perspective, there is general agreement that harm minimisation is the primary aim of public policy and that drug law enforcement must serve that overriding goal. But from that point on there is considerable scope for argument, both about the overall thrust of public policy and about the role enforcement is to play in a detailed sense. Further research is needed to assist in an open and informed debate about the best probable courses of action (pages 32-36).

1. INTRODUCTION

The most recent instalment in the ongoing law and order debate is Premier's Carr's Ministerial Statement of 27 March 2001 in which he outlined a strategy to combat drug use in Cabramatta. This was part of what the Premier described as 'an evidence-based plan, to be mounted in three stages, which will apply statewide – not just at Cabramatta. Stage one is a criminal justice plan. Stage two is a plan for compulsory treatment and stage three is a plan for prevention and early intervention'.¹ To this end, the statement foreshadowed a raft of reforms which included:

Stage One: criminal justice reforms

- The introduction of laws permitting police to arrest anyone who acts as a lookout, guard, or who raises the alarm for others in a suspected drug house; anyone who enters or leaves a suspected drug house unless they can establish a legal purpose; anyone who knowingly allows the premises to be used as a drug house; and anyone who organises or assists in the organisation of a drug house. Each of these offences would carry a penalty of one year in gaol for the first offence and five years for the second offence, with these penalties applying even if no drugs are found.
- In effect, these proposed new powers to charge people associated with drug houses are designed to close a legal loophole preventing police from laying charges unless drugs are found on the premises.
- Under these proposed offences, anyone found in a drug house 'will have to prove that he or she has a legal purpose for being there', thereby reversing the onus of proof.² To enter the premises, police will require a search warrant, which means, in the Premier's words, 'that police will enter the drug house with the approval of the court'.³
- In addition, police would have the power to force owners of a building to take steps to prevent the supply of drugs at the premises, or to take action to close or confiscate the premises.
- Police would have the power to detain an individual and have a medical practitioner assist in a search to determine whether a person had swallowed or otherwise concealed a prohibited drug upon his or her person.
- The power of the police to move people on under the *Summary Offences Act* would be extended to apply to those loitering for the purpose of acting as go-betweens for drug suppliers. The power would be similar to the move-on powers introduced under the *Crimes Legislation Amendment (Police and Public Safety) Act 1998*. Of this proposal, the Premier commented: 'This power will mean that police will be able to intercept before the go-between becomes active. It is in addition to the existing powers that allow police to search and arrest anyone they suspect in dealing in drugs'.
- The alteration of the firearms laws to: make it illegal to supply or take part in the supply of firearms to any person not authorised to use them; to make it illegal for a licensed

¹ NSWPD (Hansard Proof), 27 March 2001, p 2-6.

² NSWPD (Hansard Proof), 28 March 2001, p 38.

³ Ibid.

firearms dealer to wilfully record false details in firearms transactions; to make it illegal for an eligible person to obtain a licence for the purpose of acting as a front for an illegal firearms dealer. In all these cases a 14-year gaol term will apply. In addition, it will be illegal in NSW to conspire to traffic in illegal firearms, even if the conspiracy takes place outside NSW; police will be given powers to demand all firearms and parts for inspection from suspected arms dealers; the penalty for the illegal possession of prohibited firearms will be increased from 10 to 14 years gaol; there will be a requirement for compulsory registration of firearms frames to curb the trade in the trafficking of illegal firearms parts; and the Bail Act will be amended to remove the presumption in favour of bail for those charged with handgun, prohibited firearms and offensive weapons offences.

Stage Two: compulsory treatment

- In Cabramatta, police bail will be changed to add two conditions. First, it will be a breach of bail to fail to attend drug treatment. Secondly, if a person is from outside the area it will be a breach of bail to return to Cabramatta.
- The Magistrates Early Referral into Treatment scheme [MERIT] will be established in Cabramatta, and its commencement will be brought forward from July 2002 to July 2001. Under the scheme, magistrates will impose treatment as a condition of bail. The Premier noted that the establishment of this scheme will require cooperation from the local council, the Fairfield City Council, which at present, as part of its local environment plan, does not permit drug treatment facilities to operate in the Cabramatta area. Extra funding of \$4.4 million for increased drug treatment and health facilities.

Stage Three: Early Intervention and Prevention

- In Cabramatta an additional \$270,000 will be spent to set up a mobile child care team and provide extra family counselling services to help a further 350 families each year.
- A six-person DOCS team will be set up in the area to help police deal with homelessness.
- Under the Families First scheme parents of pre-school children will visit local schools for classes that will assist them in their parenting.
- From 1 July 2001 a \$600,000 drug education team will be established to work in schools in Cabramatta, Fairfield, Bonnyrigg and Canley Vale for the purpose of increasing the retention rate of students in the local high schools

The Premier's Ministerial Statement also covered the issue of police numbers and their deployment in Cabramatta. He commented that a Tactical Action Group, or flying squad, of 90 officers would be dedicated to the area. As well, 10 extra drug detectives, six extra bicycle patrols 'for rapid street-level and alleyway response' and a team of drug detection dogs are also to be deployed in the suburb. 'In 1995' the Premier said, 'there were 84 police officers at Cabramatta. This plan means a police presence of over 200 police with new powers, when the legislation passes, to deal with street and drug house dealing'.⁴ Plans to

⁴ NSWPD (Hansard Proof), 27 March 2001, p 4.

take on more interpreters, as well as to increase the involvement of local community members in the fight against crime, were also discussed.

This paper looks at the immediate background to this statement, as well as to reactions to it from various stakeholders in the law and order debate. It also sets out the more recent alterations to police powers in NSW and, where possible, the paper discusses the evaluation of the effects and effectiveness of these legislative changes. In its review of police powers the present paper updates the relevant discussion of the same subject in the NSW Parliamentary Library Briefing Paper No 9/1998, *Street Offences and Crime Prevention*. Further, the last part of the present paper sets out some of the major and most recent developments relevant to the issue of drug law enforcement in NSW, as well as presenting an overview of selected literature in this field.

2. POLICE POWERS AND THE LAW AND ORDER DEBATE – BACKGROUND AND VIEWPOINTS

(A) Background issues

General comment: Inevitably, the aspect of the Premier's statement of 27 March 2001 which has attracted most attention is the first part of his reform package dealing with the criminal justice system. This law and order debate, focusing as it does on the relationship between police powers and civil liberties, has a long pedigree. In his seminal work, *On Liberty*, first published in 1859, John Stuart Mill considered the question of 'the proper limits of what may be called the functions of the police' and asked 'how far liberty may legitimately be invaded for the prevention of crime...'.⁵ That same question has been asked many times since and, while responses to it vary, they do so along well-established lines, representing familiar points in the argument between the defence of civil liberties, on one side, and the fight against crime, on the other. What is also familiar to the contemporary observer is the path along which that argument tends to progress:

- a law and order problem is identified;
- a demand is made for more police powers and/or resources;
- some or all of these are granted by the government of the day;
- in response, some say that the measures do not go far enough, that powers and/or resources are still lacking;
- others respond that the increase in powers goes too far, that it constitutes an attack upon civil liberties;
- still others say the new powers were not needed, but that the police should use the

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JS Mill, *Utilitarianism, On Liberty, and Considerations on Representative Government*, JM Dent 1972, p 151.

formidable array of powers already at their disposal;

- and generally there follows a debate about the potential effects and effectiveness of the measures concerned.

A law and order problem – the drug trade in Cabramatta: As the Premier's Ministerial Statement of 27 March 2001 made clear, the latest proposals in respect to police powers are a direct response to the law and order situation in Cabramatta. One way or another that has been a long-running issue, and the most recent announcement is in some ways the culmination of a debate which has developed over the past decade or so. Whilst it has certain unique features of its own, that debate is itself part of the broader and ongoing controversy about drugs and the law, an issue which has increased in intensity and urgency over the past few years. In that time Cabramatta has become a drug 'hot spot' and the question of how it is to be policed has never been far from the political agenda. Indeed, it is currently the subject of an inquiry by the Legislative Council's General Purpose Standing Committee No 3.⁶

This is not the place to review in detail the policing issues which have arisen in relation to Cabramatta. It is enough to say that over the past few years the area has been the subject of various policing and governmental initiatives designed to curb drug use and drug related crime. In September 1995 it was announced that closed-circuit television monitoring was to be introduced as a matter of urgency in Cabramatta.⁷ Subsequently, a whole-of-government approach, in the form of the Cabramatta place management project, was outlined by the Premier on 23 April 1997. Under this plan \$4 million was dedicated to drug and alcohol and other counselling services in Cabramatta. As well, the Government committed itself to putting 'more police on the streets by reducing their court time', thereby creating a more visible police presence. A senior manager from the Premier's Department was to work in Cabramatta, initially for 12 months, to better co-ordinate this multi-agency approach. Reporting on this initiative in September 1997, the Acting Police Minister, the Hon Craig Knowles MP, commented:

Since January this year there has been an unprecedented commitment of policing resources to protect the Cabramatta community. More than 40 police operations have been conducted to help rid this suburb of its unwanted label as Australia's heroin capital. These operations include Operation Hammer, which targets street level dealers; Operation Unkster, using highway patrol police to detect wanted offenders; and Operation Puccini, targeting the

⁶ The Committee announced the inquiry into police resources in Cabramatta on 3 July 2000. The Committee is inquiring into: the adequacy of police resources in Cabramatta, especially in relation to drug crime; the impact, if any, of the crime index on Cabramatta policing; and the effectiveness of the Police Service in addressing the needs and problems of Cabramatta residents and in particular people from non-English speaking backgrounds.

⁷ *NSWPD*, 19 September 1995, pp 1080-1081. The system was introduced in 1996 and by September 1997 it was said to have resulted in 445 charges – *NSWPD*, 23 September 1997, p 320.

area around the railway station. Indeed 37 extra police have been sent to Cabramatta to assist in Operation Puccini alone.⁸

So successful were operations of this kind seemingly that, in September 1999, the Cabramatta police station was downgraded from 'category one' to 'category two',⁹ a move later defended by the NSW Police Commissioner, Peter Ryan, on the basis that an internal Police Service crime index showed a reduction in crime in the suburb: 'We've had such success at Cabramatta', he explained, 'it's no longer regarded as dangerous or as the difficult place it used to be'.¹⁰ However, the police crime index did not include statistics on drug related crime and, although described by Dr Don Weatherburn as a 'valuable but limited guide',¹¹ the index was apparently 'scrapped' in April 2000.¹² In any event, scepticism about the crime statistics and misgivings about the downgrading of Cabramatta police station were expressed in many quarters. This debate resulted ultimately in the establishment of the present General Purpose Standing Committee inquiry.

One area of apparent agreement relates to the fact that Operation Puccini and the like altered the nature of the drug trade in Cabramatta, driving it from the streets and into what have become known as drug houses. As the Premier told the Parliament on 28 March 2001:

Police blitzes in Cabramatta have first, reduced the supply of heroin so that the price has increased by about 1,000 per cent. Second, they have forced many dealers into fortified premises or so-called drug houses and, third, they have forced dealers to use go-betweens who do not carry drugs. Police intelligence indicates that there are now about 40 so-called drug houses in south-western Sydney.¹³

⁸ NSWPD, 23 September 1997, pp 320-321.

⁹ L Doherty and D Humphries, 'Cabramatta to get 100 more police', *The Sydney Morning Herald*, 17 March 2001.

¹⁰ 'Policing downgrade', *The Sydney Morning Herald*, 25 February 2000; 'Ryan says Cabramatta streets safe', *The Daily Telegraph*, 25 February 2000; 'Suburb's crime in hand: Ryan', *The Daily Telegraph*, 2 March 2000.

¹¹ D Murphy, 'Mean streets of Roseville leave Cabramatta for dead', *The Sydney Morning Herald*, 20 June 2000. Don Weatherburn made detailed comments on the police crime index in his evidence to the inquiry of the General Purpose Standing Committee No 3 on 8 November 2000.

¹² 'Ins and outs of the index', *The Daily Telegraph*, 2 March 2001. It reported that a Police Service media release in February 2001 stated that the index had been 'scrapped' in April 2000. However, it is also noted that the parliamentary inquiry into police resources in Cabramatta was launched in July 2000 with the crime index as one of its three terms of reference.

¹³ NSWPD (Hansard Proof), 28 March 2001, p 37.

Drug trends in NSW: Evidence relating to drug trends in NSW are published on a regular basis by the National Drug and Alcohol Research Centre (NDARC). Among the most recent publications are: *NSW Drug Trends 2000*; and *Changes in Heroin Availability in Sydney Australia in Early 2001*. The latter is significant as it amends earlier findings concerning the cost of heroin and its availability. In particular, *NSW Drug Trends 2000* reported that heroin was falling in price, easy to obtain and its availability stable. However, it seems that by Christmas 2000 most users surveyed reported significant decreases in availability. A rise in price and a reduction in heroin purity were also reported. In terms of explaining this turn around, NDARC commented:

Although most sources have attributed the cause of the current heroin shortage to increased policing and law enforcement further research and analysis is required before justified conclusions can be made. Specifically, the alternative hypothesis of significant declines in production needs to be investigated adequately. It appears reasonable that only a very dramatic change in police and customs strategies, manpower and implementation could result in such a protracted and widespread change in heroin price and availability. To date, any such change has not been adequately documented.¹⁴

The extent to which these most recent developments call other findings of NDARC's *NSW Drug Trends 2000* into question remains to be seen. The underlying themes of that report, at least as far as heroin use is concerned, was that such use was on the increase in NSW and that users were getting younger. Relevant indicators included the fact that the number of opioid related deaths among 15-44 year olds in NSW increased from 251 in 1995 to 401 in 1999. There was a substantial increase in the number of opioid related deaths between 1998 (358) and 1999 (401). Similarly, it was reported, the number of patients enrolled in NSW methadone maintenance programs increased each year between 1995 and 1999, including an increase of 464 enrolments between 1998 and 1999. Also supporting the conclusion that heroin use is on the increase was the fact that the proportion of clients of needle and syringe programs interviewed for the annual Australian Needle and Syringe Program Survey who reported heroin to be the drug most recently injected increased from 31% in 1995 to 59% in 1999.¹⁵

The later NDARC publication indicated that a decrease in availability has resulted in an overall reduction in heroin use in recent months. At the same time, an increase in the use of alternative drugs, notably cocaine, was also found.¹⁶ The publication noted, too, that 'Over half the Key Informants reported an increase in both property and violent crime as

¹⁴ D Rouen et al, *Changes in Heroin Availability in Sydney Australia in Early 2001: NDARC Technical Report No 119*, p vii.

¹⁵ S Drake et al, *NSW Drug Trends 2000: NDARC Technical Report No 117*, pp 12-14.

¹⁶ D Rouen et al, n 14, p vi and p 7.

a result of the heroin shortage'.¹⁷ It is of course important to recognise that the trends discussed in *Changes in Heroin Availability in Sydney Australia in Early 2001* may not last for very long and that heroin availability may increase again in the not so distant future.

Another source for drug trends information is the evidence given to General Purpose Committee No 3 on 12 March 2001 by the Health Department's Chief Health Officer, Dr Andrew Wilson. Dr Wilson outlined the difficulties involved in enumerating the number of drug dependent people in NSW, or in any jurisdiction for that matter. His estimation, however, was that there are 'potentially around 35,000 people with some form of opiate dependency in NSW'. Other relevant figures noted by Dr Wilson included:

- As at December 2000, around 1,600 people were registered on the methadone maintenance program in South Western Sydney.
- It can be estimated that there are around 1,652 drug dependent people in the Fairfield Local Government Area.
- As one quarter of the population of the Fairfield LGA live in Cabramatta, it can be estimated that there are around 305 drug dependent people in that suburb.
- The ambulance data between 1997 and 1999 shows that the Fairfield-Liverpool area had the second highest call-out rate for drug overdoses in NSW, second only to the inner Sydney area.
- 15% of all drug overdoses in NSW occur within a four kilometre radius of the Cabramatta area.¹⁸

Detoxification and rehabilitation facilities in NSW: Stage 2 of the Premier's statement of 27 March 2001 was based on compulsory treatment for drug offenders, which raises the question of the availability of appropriate drug treatment services. This in itself is a large and complex subject. It is dealt with in considerable detail in a NSW Health Department's publication entitled, *The NSW Drug Treatment Services Plan 2000-2005*, which noted that such a plan was a major recommendation from the May 1999 NSW Drug Summit. These are clearly important times for drug treatment services, with federal and State initiatives seeking to tackle the problems associated with illicit drug use. As the Health Department Plan stated: 'The NSW Government has allocated more than \$120 million over four years to enhance significantly the range, quality and availability of drug treatment services in NSW'.¹⁹ A major statement from the Premier on this matter is pending, to include, it is reported, the establishment of 500 new treatment places under a Cabramatta drugs package.²⁰

On the issue of in-patient detoxification treatment, in 2000 the NSW Health Department

¹⁷ Ibid, p vi and p 8.

¹⁸ Transcript, 12 March 2001, pp 3-8.

¹⁹ NSW Health Department, *The NSW Drug Treatment Services Plan 2000-2005*, p v.

²⁰ G Jacobsen, 'Bid to block plans for detox units', *The Sydney Morning Herald*, 9 May 2001. It is reported that Fairfield Council is trying to ban drug treatment centres from business and residential areas.

report calculated that there are around '355 beds currently dedicated to the provision of detoxification treatment' in NSW. These included beds in the prison system, as well as those provided by non-government organisations (116 beds), by Area Health Services (140 beds) and by private health services (78 beds).²¹ It seems, however, that these figures include hospital beds which may or may not be used for detoxification purposes. They are not, therefore, a reflection of the number of beds available in dedicated detoxification units. On this last matter, the NSW Health Department advises that, as at March 2001, there were 276 detoxification beds in NSW, plus a further 566 drug rehabilitation beds. Broken down by Area Health Service the figures are as follows:²²

AREA HEALTH SERVICE	DETOXIFICATION BEDS	REHABILITATION BEDS
Central Sydney	27	62
Northern Sydney	14	10
South East Sydney	108	64
South West Sydney	44	37
Wentworth	6 ²³	20
Western Sydney	10	55
Central Coast	0 ²⁴	66
Hunter	20	96
Illawarra	13	37
Greater Murray	3	7
Mid-Western	15	60
New England	0	28
Northern Rivers	16	24
TOTAL	276	566

Note that the NSW Drug Treatment Services Plan identified a 'need to shift away from in-patient detoxification to ambulatory detoxification, particularly for opiate dependence'.²⁵ The Plan added: 'Almost nowhere in the State is ambulatory detoxification treatment provided to the extent that it is required'.²⁶ In evidence to the parliamentary committee inquiry into police resources in Cabramatta, the Health Department's Chief Health Officer,

²¹ NSW Health Department, n 19, p 17.

²² The table is based on telephone advice to the author from the NSW Health Department on 9 May 2001.

²³ According to the NSW Health Department's Drug Treatment Services Plan 2000-2005, there are 15 detoxification beds in Wentworth (page 23). In fact this detoxification unit is currently under construction.

²⁴ According to the NSW Health Department's Drug Treatment Services Plan 2000-2005, there are 15 detoxification beds on the Central Coast (page 23). In fact this detoxification unit is currently under construction.

²⁵ NSW Health Department, n 19, p vi.

²⁶ *Ibid*, p 17.

Dr Andrew Wilson, indicated that a home and ambulatory service of this kind was under trial at present in Cabramatta. He also pointed out that, for various reasons, while this strategy may work for some, it won't for others, especially for those who lack a stable home environment.²⁷

In relation to in-patient detoxification services for the Cabramatta area, Dr Wilson commented that the Corella Lodge Detoxification Centre had opened recently at Fairfield Hospital, with 20 beds. He added: 'in the 12 months to August 2000 Corella Lodge managed some 884 out-patients and 1019 in-patients. The bed occupancy during that time was approximately 74%. In addition to that, Corella Lodge received approximately 150 calls per day'.²⁸ In terms of rehabilitation, the South West Sydney Area Health Service was said to fund a 20 bed unit through Grow, the State-wide dual diagnosis rehabilitation service (for persons with mental health and drug dependency problems).²⁹

Crime rates in NSW:³⁰ It is acknowledged that the monitoring of trends in crime rates is something of an inexact science. For example, public willingness to report crime is one extraneous factor affecting recorded crime numbers, another being the shifts in policing policy which can have a marked effect on the number of recorded drug offences, drink driving offences, cases of offensive behaviour or receiving stolen goods. A recent NSW Bureau of Crime Statistics and Research publication also noted that 'The recent emphasis placed on recorded crime statistics as a performance appraisal tool for police increases the risk that police may under-record crime. This makes it important to validate trends in recorded crime, particularly where the trend indicates a fall in crime levels'.³¹ The extent to which such matters are mentioned or debated by the media and other stakeholders in the law and order debate is a contentious issue in itself.

At any rate, the NSW Bureau of Crime Statistics and Research analysis of crime trends in NSW in recent years shows a contrasting picture between the two year period January 1998 to December 1999 and the two year period January 1999 and December 2000. For the first period, seven offence categories were trending downwards. The offences for which significant downward monthly trends were recorded in the January 1998 to December 1999 were:

²⁷ Transcript, 12 March 2001, p 8 and pp 17-18.

²⁸ Transcript, 12 March 2001, p 8.

²⁹ Transcript, 12 March 2001, p 8. Also mentioned was Odyssey House, a non-government organisation in the Campbelltown area, with a 120 to 125 bed capacity.

³⁰ Knife offences are dealt with separately in a later section of this paper.

³¹ M Chilvers and P Doak, *Validation of NSW Police Crime Statistics: A Regional Analysis*, NSW Bureau of Crime Statistics and Research, November 2000, p v. The report looked at the police recording of specific crimes (break and enter and motor vehicle theft) at the Local Area Command level for the period October 1997 to September 1999. It found no 'evidence of either systematic or widespread under-recording by NSW police for the offences of break and enter or motor vehicle theft'.

- sexual assault (down 10.2%);
- indecent assault and other sexual offences (down 15.6%);
- robbery with a firearm (down 24.3%);
- robbery with a weapon not a firearm (down 19.8%);
- break and enter – dwelling (down 10%);
- break and enter – non-dwelling (down 6.6%); and
- motor vehicle theft (down 10.5%).³²

For the period between January 1999 and December 2000 there was no statistically significant upward or downward trend in the monthly numbers of recorded criminal incidents for any of the first five offence categories listed above. On the other hand, a significantly upward trend was recorded for the last two property offences, plus one other – steal from motor vehicle. The relevant figures are as follows:

- break and enter – non dwelling (up 8.1%);
- motor vehicle theft (up 8.2%); and
- steal from motor vehicle (up 15.2%).³³

Crime rates in the Fairfield Local Government Area: The analysis presented above indicates some of the main trends in crime rates in NSW. Evidence for the Cabramatta area is included under the Fairfield-Liverpool SSD. However, the statistical evidence presented by the NSW Bureau of Crime Statistics and Research also breaks this analysis down still further by presenting recorded crime statistics for each Local Government Area, Statistical Division and Statistical Subdivision in the State. These figures show the number of criminal incidents recorded by the NSW Police from 1995 to 2000 and the rate of offending per 100,000 population. Thus, these figures are available for the Fairfield-Liverpool Statistical Subdivision, the Liverpool Local Government Area and the Fairfield Local Government Area (which includes the suburb of Cabramatta). The relevant statistics are set out in full at Appendix B.

In his evidence to the General Purpose Standing Committee No 3 inquiry into police resources in Cabramatta on 8 November 2000, the Director of the NSW Bureau of Crime Statistics and Research, Don Weatherburn, made specific reference to crime rates in Cabramatta itself. He referred, for example, to a 16% rise in motor vehicle theft in Cabramatta over the last 24 months, compared to a 7.7% rise for the State as a whole. On the other hand, the recorded rate of a number of offences in Cabramatta had fallen in the same period, but Dr Weatherburn went on to say that these ‘are offences which by and large are not regarded by criminologists as measures of crime. In a sense they are much better understood as measures of enforcement action’.³⁴ A 40% reduction in narcotics possession

³² M Chilvers, *Crime and Justice Statistics: NSW Recorded Crime Statistics 2000 - Regional Analysis of Crime Trends*, NSW Bureau of Crime Statistics and Research, p 4. A regional analysis of selected crime rates in NSW is set out at Appendix A.

³³ Ibid, pp 2-3.

³⁴ Transcript, 8 November 2000.

in Cabramatta was noted; a 52% reduction in dealing in narcotics; a 52% reduction in cannabis possession; a 54% reduction in receiving stolen goods; and a 22% reduction in the offence of goods in custody.

That there has been a statistically significant downward trend in the number of recorded incidents for drug offences in Cabramatta LAC in the years 1998 to 2000 was confirmed by the most recent analysis published by the NSW Bureau of Crime Statistics and Research. It found:

There were statistically significant downward trends in the monthly incidence of possession and/or use of narcotics, possession and/or use of cannabis and total drug offences. The annual number of recorded incidents of possession and/or use of narcotics fell 30.6 per cent, the annual number of recorded incidents of possession and/or use of cannabis fell 45.6 per cent and the annual total number of recorded incidents for drug offences fell 29.8 per cent between 1999 and 2000.³⁵

The paper added that the monthly trend in the incidence of dealing and trafficking in narcotics which fell by a similar percentage (from 219 in 1999 to 154 in 2000) just failed to reach the level of statistical significance. The full text of the paper is set out at Appendix C.

Multiculturalism and the NSW Police Service: The attempts made by the NSW Police Service to recruit people from more diverse ethnic backgrounds, and the problems they have encountered in this respect, have been discussed on a number of occasions, including at hearings of the parliamentary committee inquiry into police resources in Cabramatta. A recent article noted the following figures:

- Percentage of NSW population of non-English-speaking background – 15.7%.
- Number of police from non-English-speaking background: 280 from a total of 13,471 officers (1998/99) – 2.07%; 268 from a total of 13,483 (1999/00) – 1.98%.
- Number of police from Aboriginal background – 250 to 300.
- Number of Ethnic Community Liaison Officers (civilian) – 11.
- Gay and lesbian officers (sworn police) – 140.
- Aboriginal liaison officers – 56.
- Police with a physical disability – 291.³⁶

The article went on to say that ‘Police have launched an advertising campaign to address the low recruitment rates in ethnic communities as the number of officers from non-

³⁵ P Doak, *Bureau Brief – Issues Paper No 13, Drug and Theft Offences in Cabramatta Local Area Command: 1998 to 2000*, NSW Bureau of Crime Statistics and Research April 2001, p 2.

³⁶ L Doherty, ‘Police failing to attract ethnic recruits’, *The Sydney Morning Herald*, 30 April 2001.

English-speaking backgrounds continues to fall and police struggle to meet a 1996 government target'.³⁷ The Opposition spokesman on police, the Hon Andrew Tink MP, was reported to have said that 'the Police Service was failing "on the most elementary level" to encourage civilians to become liaison officers and to increase the number of sworn officers who spoke languages other than English'.³⁸

(B) Viewpoints in the contemporary debate

Kerry Chikarovski, Leader of the Opposition: In her immediate response in Parliament to the Premier's statement, the leader of the Opposition said she would 'look at the detail of the proposed legislation'.³⁹ Mrs Chikarovski also made a number of general and more specific comments about the reform package. For example, she emphasised the scale of drug related problems in Cabramatta, plus the need for an 'ongoing, sustained and comprehensive approach to drugs'. Of the 'new loitering laws', she noted that these would apply State-wide and discussed the potential for inconsistency between the approach associated with the injecting room in Kings Cross and that which is to operate in Cabramatta:

How will police in Kings Cross area deal with this law when they know that people will be loitering outside the injecting room doing deals? Will people in Cabramatta be treated differently to those in Kings Cross or will the law apply across the State?⁴⁰

In relation to the compulsory treatment aspect of the Premier's proposal, Mrs Chikarovski said she doubted whether the plan to create 500 extra treatment places would be sufficient: 'An extra 500 positions will not make a huge dent', she said, 'particularly with the introduction of compulsory treatment. An extra 500 will barely be a drop in the bucket. A lot more than 500 places will be needed, and a lot more trained and qualified staff will required to deal with those people'.⁴¹ She continued:

My overall concern about today's announcement is that this is yet another announcement about another package for Cabramatta. The Premier referred to the failed approaches of the past. I remind him of his own approach announced in 1997. The 1997 Cabramatta plan was going to clean up the streets of Cabramatta. It was going to tackle drug dealing in the streets, take the addicts off the streets and make sure that Cabramatta became the community it is entitled to be. Since the Premier announced the plan in 1997, drug-related

³⁷ Ibid.

³⁸ Ibid.

³⁹ *NSWPD* (Hansard proof), 27 March 2001, p 8.

⁴⁰ Ibid, p 7.

⁴¹ Ibid.

crime and the number of people involved in drugs who are now regular attendees at Cabramatta have increased. Since the Premier announced his Cabramatta strategy in 1997 there has been no real or substantial improvement in the drug situation in Cabramatta. The Premier must ensure that any announcement he makes about Cabramatta today shows real results.⁴²

NSW Police Service: On 27 February 2001, Assistant Police Commissioner, Clive Small, who is Regional Commander of Greater Hume which covers Cabramatta, outlined to the General Purpose Standing Committee No 3 a region-wide policing strategy for the area. In particular, he indicated a need for 'move-on' powers against drug users, stating 'It is a very difficult situation and we need some new initiatives to deal with, if I can call it, that residue of the drug problem that we cannot handle through law enforcement at the moment'.⁴³ The emphasis here was on drug users not drug dealers. The same was true of comments reportedly made by Mr Small earlier in February when, as he outlined an action plan for policing the Cabramatta area, his message to drug users was 'stay at home'. He spoke then of 'reducing the aggregate damage to the community by drug users and putting some balance into the harm minimisation debate'.⁴⁴ Drug users who come to Cabramatta, Mr Small said, to buy drugs and are caught shooting up 'will be bailed on the condition they do not return to the area without a legitimate reason'. Such views were echoed a few weeks later by Superintendent Frank Hansen, local area commander for Cabramatta, who was reported as wanting 'the Government to clarify the existing "move-on" laws which allow police to disperse groups which they believe could be involved in illegal activities'.⁴⁵

The package announced by the Premier on 27 March 2001 is reported to have Mr Small's support. Mr Small commented that by the time police broke into drug dens during raids, dealers were able to dispose of their drugs: 'It's certainly a significant hurdle facing police – this legislation will help deal with it'.⁴⁶ Reportedly, Mr Small also acknowledged that the proposed new laws 'essentially' shift the burden of proof from police to people detained for entering suspected drug houses, who will have to prove they have a lawful purpose for being there: 'You can't say that we are going to fix Cabramatta's problems. What I can say is that we are going to make it much better for the citizens of Cabramatta'.⁴⁷ Further,

⁴² Ibid, p 8.

⁴³ Transcript, 27 February 2001, p 22; L Doherty, 'Small seeks power to clean up streets', *The Sydney Morning Herald*, 28 February 2001.

⁴⁴ L Doherty, 'War on drugs the top priority, vow Cabramatta police', *The Sydney Morning Herald*, 9 February 2001. The action plan outlined by Mr Small was criticised by the Opposition spokesman on police, the Hon Andrew Tink MP, who said it made no mention of 'targeting drug dealers'.

⁴⁵ Editorial, 'Keep predators off streets', *The Sunday Telegraph*, 18 March 2001.

⁴⁶ K Lawrence, 'Police on front foot to close drug dens', *The Daily Telegraph*, 28 March 2001.

⁴⁷ G Jacobson, 'Carr sools police on to suspected drug houses', *The Sydney Morning Herald*, 28 March 2001.

responding to criticisms from civil libertarians that elements of the package would give police too much power. Mr Small is reported to have commented that police would carefully plan their attack before seizing a suspected house: 'It's not a case of police making their mind up that this is a drug house, we'll get a warrant – there would be an operational lead up... This would include surveillance and telephone intercepts, the arrest of people leaving the premises and admitting to having bought drugs, and observing known dealers and users going to and from the premises'.⁴⁸

Police Association of NSW: Responding to the Premier's Ministerial Statement of 27 March 2001, the Police Association of NSW issued a press release in which it welcomed Mr Carr's 'initiatives...in the fight against Drug Crime'. It noted that the plan 'will deliver a major blow to those who are in the drug trade'. Quoted was the Association's President, Ian Ball, who said:

This will be a model for inter-agency cooperation in aiming to reduce the terrible toll that drugs inflict on our youth and those working in such a difficult field. In our submissions to the parliamentary inquiry into policing resources on behalf of police at Cabramatta, we called for extra police powers, legislative change and a total agency approach. The government has delivered... The permanent presence of increased police numbers in Cabramatta will have a significant impact on the quality of life of residents and business people... We call on Local Government to embrace the Premier's initiatives and to support the introduction of drug treatment facilities in the area... The Association hopes that with these initiatives, police at Cabramatta can look to moving forward with appropriate support in the fight against drugs.⁴⁹

Fairfield Councillors – Thang Ngo and Ross Treyvaud: The Unity Party councillor for the Fairfield Local Government Area, Thang Ngo, a vocal critic of the drug trade in Cabramatta, is reported in one place to have described the Premier's package 'as an admission of failure and a Government backdown'.⁵⁰ Elsewhere he is said to have welcomed the proposed 'tougher police powers', stating that the powers to search and evict people in drug houses are especially needed. However, the ABC report continued: 'But Mr Ngo says a boost in police numbers will be weakened unless some of the officers are from a non-English speaking background'.⁵¹ Subsequently, he is reported to have said that the police were not serious about ethnic recruiting because the last big advertising campaign

⁴⁸ 'Carr under fire for "Nazi-style" drug laws', AAP 28 March 2001, <http://www.news.com.au/common/story/page/0.4057.1842344%255E1702.00.html>

⁴⁹ Police Association of NSW, 'Drug Crime in Cabramatta', *Media Release*, 27 March 2001.

⁵⁰ G Jacobsen, 'Carr sools police on to suspected drug houses', *The Sydney Morning Herald*, March 2001.

⁵¹ 'More police with greater powers to tackle Cabramatta drugs' – <http://abc.net.au/news/state/nsw/archive/metnsw-27mar2001-17.htm>.

was in 1997: 'The biggest thing police say about ethnic communities', Mr Ngo is quoted as saying, 'is there is a wall of silence. They shouldn't blame the communities if they can't communicate with them'.⁵² The same report noted that Cabramatta has 'no police who speak the dominant languages of Chinese or Vietnamese, although it has three liaison officers'.⁵³

Returning to the Premier's proposals, Mr Ross Treyvaud, an anti-drugs campaigner and head of the Cabramatta Chamber of Commerce, is said to have 'welcomed the announcement, but said it needed funding and commitment to work'.⁵⁴

Richard Basham, University of Sydney: When giving evidence before the parliamentary committee inquiring into police resources in Cabramatta on 30 March 2001, Dr Basham said he was appearing 'as an individual who has researched, published and worked with police on matters relating to this inquiry'. His evidence ranged across a wide range of issues, including the organisation of Asian criminal gangs. He spoke in this context of the constantly changing nature of drug law enforcement, noting the tendency for law enforcement issues to become 'more sophisticated' as 'drug dealers are always responding to law enforcement initiatives'. He was asked if he would accept 'that move-on provisions, if taken as part of a whole, that is as part of a larger package, can be a legitimate strategy for the police to use, including in the Cabramatta situation?'. Dr Basham answered:

Absolutely. I have read the package promoted by the Premier and although I have not had time to dissect every bit, and there are obviously civil liberty issues that one wants to think about, at least in principle it is hard to disagree with a lot of the proposals. Of themselves I do not think they will be enough but I think if I and my family were living in Cabramatta right now, I would be appreciative of any help, any assistance.⁵⁵

David Dixon and Lisa Maher, the University of New South Wales: Professor Dixon and Dr Maher have conducted extensive Research into policing and drug law enforcement issues, both as these relate to Cabramatta and more generally. Immediately following the Premier's statement, Professor Dixon commented that the increase in powers would send conflicting messages to police: 'Policing [the safe injecting room] you are going to require a great deal of discretion and careful management... The Cabramatta initiatives are sending quite a different message: that illegal drug use should be met by direct use of the law to its full extent'.⁵⁶

⁵² L Doherty, 'Police failing to attract ethnic recruits', *The Sydney Morning Herald*, 30 April 2001.

⁵³ Ibid.

⁵⁴ G Jacobsen, 'Carr sools police on to suspected drug houses', *The Sydney Morning Herald*, March 2001.

⁵⁵ Transcripts, 30 March 2001.

⁵⁶ C Banham, 'We'll wait and see, says Kings Cross community', *The Sydney Morning Herald*,

More generally, the research undertaken by Dixon and Maher has attempted to explore and understand the complexities involved in drug law enforcement, especially in a community such as Cabramatta. In evidence to the parliamentary committee inquiry into police resources in Cabramatta, they discussed the counterproductive effects which intensive street level policing can have and warned of the increasing organisation and professionalisation of drug market participants, which pressure from law enforcement can produce.⁵⁷ Their conclusion was that 'the way forward is to acknowledge that there is no prospect of a law enforcement policing solution to the problems of Cabramatta'.⁵⁸ In a subsequent article they stated that 'Simply pouring more police resources into Cabramatta or providing new police powers will not solve the problem – and understanding the problem is much more complicated than is often assumed'.⁵⁹

Nicholas Cowdery, the Director of Public Prosecutions: For long a commentator on the subject of drug law reform, Mr Cowdery said of Premier's proposals, 'Experience tells us that crackdowns on markets of this sort...usually displace it elsewhere and while this may be a bandaid solution for the beleaguered citizens of Cabramatta, it will not solve the problem for the State in the long term'. For Mr Cowdery, a proper assessment would have to wait until draft legislation was released, making clear such matters as how a 'drug house' is to be defined and what is regarded as a sufficient legal reason for entering or leaving such houses. He commented: 'bearing in mind the uncertainties until we see the legislation, we must have some concern that the provisions are unnecessary and open to abuse'. The risk of 'unprofessional' police officers abusing their wide powers was also noted by Mr Cowdery.⁶⁰

Cameron Murphy, President of the NSW Council for Civil Liberties: In a wide-ranging critique of the law and order debate Mr Murphy argued against what he perceives to be 'the erosion of liberties'. Of the Premier's reform package, he said they were 'of significant concern' and commented:

The Cabramatta laws may allow police to determine arbitrarily that a house is a 'drug house' and then to arrest anyone entering or leaving it. The police may also confiscate a dwelling house being used as a drug house. This sets a dangerous precedent in that people are considered guilty and subject to arrest just for having

29 March 2001.

⁵⁷ Transcript, 8 November 2000, p 38.

⁵⁸ Transcript, 8 November 2000, p 39.

⁵⁹ D Dixon and L Maher, 'Media missed a change of tactics in the drug war', *The Sydney Morning Herald*, 20 March 2001.

⁶⁰ B Lagan, "'Nazi-style' drug laws may be open to abuse', *The Sydney Morning Herald*, 29 March 2001.

been in the vicinity of a drug house and then have to establish their innocence.

Police will also be able to conduct medical examinations of those suspected of hiding drugs inside their persons, and drug dogs will be deployed against the public for random searches.

Even if these measures solve the problem in Cabramatta, it will just shift it somewhere else.⁶¹

Other legal commentators: In a similar vein, Mr Meagher, President of the NSW Law Society, spoke of the Carr Government putting the 'boot into people's legal rights' under 'Nazi-style legislation'. On the reversal of the onus of proof, he said 'They are saying you are guilty unless you can prove you are innocent'.⁶² It seems the Bar Association also expressed concern about changing the basic principles of criminal law that any person is presumed innocent until proven guilty.⁶³ For Associate Professor Chris Cuneen, Director of Sydney University's Institute of Criminology, this aspect of the proposal would alter how the legal system operates: 'It seems to me we are required to suspend our normal ideas about how the criminal justice system works, that people have to demonstrate they are there for a lawful purpose once police have decided a certain place constitutes a drug house... To my mind that seems to be suspending our normal ideas about civil liberties'.⁶⁴

Ken Horler QC's response was along similar lines. Interviewed on ABC radio, he said he doubted that the reform package would help Cabramatta's drug problem and that the proposals had 'all the sound of panic window dressing'. He argued that 'switching the onus of proof from police to crime suspects and making them responsible for proving their innocence would not lead to more arrests or any reduction in drug trafficking'. Referring to the proposed power to confiscate drug houses, Mr Horler commented:

The drug dealers are smart, they rarely own [houses] in their own name...they may be just occupying them...they may be tenants...So you're going to have a situation where some innocent party might find his valuable real estate being taken from him because of some subjective belief about what was going on.⁶⁵

⁶¹ CL Murphy, 'Beware justice dressed in cloak of convenience', *The Sydney Morning Herald*, 29 March 2001.

⁶² B Lagan, "'Nazi-style" drug laws may be open to abuse', *The Sydney Morning Herald*, 29 March 2001.

⁶³ 'Special powers to wipe out drug dens', *The Daily Telegraph*, 28 March 2001.

⁶⁴ 'Mixed response to increased police powers', *ABC*, 28 March 2001 – <http://www.abc.net.au/news/state/nsw/archive/metnsw-28mar2001-7.htm>

⁶⁵ 'Drug dealers will get smarter: Meagher', *The Sydney Morning Herald News Update*, 28 March 2001 – <http://www.smh.com.au/news/0103/28/update/news0.1.html>

Reba Meagher, Member of Parliament for Cabramatta: Also interviewed on ABC radio was Reba Meagher MP, who described the package as ‘reasonable and considered’. She accepted that the drug trade was constantly evolving, in part as a response to changing police strategies. Responding to civil libertarian concerns, Ms Meagher said that the proposals would mean that ‘the Cabramatta community is going to be given the benefit of the doubt’. She continued:

For too long they’ve been burdened with the fall-out of the drug trade and they want to be able to walk down their streets freely like others in Sydney.⁶⁶

Bob Carr, the Premier: On 28 March 2001 the Premier was asked by the Member for Cabramatta to respond to concerns from civil libertarians about the reform package he had announced on the previous day. Among other things, Mr Carr acknowledged that the ‘objections’ of civil libertarians ‘deserve serious consideration’, but his response to these objections was – ‘Look at the evidence; look at the new way that drug dealers are trying to avoid arrest’.⁶⁷ He went on to compare reactions to the statement of 27 March 2001 with the similar concerns which were raised when the Government introduced the *Police and Public Safety Act 1998*. The Premier cited the Ombudsman’s support for the retention of that Act. He confirmed that ‘Legislation to increase police powers is currently being drafted in line with the statement I made in this House yesterday’.⁶⁸

3. POLICE POWERS IN NSW – RECENT DEVELOPMENTS

As noted, an overview of police powers relevant to street offences was presented in the NSW Parliamentary Library Briefing Paper No 9/1998, *Street Offences and Crime Prevention*. That paper expressed the position as at April 1998. The present paper updates that position and, where possible, makes reference to any analysis of the operation of the powers granted to the police since April 1998. Again, the emphasis is on those powers most relevant to street offences.

(A) The Crimes Legislation Amendment (Police and Public Safety) Act 1998⁶⁹

Overview of the Act: The NSW recorded crime statistics showed a significant rise in assaults and robberies involving knives between 1996 and 1997. Responding to these and other developments, including the stabbing of an off-duty police officer Peter Forsyth, the

⁶⁶ ‘Drug dealers will get smarter: Meagher’, *The Sydney Morning Herald News Update*, 28 March 2001 – <http://www.smh.com.au/news/0103/28/update/news0.1.html>

⁶⁷ *NSWPD* (Hansard proof), 28 March 2001, p 37.

⁶⁸ *Ibid.*

⁶⁹ For an overview of the Act for police use see – NSW Police Service, *Crimes Legislation Amendment (Police and Public Safety) Act 1998*, June 1998. For a critical overview see – J Sanders, ‘Reviews’ (2000) 12 *Current Issues in Criminal Justice* 233-236.

Government introduced legislative changes which gave the police powers to search persons for dangerous implements and to give move on directions. This legislation, the *Crimes Legislation Amendment (Police and Public Safety) Act 1998* ('Police and Public Safety Act') was passed by Parliament in late May 1998, and it commenced on 1 July 1998. Specifically, by amendments to the *Crimes Act* and the *Summary Offences Act*, the new legislation:

- Created a new offence relating to having custody of a knife in a public place or a school without reasonable excuse (*Summary Offences Act*, section 11C).
- Created an offence relating to where a parent knowingly authorises or permits a child to have custody of a knife in a public place or school (*Summary Offences Act*, section 11D).
- Permitted a police officer, with reasonable grounds to suspect that a person has unlawful custody of a knife or other dangerous implement, to search the person and to examine any bag or other personal effect the person has with them (*Summary Offences Act*, section 28A).
- Permitted a police officer to confiscate a knife or other dangerous implement found in the unlawful custody of a person in a public place or school (*Summary Offences Act*, section 28B).
- Enabled a police officer to give reasonable directions in public places to deal with persons whose behaviour or presence constitutes an obstruction, harassment, intimidation or causes fear. Failure to comply with such a direction is an offence (*Summary Offences Act*, section 28F).⁷⁰
- Authorised police to demand the name and address of any potential witness to an indictable offence where the officer, on reasonable grounds, believes that the person may be able to assist in the investigation because the person was at or near the place where the alleged offence occurred (*Crimes Act*, section 563).

The Ombudsman's Review of the Police and Public Safety Act: Under the Police and Public Safety Act the Ombudsman was required to monitor the implementation of its police powers over the first 12 months of the Act's operation, and to report at the conclusion of that period. This report, *Policing Public Safety*, was tabled in Parliament by the Minister for Police on 29 June 2000. As it is comprehensive in scope, this paper can only present a summary of some of the report's key findings and recommendations.

In general, the Ombudsman, Irene Moss, acknowledged that 'the objectives of the Act enjoy appreciable community support' and said that she supported those objectives and the powers embodied in the Police and Public Safety Act. To this, she added that she had made certain recommendations 'aimed at improving the operation and application of the powers'. For example, in relation to the operation of the police *search powers* it was recommended that:

- the Police monitor the proportion of Aboriginal people and young people searched and

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Note that the power does not apply to: an industrial dispute; an apparently genuine demonstration or protest; a procession; or an organised assembly (section 28G).

- seek explanations for the rate of searches, at Operations and Crime Review briefings;
- the various provisions empowering police to conduct searches without warrant be consolidated into a single legislative instrument;
 - the use of police powers, including powers to search and issue reasonable directions, be governed by codes of practice (made pursuant to a Regulation) which clearly articulates the rights of citizens as well as the powers of police; and
 - in addition to requiring the search to be based on reasonable suspicion, the code of practice set out those factors (such as age, racial appearance, manner of dress and antecedents) that can not form the basis of a search in the absence of other factors.⁷¹

Recommendations were also made concerning the power to give ‘*reasonable directions*’, including:

- that the Police Service monitor the proportion of Aboriginal people and young people given ‘reasonable directions’ and seek explanations for the rate of directions, at Operations and Crime Review briefings;
- that the use of ‘reasonable directions’ powers be governed by a code of practice (made pursuant to a Regulation) which clearly articulates the rights of citizens as well as the powers of police.⁷²

A number of these recommendations were prompted by specific concerns, notably relating to considerations of age, aboriginality, and uncertainty about the actual power police rely upon in any specific circumstance. As to the ‘ages of persons searched’, the Ombudsman found that ‘people from 15 to 19 years of age are much more likely to be stopped and searched for knives than any other group’.⁷³ Summary research data showed that 42% of those searched were aged 17 or younger, 38% were aged 18 to 25, 19% were aged 26 or over, and 2% were classified ‘age unknown’. The Ombudsman observed: ‘One measure of the legitimacy of searching so many young people for knives might be that police are more likely to find knives on them. The data on productive searches shows that there were more knives found on 17 year olds than on anyone else, but it is important to note the high number of people being searched...A comparison of the ratio of productive and unproductive searches indicates that about one in seven people aged 17 were found with knives...The ratio for 27 year olds was around one in three...and almost one in two 37 year olds...were found with knives’.⁷⁴ The Ombudsman continued:

In assessing the fairness of police search practices, it is important to acknowledge the comparatively high proportion of young people involved in knife-related crime. Of concern, however, is why so many knife searches of young people lead to no knife being found,

⁷¹ NSW Ombudsman, *Policing Public Safety: Report under section 6 of the Crimes Legislation Amendment (Police and Public Safety) Act*, November 1999, p 343.

⁷² *Ibid*, pp 345-346.

⁷³ *Ibid*, p 127.

⁷⁴ *Ibid*, p 128.

whereas the ration of productive searches is much higher for searches of suspects aged in their 20s and 30s. One factor might be differences in the way that young people make use of public space, including a propensity for groups of young people to ‘hang out’ at busy commercial precincts and transport interchanges.⁷⁵

As to the issue of ‘aboriginality’, the Ombudsman reported that 6.6% of people searched were Aboriginal or Torres Strait Islanders. Of those persons involved in searches where knives or other implements were found 5.7% were Aboriginal or Torres Strait Islander. The Ombudsman concluded: ‘The data on productive searches indicates that the police targeting of individuals from these groups would not appear to be disproportionate to the likelihood of finding knives’.⁷⁶ Also reported upon was the police use of the section 28F directions powers, with police data showing that 22% of all directions were issued to Indigenous peoples, and that around 51% of the Indigenous people given section 28F directions were aged 17 years or younger. Reflecting on these findings, the Ombudsman said: ‘It is not clear why such high numbers of Aboriginal and Torres Strait Islander people are subject to s. 28F directions’.⁷⁷ The Ombudsman added that the impact of the ‘move on’ power was of particular concern to the Western Aboriginal Legal Service which argued that the power ‘brings otherwise law abiding persons into contact with the police and the criminal justice system’.⁷⁸

As to the question of uncertainty, the Ombudsman suggested that ‘the new legislative requirements seem to have had very little influence on actual policing practice’. In arguing for the consolidation of stop and search provisions, the report said:

In many cases it is not clear whether police searched for knives under s.28A of the Summary Offences Act, or under some other power such as s. 357E of the Crimes Act. Both provisions give police broad discretion to search in circumstances where they have a ‘reasonable suspicion’. Unless the police themselves state that they searched under s. 28A, then it may be assumed that the less stringent procedural requirements for s. 357E stop and search powers governed the conduct of the search.⁷⁹

Minister for Police’s review of the Police and Public Safety Act: Another feature of the Police and Public Safety Act was the requirement for the Minister for Police to review the legislation after it had been in operation for one year, and for that review to be tabled in Parliament. This occurred on 29 June 2000, at which time the Minister for Police responded

⁷⁵ Ibid, p 129.

⁷⁶ Ibid, p 130.

⁷⁷ Ibid, p 232.

⁷⁸ Ibid.

⁷⁹ Ibid, p 145.

to the recommendations made by the Ombudsman. Broadly, the Minister found that 'the policy objectives of the Act remain valid and that the amendments made in the Act remain valid for obtaining those objectives'.⁸⁰

However, the need for certain reforms was accepted, notably in respect to the consolidation of stop and search powers, of which the Minister said: 'The Government has already committed to this project and it is expected that draft legislation (in the form of an Exposure Draft Bill) will be released for public comment later this year'.⁸¹

On one issue the Minister did not agree with the Ombudsman, namely, concerning the latter's recommendation for a code of practice to govern the use of police powers. The Minister found that 'such a code would promote, rather than reduce, ambiguity' and that it 'would in practice be too prescriptive'. For example, the Minister was of the view that 'breaking down stereotypes is not something that can be legislated for. It is better dealt with via culturally sensitive training and close monitoring by senior officers'.⁸²

NSW Bureau of Crime Statistics and Research's review of the Police and Public Safety Act: In his review of the Act the Minister for Police cited information from the Police Service COPS system which indicated that, from July 1998 to the end of May 2000, the powers had been used as follows:

- police used their new powers to search over 40,000 persons;
- 7492 knives or weapons were found during those searches;
- 8105 knives and weapons were confiscated from persons in public places or schools; and
- police gave directions under the Act to over 38,000 persons.⁸³

These figures can be read alongside those of the NSW Bureau of Crime Statistics and Research which found that, between July 1998 and March 2000, the police recorded 27,419 searches using the new powers, of which 6,374 resulted in a knife being found. In the same period, the police also recorded issuing 24,778 move on directions.⁸⁴

⁸⁰ Minister for Police, *Police and Public Safety Review*, June 2000, p 8.

⁸¹ *Ibid*, p 12. As at May 2001 this Exposure Draft Bill had not been released.

⁸² *Ibid*, p 11.

⁸³ *Ibid*, p 1.

⁸⁴ J Fitzgerald, *Crime and Justice Statistics: Knife Offences and Policing*, June 2000. The apparent discrepancy between these figures and those of the Minister for Police is explained by the fact that the NSW Bureau of Crime Statistics and Research statistics are calculated on the basis of 'crime incidents', in relation to which a number of searches might have been carried out on several persons, but only one search is recorded for statistical purposes. On the other hand, the statistics used by the Minister for Police refer to the actual number of persons who were searched. The NSW Bureau of Crime Statistics and Research advise that, for the calendar year 2000, the police recorded 19,168 searches, of which 3,817 resulted in a knife being found. In the same period, police also recorded issuing 22,461 move on directions.

The same NSW Bureau of Crime Statistics and Research publication analysed the impact of knife laws on offending. In relation to assaults involving knives the NSW Bureau of Crime Statistics and Research found 'no statistically significant change over the 21 month period from July 1998 to March 2000'. It was added that, because the increases in assault with a knife leading up to July 1998 were not as great as for robbery there is 'less room for change'.⁸⁵

On the other hand, in relation to robberies with a knife, comparing the nine-month periods before and after the introduction of the Act, the report found a 10.1% decrease since the legislation had been in operation. The report said: 'There has been a statistically significant downward trend in the number of recorded incidents of robbery with a knife since the introduction of the knife laws...'. A similar trend was not found for robberies not involving knives, thus prompting the report to conclude:

This result suggests that the knife legislation has reduced the number of robbery offences involving knives. Notice however that the drop in knife robberies commences before the introduction of the knife laws...It cannot be determined with certainty whether police searches for knives have contributed to the decrease in robbery with a knife. Although it seems plausible that some factor relating to the new legislation is responsible, the drop in robberies involving knives actually started before the new legislation.⁸⁶

When we look at the crime statistics for the two year period from January 1999 to December 2000 the picture is more complicated still. The relevant offence category in the published statistics is 'robbery with a weapon not a firearm' for which there was no upward or downward trend.⁸⁷ This contrasts with the downward trend for the same offence between January 1998 and December 1999 when a drop of 20.8% was recorded. Nonetheless, the total figure for NSW was still lower in 2000 (3,660) than in 1998 (4,382). For Sydney as a whole the figure had changed from a high of 3,857 in 1998, to 3,080 in 1999 and 3,257 in 2000.⁸⁸

(B) The Intoxicated Persons Act 2000

This Act, which came into effect on 16 March 2001, extended the powers of police to remove intoxicated persons from a public place and to detain them in what is called 'an authorised place of detention'. In effect, the Act amended the *Intoxicated Persons Act 1979* by defining 'intoxicated person' to mean 'a person who appears to be seriously affected by

⁸⁵ Ibid, p 4.

⁸⁶ Ibid, p 3.

⁸⁷ P Doak, *NSW Recorded Crime Statistics 2000*, NSW Bureau of Crime Statistics and Research, 2001, p 4.

⁸⁸ Ibid, p 47.

alcohol or another drug or a combination of drugs'. Thus, whereas in its original form the Act had been restricted to persons affected by alcohol, it now extends to any drug or combination of drugs. Significantly, no penalties or charges are associated with the Act and a police officer is prohibited from detaining a person under the relevant section 'because of behaviour that constitutes an offence under any law'. The Act's purpose is not to punish, therefore, but to protect either persons or property and to prevent disorderly behaviour in public places. A detained person must subsequently be released into the care of a 'responsible person'. The Second Reading Speech stated that the Act would bring about 'sensible and humane reforms which...will encourage appropriate and non-confrontational measures for dealing with intoxicated persons and act as a gateway to rehabilitative programs'.⁸⁹ It was said that the legislation would operate in combination with protocols established between the relevant public service agencies.

On the day the Act commenced a spokesman for the Minister for Police reportedly said it 'would ensure drug addicts were removed from locations such as railway stations and shopping strips'.⁹⁰ Likewise, Assistant Commissioner Clive Small is reported to have said that the amendments would allow police to take those seriously affected by drugs or alcohol 'off the street and take them out of sight and to put them into at least a temporary form of treatment'.⁹¹ The Hon Peter Breen MLC, on the other hand, is reported to have described the Act as a 'throwback to the old loitering laws'.⁹² At any rate, it is too early to comment on the Act's operation.

4. DRUG LAW ENFORCEMENT - A NEW SOUTH WALES PERSPECTIVE

The purpose of this part of the paper is relatively modest in nature. First, it sets out some of the major and most recent developments relevant to the issue of drug law enforcement in NSW. Secondly, it reviews the literature on drug law enforcement. This literature review does not purport to be comprehensive in scope. It is restricted to work that is directly relevant to NSW and takes as its focus the relevant reports of the NSW Bureau of Crime Statistics and Research.

While the focus of this section is on NSW, it should be noted that the policies pursued in this jurisdiction are part of the broader policy approach associated with the National Drug Strategy. On 19 November 1998, the Ministerial Council on Drug Strategy (MCDS), which comprises Commonwealth, State and Territory Health Ministers and Law Enforcement Ministers, endorsed the National Drug Strategy Framework 1998-99 to 2002-03. This framework reflected the agreement of MCDS to: (a) reaffirm Australia's commitment to harm minimisation as the philosophy underpinning approaches to harmful drug use nationally; (b) embody broad strategic directions and principles; and (c) strengthen

⁸⁹ NSWPD, 30 May 2000, p 6094.

⁹⁰ S Gee and S Downie, 'Ready to clean up', *The Daily Telegraph*, 16 March 2001.

⁹¹ L Doherty and D Humphries, 'Cabramatta drug users get a police move along', *The Sydney Morning Herald*, 16 March 2001.

⁹² *Ibid.*

partnerships and seek to expand them at all levels and between all relevant sectors.⁹³ The main drug-related harms identified in the Framework were: crime or social problems directly or indirectly stimulated by drug consumption; public health problems, including those associated with drug overdose and the spread of blood-borne viruses; and public order problems, including public drug dealing, drug intoxication in a public place and the spread of debris associated with illegal drug use.

(A) Recent developments in NSW

The 1999 NSW Drug Summit: Policing in Cabramatta operates in a wider context, which includes the general debate about public policy responses to illicit drugs. The complex matters associated with this debate were aired in considerable detail at the May 1999 NSW Drug Summit. Various high-profile speakers were invited to address the summit and to set out their contrasting perspectives on the issues involved. Among other things, 'harm minimisation' approaches were contrasted with more traditional law enforcement responses to the drug problem, and the nature of that problem was outlined and analysed by experts in the field.⁹⁴

Specifically in relation to heroin use, the Summit was advised that around 2% of Australian adults have used heroin and that there are approximately 50,000 heroin users in NSW. These people will typically spend more than \$55,000 per year supporting their habit, with many resorting to crime to meet this expense. In NSW, 292 people between the ages of 15 and 44 died as a result of opioid overdoses in 1997. Among the Summit's most controversial recommendations was a proposal to establish medically supervised injecting rooms:

The Government should not veto proposals from non-government organisations for a tightly controlled trial physical force medically supervised injecting rooms in defined areas where there is a high prevalence of street dealing in illicit drugs, where those proposals incorporate options for primary health care, counselling and referral for treatment, providing there is support for this at the community and local government level.⁹⁵

Responding to the recommendation in July 1999, the Government said it would support one trial of a medically supervised injecting room: 'In recognition of the arguments put to the Drug Summit, principally that the establishment of facilities of this kind will decrease overdose deaths, provide a gateway to treatment, and reduce the problem of discarded needles and users injecting in public places, the Government will agree to the establishment of an 18 month trial of a medically supervised injecting room on one site only'.⁹⁶ Any trial,

⁹³ <http://www.health.gov.au/pubhlth/strateg/drugs/nds/>

⁹⁴ A detailed account of the Drug Summit is found in - M Swain, *The New South Wales Drug Summit: Issues and Outcomes*, NSW Parliamentary Library Background Paper No 3/1999.

⁹⁵ M Swain, n 94, p 52.

⁹⁶ *NSW Drug Summit 1999: Government Plan of Action*, July 1999, pp 46-47.

which could be proposed by a local council or a non-government organisation, was made subject to 'an absolute requirement for a community poll'.⁹⁷ It was also said that 'NSW Health and Police will work closely with any Council or non-government organisation establishing the trial facility'.⁹⁸ The first such medically supervised injecting room, run by the Uniting Church, is reported to have opened in Kings Cross on 6 May 2001.⁹⁹

The NSW Drug Summit and drug law enforcement: The Summit made many recommendations concerning drugs and law enforcement and the Government subsequently responded to all of these. Included among the recommendations were the following:

- Community knowledge and debate be promoted about police powers concerning drug use and drug-related crimes. In response, in its July 1999 'Plan of Action', the Government said it supported this recommendation and would 'adopt policies to improve communications between the community and law enforcement agencies in regard to drug related crime'.¹⁰⁰
- The object of drug legislation and policing should be the reduction of the aggregate social harm caused by drug use. The Government supported this recommendation, along with the concept of harm minimisation which is embodied in the National Drug Strategy. It said that the concept of aggregate social harm is not specifically recognised in the strategy, but added that 'it is accepted that a combination of harm minimisation and law enforcement strategies is required to effectively reduce the overall impact of drugs and drug related crime on the community'.¹⁰¹
- Consideration be given to the feasibility of having legislated principles to guide police in the exercise of their discretion in relation to illicit drug enforcement. The Government, in response, said it believed it was 'more feasible to guide police in the exercise of their discretion in relation to illicit drug enforcement through provisions in the Police Service Handbook rather than legislation'.¹⁰²
- The NSW Police Service develop an explicit set of performance indicators for drug law enforcement and annually report on performance against these indicators. This recommendation was supported by the Government, with the July 1999 Plan of Action stating that the relevant indicators would be added 'to those the Police Service publishes in its Annual Reports'.¹⁰³
- The provisions of the Bail Act 1978 be reconsidered, with particular reference to the

⁹⁷ Ibid, p 47.

⁹⁸ Ibid.

⁹⁹ K Burke, 'Injecting room opens its doors without fuss', *The Sydney Morning Herald*, 7 May 2001; M Sun, 'Drug room open for business', *The Daily Telegraph*, 7 May 2001.

¹⁰⁰ *NSW Drug Summit 1999: Government Plan of Action*, July 1999, p 97.

¹⁰¹ Ibid, p 98.

¹⁰² Ibid, p 99.

¹⁰³ Ibid, p 102.

types of conditions that may be attached to the granting of bail (including, for example, coercive rehabilitation) in order to provide opportunities for diversion into treatment programs and to remove recidivist offenders from the community. Again the Government supported this recommendation and said: 'The Attorney General's Department will be charged with examining the provisions of the Bail Act to assess the efficacy of the Act for dealing with drug offenders including the issue of granting bail to recidivist offenders'.¹⁰⁴

- A review be undertaken of all the legislation relating to police powers in drug law enforcement to remove any ambiguities which may impede effective police action. The Government supported this recommendation, noting that it would add it to the tasks of the Consolidation of Police Powers Working Party which was established in 1998 in response to the Royal Commission into the NSW Police Service.¹⁰⁵

The Royal Commission into the NSW Police Service and drug law enforcement: Just as the work of the 1999 Drug Summit must form part of the background to any debate about police powers and drug law enforcement in this State, so too must the findings of the Police Royal Commission in its Final Report of May 1997. The recurring theme in the report was the potential for the abuse of power where power itself is not subject to proper scrutiny, oversight and review. Of drug law enforcement, the report said it was 'one of the most difficult law enforcement challenges that society presently faces'. It, too, recommended that 'consideration be given to the establishment of safe, sanitary injecting rooms under the licence or supervision of the Department of Health, and to amendment of the *Drug Misuse and Trafficking Act 1985* accordingly'.¹⁰⁶ Consideration should also be given, the report said, to amending the same Act 'by creating an indictable offence of "engaging in commercial supply" to catch those instances where a person, who is obviously engaged in a regular business of supply, is presently able to minimise his or her criminality by holding and dealing in drugs in quantities less than the indictable or commercial quantity'.¹⁰⁷

The Police Royal Commission supported moves by the NSW Police Service to apply harm minimisation principles to the policing of drug use (as opposed to the drug trade), notably in the support offered by police to the Needle and Syringe Exchange Program (NSEP) and the Methadone Maintenance Program (MMP). The report commented:

These initiatives, and the exercise of discretion in targeting injecting drug users are both sensible and appropriate. However, the basis on which the discretion is exercised needs to be found in a clear statement of policy. It is appropriate that the Service, in conjunction with the Department of Health, publish guidelines setting out the agreed basis on which the policing of NSEP and

¹⁰⁴ Ibid, p 103.

¹⁰⁵ Ibid, p 109.

¹⁰⁶ The Royal Commission into the NSW Police Service, *Final Report, Vol II: Reform*, p 226.

¹⁰⁷ Ibid, p 230.

MMP programs and similar public health initiatives takes place. These guidelines need to be widely publicised within the Service and the community so that both police and citizens know where they stand in relation to enforcement of this aspect of the law.¹⁰⁸

More generally, the Police Royal Commission found that much of the corruption identified in its inquiry was connected to drug law enforcement. 'The huge sums of cash associated with the drug trade', it commented, and the apparent inability of conventional policing to make any impact on the illegal market in narcotics creates cynicism among police working in the field. It also creates an environment in which corrupt conduct flourishes'.¹⁰⁹ The report went on to say, 'Quite apart from the devastating influence which the drug trade has on the corruption of law enforcement officials, the overall cost to the community of substance abuse is enormous'. After noting its effects on society, on one side, and the problems involved in stemming the supply of illicit drugs, on the other, the report concluded that:

...rhetoric based upon a 'war against drugs' or similar notions, is empty, and incapable of fulfilment. The problems associated with 'drug use' require a different approach to the issues related to the 'drug trade'. Law enforcement should continue to aggressively target the drug trade and heavy criminal sanctions should be applied to those who supply narcotics. Alternate solutions however need to be found in order to address drug use – the criminal process does little to reduce the availability of drugs or to discourage their use. It continues to provide opportunities for corrupt police.¹¹⁰

The NSW Drug Court: One alternative approach to the drug use problem is embodied in the NSW Drug Court which began operation, initially on a two year trial basis, on 8 February 1999.¹¹¹ Modelled on the US drug courts, it was established under the *Drug Court Act 1998* (NSW) to provide an intensively supervised program of treatment for drug dependent offenders, with the aim of assisting them to overcome their drug dependence and end their involvement in criminal activity.¹¹² As Suzanne Briscoe and Christine Coumareios explained: 'It is postulated that reducing a person's drug dependence should also reduce the person's need to commit crime to support that dependence'.¹¹³

¹⁰⁸ Ibid, p 227.

¹⁰⁹ Ibid, p 223.

¹¹⁰ Ibid, p 224.

¹¹¹ The trial was later extended by around six months.

¹¹² For the background to the establishment of the Drug Court see – M Swain, *The Illicit Drug Problem: Drug Courts and Other Alternative Approaches*, NSW Parliamentary Library Briefing Paper No 4/1999.

¹¹³ S Briscoe and C Coumareios, *Crime and Justice Bulletin No 52: New South Wales Drug Court: Monitoring Report*, NSW Bureau of Crime Statistics and Research, November 2000,

The NSW Drug Court is located in the Parramatta Court complex and has both Local and District Court jurisdiction. To be eligible for the Drug Court Program a number of conditions apply, including a person must: be 18 years or over; be dependent on the use of prohibited drugs; reside in the catchment area (specific areas of Western Sydney); and be highly likely to be sentenced to full time imprisonment if convicted. Moreover, the Program will apply if the person has indicated a willingness to plead guilty and to participate in the scheme. The operation of the Drug Court is set in detail in a NSW Bureau of Crime Statistics and Research publication by Karen Freeman, Ruth Lawrence Karski and Peter Doak which stated that each participant's Drug Court program is individually tailored, but that four common factors operate across the board: treatment; social support and the development of living skills; regular reports to the Court; and regular urine testing.¹¹⁴ A treatment plan is only agreed for an offender if it is considered 'highly suitable' for that person. Freeman et al go on to say that 'Once a "highly suitable" program has been formulated, and provided that the offender is still considered to be eligible for the Program, he or she returns to the Drug Court, enters a guilty plea and is given a sentence that is suspended for the duration of their participation on the Drug Court Program'.¹¹⁵

The NSW Bureau of Crime Statistics and Research is in fact conducting three evaluation studies of the NSW Drug Court relating to: first, the cost effectiveness of the Court; secondly, the health and social functioning of participants on the Drug Court Program; and, thirdly, the monitoring of key aspects of the Court's operation.¹¹⁶

To date, no findings have been released concerning the cost effectiveness of the Drug Court, a process which requires a comparison of Drug Court participants with a comparison group. This comparison group consists of persons who were both eligible for the Drug Court Program and willing to participate in it, but for whom there was no available detoxification bed. On the other hand, the monitoring reports have examined the first 17 months of the Court's operation, for the period 9 February 1999 to 30 June 2000.¹¹⁷ The main findings, as reported in November 2000, include:

p 1.

¹¹⁴ K Freeman, RL Karski and P Doak, *Crime and Justice Bulletin No 50: New South Wales Drug Court Evaluation: Program and Participation Profiles*, NSW Bureau of Crime Statistics and Research, April 2000.

¹¹⁵ *Ibid*, p 4.

¹¹⁶ To date, the following reports have been released by the Bureau: *Crime and Justice Bulletin No 50: NSW Drug Court Evaluation - Program and Participant Profiles*, April 2000; *General Report Series: Drug Court of NSW – Monitoring Report*, October 2000; *Crime and Justice Bulletin No 52: NSW Drug Court – Monitoring Report*, November 2000; *Crime and Justice Bulletin No 53: NSW Drug Court Evaluation – Interim Report on Health and Well-Being of Participants*, February 2001.

¹¹⁷ The recruitment period for Drug Court participants to be included in the evaluation of the trial ended on 30 June 2000.

- The Drug Court received 838 referrals in its first 17 months of operation. Of the persons referred, 503 did not enter the Drug Court Program because there was no place available at the time of referral (68 persons) or at the time of the detoxification assessment (201 persons); or they were ineligible or unwilling to participate (225); or a highly suitable treatment plan was not available (9 persons).
- Being unwilling to participate in the Program was the most common reason for a person not entering the Drug Court Program, both after the preliminary health assessment and after the detoxification assessment.
- The average length of the detoxification assessment period (17 days) was considerably longer than the seven-day detoxification period anticipated when the Program was designed.
- At 30 June 2000, 313 persons had commenced the Drug Court Program (and a further 22 were still undergoing detoxification assessment).
- Of the 313 persons who had commenced the Drug Court Program, 10 (3.2%) had graduated from the Program and 133 (42.5%) had been terminated from the Program, leaving 170 (54.3%) participants remaining on the Program. Of those still on the Program, 28 had progressed to Phase 3 of the Program, and a further 54 had progressed to Phase 2.¹¹⁸
- Of the 133 participants terminated from the Program in the first 17 months, 121 (91.0%) had not progressed beyond Phase 1.
- At least one custodial sanction had been imposed on 82.4 per cent of Drug Court participants during the 17-month period, with an average custodial sanction of 5 days.
- Of the 313 Drug Court participants, 259 had a urine test result at their last court appearance, with 54.4 per cent testing negative to all drugs prohibited by the Drug Court. Of the 142 participants who were still actively participating on the Program at 30 June 2000 and had been urine tested, 57.0 per cent tested negative to all prohibited drugs in their last urine test.
- As at 30 June 2000, 45.9 per cent of the 170 Drug Court participants continuing on the Program were on a methadone program, 44.1 per cent were on an abstinence-based program and 10.0 per cent were on a naltrexone program. Seventy-one per cent of participants were receiving treatment in a community-based setting.
- Of those who had commenced the Drug Court Program, 81.8 per cent were male, 68.4 per cent were under the age of 30 years, 86.2 per cent were born in Australia, 75.2 per

¹¹⁸

Each participant's program is designed to take around 12 months to complete and is comprised of three phases: Phase 1 – stabilisation; Phase 2 – consolidation; Phase 3 – reintegration:- K Freeman, RL Karski and P Doak, n 114, p 2.

cent had previously been imprisoned, 59.4 per cent had received prior treatment for substance abuse and 53.5 per cent had not received schooling beyond Grade 9.¹¹⁹

As noted, an interim report was released by the NSW Bureau of Crime Statistics and Research in February 2001, relating to the health and social functioning of participants in the Drug Court Program. For this purpose, 202 participants were interviewed at Program entry and 112 of these were re-interviewed after four months on the Program. The report's findings included:

- Participants were in significantly poorer health than the general Australian population before starting the Program (but they were significantly healthier than the group seeking methadone maintenance treatment voluntarily).
- There were significant improvements for participants after four months on the program across all measures of health and well-being examined.
- At the four month interview, participants were scoring within the normal range or higher on the measures relating more closely to physical health, but remained significantly impaired on several measures relating more closely to emotional well-being.
- A high level of satisfaction with the Program was indicated, with participant satisfaction being related to health and well-being at the four month mark.¹²⁰
- The median weekly legal income at Program entry and the four month mark were very similar (\$165, \$162). In contrast, median weekly spending fell from \$1,000 per week at Program entry to \$180 per week at the four month interview. It seems likely that this reduction in spending is attributable, at least in part, to reduction in spending on illicit drugs and, therefore, indicates a reduction in drug use.¹²¹

In drawing these conclusions, the report noted, a number of important caveats had to be addressed. For example, only those participants still on the Program after four months were interviewed a second time. 'It is reasonable to assume', the report said, 'that persons not interviewed due to termination or absconding from the Program may have had significantly different responses in regard to their satisfaction with the program and the perceptions of the fairness of the Court and difficulty of the program'. Thus, only interviewing persons actively participating on the Program at four months 'may have overestimated the positive effects of the NSW Drug Court program'. Still, on balance those interviewed did experience 'significant improvements in their well-being'. What is not known is whether similar results would have been obtained for persons following the mainstream criminal

¹¹⁹ S Briscoe and C Coumareios, n 113, p 17.

¹²⁰ K Freeman, *Crime and Justice Bulletin No 53: NSW Drug Court Evaluation – Interim Report on Health and Well-Being of Participants*, February 2001, p 16.

¹²¹ *Ibid*, p 13.

justice path, namely, imprisonment. For its part, the report doubted whether similar improvements would be found amongst imprisoned offenders. Another question which remains to be answered is whether these improvements will be maintained over time.¹²²

These indications thus seem reasonably positive, but it is still too early to tell with any certainty whether the Drug Court has been a success. The trial has cost around \$12 million and we must wait, it seems, till the end of the year before findings on the cost effectiveness of the Drug Court are made available.

The NSW Youth Drug Court: A similar scheme to that available under the Drug Court Act for adults is now in place for young people (usually between 14 and 18). The Youth Drug Court Program was established on 31 July 2000 and operates under the jurisdiction of the Children's Court. Specifically, section 33 of the *Children (Criminal Proceedings) Act 1987* was amended to extend the Court's sentencing options to include the deferral of the imposition of a penalty for the purposes of rehabilitation (Griffiths bonds). As well, section 50B was inserted into the same Act to facilitate the use of drug rehabilitation programs for child offenders.¹²³

The Youth Drug Court Program is operating on a trial basis. It seems the plan is to permit 120 youths to take part each year on the Program, the functioning of which is to be evaluated along the lines established for the adult Drug Court. As at 11 May 2001 67 applicants have been considered, but only 30 youths were actually participating on the Program, a relatively low uptake/eligibility rate.¹²⁴ Its mode of operation is in many ways similar to the adult Drug Court, in terms of the eligibility requirements for participants and the conditions they must agree to once they have been accepted on to the Program. One difference is that, unlike the adult Drug Court, the Youth Drug Court cannot apply sanctions to those who breach the conditions of their Program.

(B) Drug law enforcement – selected review of the literature

NSW Bureau of Crime Statistics and Research – Performance Indicators for Drug Law Enforcement: One aspect of the work undertaken by the NSW Bureau of Crime Statistics and Research is an attempt to devise performance indicators for drug law enforcement. Dr Don Weatherburn commented in this respect that it was estimated in 1992 that \$320 million is spent in Australia annually, but that there are no performance indicators in place to judge the value of public investment in the enforcement strategy. As he told the parliamentary committee inquiry into police resources in Cabramatta, 'At the moment in NSW we have, although we pour a large sum of money into drug law enforcement, no objective indicators as to whether that money is being well spent or badly spent'.¹²⁵ He explained that the available statistics for recorded drug offences 'do not tell us anything about the scale of our

¹²² Ibid, pp 16-17.

¹²³ *Crimes Legislation Amendment Act 2000*.

¹²⁴ Telephone advice to the author from the NSW Youth Drug Court Registry, 11 May 2001. Whether the trial period will need to be extended as a result remains to be seen.

¹²⁵ Transcript, 8 November 2000, p 28.

drug problem, or the scale of the harm caused by that drug'.¹²⁶

Earlier in the year Dr Weatherburn had released a NSW Bureau of Crime Statistics and Research bulletin on precisely this issue. There he had set out a number of performance indicators for heroin, based on data which is already available or readily obtained. The indicators were designed to provide a means of assessing police performance in minimising the harm associated with heroin and a means of gauging what police are doing to achieve this objective. Three main objectives of drug law enforcement policy in relation to heroin were identified for this purpose and various indicators for demand-side enforcement were suggested:

- To limit or reduce the crime problems associated with heroin. Weatherburn suggested that the Drug Use Monitoring in Australia (DUMA) program which provides quarterly information on the percentage of persons arrested who test positive for, or report use of, a variety of illicit drugs 'probably provides a reasonable indicator of trends in the level of heroin-related property crime in a Local Area Command'.¹²⁷
- To limit or reduce heroin-related problems of public disorder and amenity. One indicator favoured by Weatherburn were 'periodic surveys of the local community conducted by police as part of their street-patrol activity'.¹²⁸ The need for careful interpretation of such surveys was emphasised.
- To assist in limiting or reducing heroin-related public health problems. Weatherburn suggested such indicators as the number of heroin users entering methadone treatment, the number of heroin overdoses and the number of new HIV and Hepatitis C infections. An analysis of injection practices in the context of the DUMA survey was also suggested as a means of assessing the impact of street-level drug law enforcement amongst heroin users.

Various performance indicators were also suggested for supply-side enforcement, with Weatherburn acknowledging that all these could be improved upon. Another general point he made related to the need for a much greater exchange of data between Health and Police Departments. He commented that 'Health authorities have in the past shown a particular reluctance to provide data to police. That concern is understandable and legitimate where the information being sought concerns or could identify particular individuals. It is neither understandable nor legitimate if the information being sought is to be used solely to evaluate police performance in minimising the harm associated with illicit drugs'.¹²⁹

¹²⁶ Ibid.

¹²⁷ D Weatherburn, *Crime and Justice Bulletin No 48: Performance Indicators for Drug Law Enforcement*, NSW Bureau of Crime Statistics and Research, February 2000, p 4.

¹²⁸ Ibid.

¹²⁹ Ibid.

NSW Bureau of Crime Statistics and Research - Drug Crime Prevention and Mitigation: A Literature Review and Research Agenda: One of the resolutions of the Drugs and Law Enforcement Working Group of the 1999 Drug Summit, which received plenary endorsement, related to the need for more collaborative research into crime prevention and mitigation. It was recognised that effective drug policies must be based on reliable data about the effects and effectiveness of current drug law enforcement policy. As the NSW Bureau of Crime Statistics and Research commented:

At present, however, we have no accurate estimate of the proportion of crime (ie attributable fraction) caused by various kinds of illicit drugs. This makes it impossible to determine the costs of illicit drug consumption, to determine priorities among drug use control programs or to assess the weight which should be assigned to preventing crime as opposed to other adverse effects of illicit drug consumption.¹³⁰

For this reason, following the Drug Summit the NSW Government directed the NSW Bureau of Crime Statistics and Research to develop a strategic plan to support drug-related crime prevention and mitigation. That plan was embodied in the report, *Drug Crime Prevention and Mitigation: A Literature Review and Research Agenda*, published in 2000. Always assuming that the drug use in question will remain prohibited, the report identified the four main policy options available to government: deterrence; disruption of illegal drug markets; coerced treatment; and primary prevention. These options, it was said, are not mutually exclusive. As the focus of the present paper is on drug law enforcement, only the findings relevant to the first two options are discussed, albeit in a summary form.

Fundamental to the *deterrence* option is the assumption that criminal sanctions can be relied upon to discourage people from trying illegal drugs (general deterrence), or to discourage people who have tried them from using them again, or from using them as frequently as they have in the past (specific deterrence).¹³¹ ‘Deterrence theory’, the report explained, ‘is an application of the rational choice paradigm which maintains that criminal activity can be deterred by the threat of certain, swift and severe punishment’.¹³² But it was added that many questions remain about the theory, in particular, ‘how effective is the drug prohibition regime in deterring illicit drug use and/or dealing’. The report continued, ‘We are presently committed to a prohibition regime without any clear understanding of whether, to what extent, and/or how it works’. As for an approach based on sternly demanding increased punishment for drug-related offences, the report commented that it ‘is strikingly effective, not in solving the problem, but in alleviating the political pressure to “do something”’. In a more positive vein, some evidence was found that ‘sanction

¹³⁰ D Weatherburn, L Topp, R Midford and S Allsopp, *Drug Crime Prevention and Mitigation: A Literature Review and Research Agenda*, The NSW Bureau of Crime Statistics and Research, 2000, p 1.

¹³¹ *Ibid*, p 10.

¹³² *Ibid*, p 23.

certainty is more important than sanction severity in deterring crime'. The report also noted that, 'since it is possible that large benefits in terms of harm reduction might flow from small deterrent effects, we need to know more about the relationship between deterrence and harm reduction'.¹³³

Similar in many ways to the deterrence theory is the drug law enforcement approach based on the *disruption of illegal drug markets*. On one side, this can occur through strategies in which enforcement is directed at sellers of illegal drugs (supply-side drug law enforcement). On the other, it can occur through strategies directed at the purchasers of illegal drugs (demand-side drug law enforcement). The issues to be addressed in each case are somewhat different. For *supply-side* enforcement, they include: whether it is possible to influence the price and availability of illicit drugs through supply-side controls; what sorts of supply-side strategies are most effective in influencing the price, purity and/or availability of an illicit drug; and what impact will such changes have on consumption. In relation to all these issues the report found the supply-side policy 'remains seriously under-researched'. Various research findings were noted, including one study which suggested that, faced with price increases, illicit drug users 'are inclined to seek treatment or to reduce their consumption'.¹³⁴ However, the general conclusion was that 'Little is known about the effects and effectiveness of supply-side' drug law enforcement. Optimistically, it was said that all the outstanding questions 'would be resolved if we had a well grounded model of the dynamics of illicit drug markets'.¹³⁵

The issues to be addressed for *demand-side* enforcement were as follows: what are the effects of enforcement 'crackdowns'? does the pressure created by demand-side enforcement motivate entry into treatment? In relation to police crackdowns on drug hot spots, the report found that the relevant studies had produced conflicting results, varying with a wide range of 'contextual factors'. Issues of 'displacement' were discussed and it was concluded that: 'The effects of police crackdowns appear variable, at least in the short-run. The long-run picture is more encouraging. A number of studies have found evidence that over time, street level DLE [drug law enforcement] increases the willingness of dependent drug users to seek treatment'.¹³⁶ Thus, there is some basis for suggesting that demand-side enforcement can motivate entry into treatment. For example, a 1999 study by Weatherburn and others of 510 heroin users in western and south-western Sydney was said to have found that 'more than 60 per cent of respondents who were in MMT [methadone maintenance treatment] at the time of the interview rated "avoiding more trouble with the police/courts" as an important or very important reason for entering treatment'.¹³⁷ Also,

¹³³ Ibid.

¹³⁴ Ibid, p 29.

¹³⁵ Ibid, p 36.

¹³⁶ Ibid, p 31.

¹³⁷ Ibid, p 32. The reference is to D Weatherburn, B Lind and L Forsythe, *Drug Law Enforcement: Its Effect on Treatment Experience and Injection Practices*, NSW Bureau of Crime Statistics and Research, 1999.

respondents who had been imprisoned or had a family member or friend imprisoned for a drug-related offence were more likely to have had some experience of MMT. However, the findings were not consistent across all ethnic groups. Respondents of Asian background, in particular, were more likely than other respondents to have been arrested and imprisoned but less likely to have been in methadone treatment. Further, the correlation between experience of arrest and/or imprisonment for a drug-related offence and experience of MMT disappeared when controls were introduced for respondent age and/or duration of heroin use. 'This suggests', the report said, 'that it may be difficult to disentangle the effects of contact with police and the criminal justice system from those produced by other factors associated with age'.¹³⁸

The NSW Bureau of Crime Statistics and Research report also discussed the potential costs of drug law enforcement, warning that despite its potential benefits, this policy option 'cannot be regarded as either cost free or risk free'. The report continued:

Aggressive street level drug law enforcement can encourage unsafe injection practices, such as rapid injection of drugs, needle-sharing, or failure to use precautions such as a swab or tourniquet. It can also encourage corruption and/or systematic violations of civil liberty.¹³⁹

The work of Lisa Maher and others is cited in this last respect, a study which maintained that the street level enforcement carried out in Cabramatta 'has involved repeated violations of civil liberties and at least the appearance, if not the reality of corruption'.¹⁴⁰ According to this study, some informants told the researchers that police had seized illegal drugs and money from them without arresting or charging them, while others reported having been subjected to illegal strip searches and racial vilification. For its part, the NSW Bureau of Crime Statistics and Research noted that in Australia 'the negative effects' of drug law enforcement had received more research attention than the positive effects. All the same, the report accepted that 'there is still a need for further research on ways of reducing the harm caused' by drug law enforcement. To this end, it said 'it would be useful to devise and evaluate protocols designed to minimise the various harms now associated with DLE'.¹⁴¹

5. CONCLUSIONS

The one thing to emerge from this brief survey of the literature is that there are no ready made answers to the problems associated with the use of illicit drugs. From a policy perspective, there is general agreement that harm minimisation is the primary aim of public

¹³⁸ D Weatherburn et al, n 130, p 33.

¹³⁹ Ibid.

¹⁴⁰ Ibid. The work referred to is – L Maher, D Dixon, W Swift and T Nguyen, *Anh Hai: Young Asian Background People's Perceptions and Experiences of Policing*, University of NSW Faculty of Law, 1997.

¹⁴¹ D Weatherburn et al, n 130, p 37.

policy and that drug law enforcement must serve that overriding goal. But from that point on there is considerable scope for argument, both about the overall thrust of public policy and about the role enforcement is to play in a detailed sense.

As noted, to date much of the academic research in Australia has concentrated on the negative effects of drug law enforcement and for these researchers the main thrust of public policy should be towards the regulation, not prohibition, of the illicit drug market. For this drug regulation model 'the essential task for police is to regulate markets for illicit drugs in ways that reduce the most serious harms, including the harms that arise from prohibition'.¹⁴² According to this regulatory model, drug law enforcement has a role to play, but it should be seen in terms of a contribution to a multi-agency approach in which the police seek to shape the 'drug market in ways that minimise aggregate harms'.¹⁴³ A specific suggestion is that 'police should avoid interventions at the point of self-administration because of the health and safety risks to police and drug users alike'.¹⁴⁴ It is argued, from this standpoint, that police crackdowns serve only to demonstrate the extent to which the policing of such drug hot spots as Cabramatta has become 'a politically-charged, symbolic issue', in the context of which drug law enforcement is all too often 'a response to political pressure for publicly visible action'.¹⁴⁵

In the past this drug regulation model could have been contrasted with an unmitigated prohibitionist approach. That is no longer the case. At every level the debate has moved on to incorporate the concept of harm minimisation and to acknowledge the need for a complex response in the form of a multi-agency approach. According to one point of view, the prevailing orthodoxy is 'epitomised by the "armed stretcher-bearer" metaphor, in which law enforcement wages all-out war on the enemy-supplier, while also ferrying user-victims to the health system'.¹⁴⁶ It is certainly the case that in NSW - through the Drug Court scheme, the trial injecting room and other initiatives - there is now a determination to combine 'tough' drug law enforcement approaches with a more 'tender' commitment to directing user-victims into treatment. The Premier's statement of 27 March 2001 encapsulates that dichotomy, as does the general thrust of the Government's policy on illicit

¹⁴² S James and A Sutton, 'Developments in Australia Drug Law Enforcement: Taking Stock' (2000) 11 *Current Issues in Criminal Justice* 257 at 267.

¹⁴³ L Maher and D Dixon, 'Law enforcement, harm minimisation, and risk management in a street-level drug market', forthcoming article in *Current Issues in Criminal Justice*.

¹⁴⁴ *Ibid.* Maher and Dixon present 'five modest suggestions'. The targeting of those who supply street-level dealers is one; another is that police should be instructed not to confiscate or destroy injecting equipment from users who are searched in the street. Maher and Dixon also propose that 'police should seek to contain and localise the drug market and drug use in locations which cause least harm', although they admit that such a policy 'might attract political controversy'. In response they argued: 'it should be pointed out that police operations in Cabramatta involved deliberate displacement. If this intention had been publicised in advance, it would have been no less politically controversial than what is suggested here'.

¹⁴⁵ *Ibid.*

¹⁴⁶ S James and A Sutton. n 142 at 267.

drugs. 'Drugs are a complex problem', the Premier has said, 'The Government is tackling that problem through the multi-faceted approach established in the Government's Plan of Action in response to the Drug Summit Recommendations. \$176 million over four years has been devoted to implementing those recommendations'.¹⁴⁷ As ever, there is ample scope for argument over emphasis and detail. The debate about the proposed new police powers and the curtailment of civil liberties is one example. Questions which might arise concerning the availability of adequate treatment facilities and sufficient qualified personnel to run those facilities is another.

There is no doubting the huge resource commitment that must be made to combating the problems and challenges posed by illicit drug use. If there is any certainty in all this, it is that the resource commitment and the proliferation of policy initiatives which accompanies it will not diminish in the foreseeable future. Less certain is whether further research into the effects of drug law enforcement is likely to bring a greater consensus to the policy debate. That said, it does nothing to lessen the need for research, both official and unofficial in nature, to assist in an open and informed debate about the best probable courses of action.

APPENDIX A
REGIONAL ANALYSIS OF SELECTED CRIME RATES IN NSW

Regional analysis of selected crime rates in NSW: The recorded crime rate figures are broken down according to the Statistical Divisions (SDs) or Statistical Subdivisions (SSDs) used by the NSW Bureau of Crime Statistics and Research. It is reported that, between January 1999 and December 2000, although the overall trend was stable for the offence category *break and enter – dwelling*, there were three NSW SDs and four SSDs within Sydney showing significant upward trends:

- Sydney SD (up 7%);
- Inner Sydney SSD (up 18%);
- Eastern Suburbs SSD (up 36%);
- Fairfield-Liverpool SSD (up 23%);
- Gosford-Wyong SSD (up 19%);
- Murrumbidgee SD (up 14%); and
- Murray SD (up 33%).¹

For the offence category *break and enter – non dwelling* for the same period, January 1999 to December 2000, the analysis showed a significant upward monthly trend in two regions in NSW and six regions within the Sydney SD:

- Sydney SD (up 9%);
- Eastern Sydney SSD (up 11%);
- St George-Sutherland SSD (up 12%);
- Fairfield-Liverpool SSD (up 34%);
- Outer Western Sydney (up 14%);
- Blacktown-Baulkham Hills SSD (up 17%);
- Lower Northern Sydney SSD (up 13%); and
- Illawarra SD (up 14%).²

For the offence category *motor vehicle theft* for the same period, January 1999 to December 2000, the analysis showed a significant upward monthly trend in four SDs in NSW and five SSDs within the Sydney region:

- Sydney SD (up 7%);
- Fairfield-Liverpool SSD (up 17%);
- Outer South-Western Sydney SSD (up 18%);
- Central Western Sydney SSD (up 5%);
- Blacktown-Baulkham Hills SSD (up 9%);
- Hornsby-Ku-ring-gai SSD (up 27%);
- Hunter SD (up 25%);
- Mid-North Coast SD (up 12%);
- Murray SD (up 18%).³

¹ M Chilvers, *Crime and Justice Statistics: NSW Recorded Crime Statistics 2000 - Regional Analysis of Crime Trends*, NSW Bureau of Crime Statistics and Research, p 7.

² *Ibid.*, p 7.

³ *Ibid.*

For the offence category *steal from motor vehicle* for the same period, January 1999 to December 2000, the analysis showed a significant upward monthly trend in most Sydney and some country regions. However, the Fairfield-Liverpool SSD is not among them.

- Sydney SD (up 17%);
- Inner Sydney SSD (up 21%);
- St George-Sutherland SSD (up 22%);
- Canterbury-Bankstown SSD (up 21%);
- Outer South Western Sydney SSD (up 30%);
- Inner Western Sydney SSD (up 13%);
- Central Western Sydney SSD (up 18%);
- Blacktown-Baulkham Hills SSD (up 25%);
- Hornsby-Ku-ring-gai SSD (up 34%);
- Gosford-Wyong SSD (up 52%);
- Hunter SD (up 20%);
- North Western SD (up 21%); and
- Murray SD (up 30%).⁴

It is also reported that, between January 1999 and December 2000, although the overall trend was stable for the offence category *steal from person*, an upward trend was recorded in four Sydney regions:

- St George-Sutherland SSD (up 14%);
- Fairfield-Liverpool SSD (up 13%);
- Blacktown-Baulkham Hills SSD (up 24%); and
- Gosford- Wyong SSD (up 27%).⁵

The report commented that of the above four regions, only Fairfield-Liverpool SSD recorded 'a rate higher than the average state rate in 2000'. It added that the rate of steal from person in Gosford-Wyong SSD 'remains one of the lowest within sydney SD'.⁶

⁴ Ibid, p 8.

⁵ Ibid, p 9.

⁶ Ibid.

APPENDIX B
NEW SOUTH WALES RECORDED CRIME STATISTICS BY AREA 1995-2000
FAIRFIELD-LIVERPOOL STATISTICAL SUBDIVISION

**NSW Recorded Crime Statistics
1995 - 2000
Recorded Criminal Incidents**

Type of offence	1995		1996		1997		1998		1999		2000		
	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	
Homicide	Murder*	7	2.4	10	3.2	8	2.5	7	2.1	9	2.7	5	1.5
	Attempted murder	4	1.3	9	2.9	16	5.0	20	6.1	17	5.1	19	5.6
	Murder accessory, conspiracy	0	0.0	0	0.0	3	0.9	0	0.0	2	0.6	2	0.6
	Manslaughter - not driving*	0	0.0	1	0.3	1	0.3	1	0.3	0	0.0	0	0.0
	Manslaughter - driving*	0	0.0	0	0.0	4	1.2	3	0.9	6	1.8	7	2.1
Assault	1931	650.4	2420	772.2	2592	808.5	2709	827.0	2765	829.8	2792	820.0	
Sexual offences	Sexual assault	111	37.4	151	48.2	172	53.7	145	44.3	129	38.7	158	46.4
	Indecent assault, act of indecency	128	43.1	171	54.6	182	56.8	192	58.6	170	51.0	169	49.6
	Other sexual offences	45	15.2	45	14.4	41	12.8	32	9.8	39	11.7	43	12.6
Abduction and kidnapping	20	6.7	28	8.9	22	6.9	46	14.0	41	12.3	31	9.1	
Robbery	Robbery without a weapon	307	103.4	420	134.0	520	162.2	615	187.7	545	163.6	653	191.8
	Robbery with a firearm	77	25.9	116	37.0	116	36.2	96	29.3	78	23.4	70	20.6
	Robbery with a weapon not a firearm	88	29.6	189	60.3	305	95.1	439	134.0	401	120.3	426	125.1
Other offences against the person	69	23.2	73	23.3	71	22.1	151	46.1	160	48.0	164	48.2	
Theft	Break and enter - dwelling	3465	1167.1	4597	1466.8	5686	1773.7	5056	1543.5	4618	1385.9	5667	1664.3
	Break and enter - non-dwelling	2052	691.1	2682	855.8	2145	669.1	2115	646.7	1968	590.6	2629	772.1
	Possess implements	124	41.8	103	32.9	134	41.8	172	52.5	135	40.5	222	65.2
	Receiving	218	73.4	186	59.3	230	71.7	253	77.2	180	54.0	141	41.4
	Goods in custody	504	169.8	478	152.5	856	267.0	1154	352.3	1106	331.9	906	266.1
	Motor vehicle theft	4479	1508.6	4446	1418.6	4566	1424.3	4348	1327.4	4081	1224.8	4759	1397.7
	Steal from motor vehicle	2312	778.7	3211	1024.6	3479	1085.2	3434	1048.3	4197	1259.6	4779	1403.5
	Steal from retail store	1473	496.1	1648	525.8	1456	454.2	1260	384.7	1189	356.8	1280	375.9
	Steal from dwelling	855	288.0	990	315.9	904	282.0	1020	311.4	1106	331.9	1083	318.1
	Steal from person	680	229.0	733	233.9	782	243.9	679	207.3	638	191.5	722	212.0
	Stock theft	30	10.1	17	5.4	17	5.3	27	8.2	12	3.6	15	4.4
	Fraud	803	270.5	1328	423.7	1416	441.7	1538	469.5	1826	548.0	1843	541.3
	Other theft	1846	621.8	2136	681.6	2005	625.4	2055	627.4	2293	688.2	2827	771.5
Demand money with menaces	41	13.8	49	15.6	59	18.4	77	23.5	78	23.4	78	22.9	
Extortion, blackmail	2	0.7	3	1.0	7	2.2	4	1.2	6	1.8	7	2.1	
Arson	240	80.8	361	115.2	446	139.1	434	132.5	439	131.7	563	165.3	
Malicious damage to property	3462	1166.0	3964	1264.8	3191	995.4	3431	1047.4	3958	1187.8	4262	1251.7	

**NSW Recorded Crime Statistics
1995 - 2000
Recorded Criminal Incidents**

Fairfield-Liverpool Statistical Subdivision

Type of offence	1995		1996		1997		1998		1999		2000		
	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	
Drug offences	Possession and/or use of cocaine	2	0.7	3	1.0	2	0.6	13	4.0	30	9.0	23	6.8
	Possession and/or use of narcotics	604	203.4	679	216.7	927	289.2	1319	402.7	1129	338.8	790	232.0
	Possession and/or use of cannabis	227	76.5	237	75.6	375	117.0	479	146.2	490	147.1	299	87.8
	Possession and/or use of other drugs	62	20.9	37	11.8	87	27.1	117	35.7	138	41.4	120	35.2
	Dealing, trafficking in cocaine	5	1.7	0	0.0	0	0.0	4	1.2	6	1.8	2	0.6
	Dealing, trafficking in narcotics	443	149.2	368	117.4	403	125.7	283	86.4	248	74.4	171	50.2
	Dealing, trafficking in cannabis	31	10.4	27	8.6	28	8.7	38	11.6	35	10.5	30	8.8
	Dealing, trafficking in other drugs	31	10.4	12	3.8	18	5.6	18	5.5	19	5.7	28	8.2
	Cultivating cannabis	69	23.2	61	19.5	47	14.7	55	16.8	28	8.4	22	6.5
	Importing drugs	1	0.3	0	0.0	0	0.0	0	0.0	5	1.5	0	0.0
Other drug offences	81	27.3	235	75.0	310	96.7	276	84.3	193	57.9	149	43.8	
Offensive behaviour													
Offensive conduct	50	16.8	64	20.4	71	22.1	58	17.7	82	24.6	57	16.7	
Offensive language	138	46.5	130	41.5	171	53.3	219	66.9	263	78.9	158	46.4	
Prostitution offences	4	1.3	4	1.3	5	1.6	6	1.8	9	2.7	9	2.6	
Betting and gaming offences	1	0.3	6	1.9	0	0.0	0	0.0	0	0.0	1	0.3	
Weapons offences	196	66.0	254	81.0	277	86.4	328	100.1	625	187.6	580	170.3	
Against justice procedures	Escapée - Corrective Services custody	7	2.4	4	1.3	6	1.9	0	0.0	1	0.3	2	0.6
	Escapée - Police custody	12	4.0	15	4.8	14	4.4	20	6.1	11	3.3	17	5.0
	Escapée - Juvenile detention	0	0.0	2	0.6	1	0.3	0	0.0	1	0.3	0	0.0
	Escapée - other custody	0	0.0	1	0.3	2	0.6	1	0.3	3	0.9	2	0.6
	Breach Apprehended Violence Order	157	52.9	266	84.9	379	118.2	508	155.1	415	124.5	381	111.9
	Breach bail conditions	75	25.3	115	36.7	120	37.4	263	80.3	277	83.1	266	78.1
	Breach of recognizance	33	11.1	74	23.6	49	15.3	32	9.8	50	15.0	44	12.9
	Fail to appear	142	47.8	221	70.5	199	62.1	133	40.6	101	30.3	96	28.2
	Other offences against justice procedures	402	135.4	546	174.2	440	137.3	432	131.9	493	148.0	368	108.1
	Driving offences												
Culpable driving	0	0.0	1	0.3	1	0.3	7	2.1	15	4.5	12	3.5	
PCA	456	153.6	522	166.6	492	153.5	666	203.3	1062	318.7	952	279.6	
Drive while disqualified	367	123.6	476	151.9	560	174.7	1062	324.2	1938	581.6	1701	499.6	
Drive manner/speed dangerous	121	40.8	144	45.9	122	38.1	162	49.5	161	48.3	199	58.4	
Other driving offences	841	283.3	1038	331.2	1213	378.4	1798	548.9	2828	848.7	4877	1432.3	
Other offences	734	247.2	912	291.0	1158	361.2	1862	568.4	3159	948.1	2880	845.8	

**NSW Recorded Crime Statistics
1995 - 2000
Recorded Criminal Incidents**

Liverpool Local Government Area

Type of offence	1995		1996		1997		1998		1999		2000		
	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	
Homicide	Murder*	2	1.8	2	1.6	3	2.3	3	2.2	2	1.4	0	0.0
	Attempted murder	1	0.9	0	0.0	1	0.8	5	3.7	3	2.1	3	2.0
	Murder accessory, conspiracy	0	0.0	0	0.0	0	0.0	0	0.0	1	0.7	1	0.7
	Manslaughter - not driving*	0	0.0	0	0.0	0	0.0	1	0.7	0	0.0	0	0.0
	Manslaughter - driving*	0	0.0	0	0.0	0	0.0	2	1.5	4	2.8	3	2.0
Assault	818	744.7	1044	840.0	1212	928.8	1209	883.2	1236	864.7	1200	804.0	
Sexual offences	Sexual assault	50	45.5	94	75.6	95	72.8	60	43.8	66	46.2	71	47.6
	Indecent assault, act of indecency	60	54.6	102	82.1	98	75.1	91	66.5	100	70.0	87	58.3
	Other sexual offences	23	20.9	28	22.5	27	20.7	14	10.2	24	16.8	24	16.1
Abduction and Kidnapping	8	7.3	11	8.9	6	4.6	16	11.7	13	9.1	8	5.4	
Robbery	Robbery without a weapon	99	90.1	129	103.8	153	117.3	160	116.9	216	151.1	254	170.2
	Robbery with a firearm	29	26.4	36	29.0	38	29.1	29	21.2	20	14.0	21	14.1
	Robbery with a weapon not a firearm	28	25.5	52	41.8	118	90.4	158	115.4	135	94.4	144	96.5
Other offences against the person	29	26.4	35	28.2	25	19.2	58	42.4	57	39.9	49	32.8	
Theft	Break and enter - dwelling	1479	1346.4	1730	1391.9	2266	1736.5	1838	1342.7	2067	1446.0	2672	1790.2
	Break and enter - non-dwelling	761	692.8	1015	816.6	882	675.9	760	555.2	773	540.8	1254	840.2
	Possess implements	57	51.9	38	30.6	39	29.9	46	33.6	44	30.8	66	44.2
	Receiving	102	92.9	68	54.7	92	70.5	92	67.2	65	45.5	45	30.1
	Goods in custody	179	162.9	143	115.1	220	168.6	258	188.5	315	220.4	210	140.7
	Motor vehicle theft	1601	1457.4	1622	1305.0	1866	1430.0	1811	1323.0	1794	1255.0	2197	1472.0
	Steal from motor vehicle	953	867.5	1322	1063.6	1649	1263.7	1657	1210.5	2334	1632.8	2387	1599.3
	Steal from retail store	811	738.3	870	700.0	779	597.0	684	499.7	605	423.2	592	396.6
	Steal from dwelling	415	377.8	469	377.3	450	344.9	553	404.0	583	407.8	583	390.6
	Steal from person	231	210.3	223	179.4	272	208.4	249	181.9	229	160.2	273	182.9
Demand money with menaces	Stock theft	12	10.9	7	5.6	8	6.1	13	9.5	7	4.9	11	7.4
	Fraud	370	336.8	489	393.4	618	473.6	649	474.1	727	508.6	809	542.0
	Other theft	806	733.7	959	771.6	896	686.6	949	693.3	1027	718.4	1205	807.3
Extortion, blackmail	11	10.0	15	12.1	24	18.4	27	19.7	32	22.4	32	21.4	
Atson	94	85.6	149	119.9	245	187.8	240	175.3	258	180.5	304	203.7	
Malicious damage to property	1561	1421.0	1767	1421.7	1489	1141.1	1754	1281.3	1950	1364.1	2220	1487.4	

**NSW Recorded Crime Statistics
1995 - 2000
Recorded Criminal Incidents**

Liverpool Local Government Area

Type of offence	1995		1996		1997		1998		1999		2000		
	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	
Drug offences	Possession and/or use of cocaine	1	0.9	0	0.0	0	0.0	4	2.9	2	1.4	2	1.3
	Possession and/or use of narcotics	29	26.4	21	16.9	32	24.5	41	30.0	75	52.5	43	28.8
	Possession and/or use of cannabis	94	85.6	75	60.3	100	76.6	161	117.6	173	121.0	125	83.7
	Possession and/or use of other drugs	21	19.1	16	12.9	12	9.2	14	10.2	38	26.6	20	13.4
	Dealing, trafficking in cocaine	1	0.9	0	0.0	0	0.0	3	2.2	0	0.0	0	0.0
	Dealing, trafficking in narcotics	7	6.4	4	3.2	16	12.3	4	2.9	12	8.4	2	1.3
	Dealing, trafficking in cannabis	20	18.2	10	8.0	13	10.0	27	19.7	18	12.6	24	16.1
	Dealing, trafficking in other drugs	22	20.0	7	5.6	5	3.8	3	2.2	9	6.3	8	5.4
	Cultivating cannabis	32	29.1	21	16.9	26	19.9	18	13.1	12	8.4	10	6.7
	Importing drugs	0	0.0	0	0.0	0	0.0	0	0.0	5	3.5	0	0.0
Other drug offences	27	24.6	21	16.9	30	23.0	44	32.1	33	23.1	22	14.7	
Offensive behaviour	Offensive conduct	34	31.0	43	34.6	34	26.1	24	17.5	36	25.2	26	17.4
	Offensive language	96	87.4	93	74.8	71	54.4	73	53.3	105	73.5	57	38.2
Prostitution offences	0	0.0	2	1.6	0	0.0	0	0.0	5	3.5	3	2.0	
Betting and gaming offences	1	0.9	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	
Weapons offences	66	60.1	86	69.2	106	81.2	100	73.1	210	146.9	175	117.2	
Against justice procedures	Escapée - Corrective Services custody	2	1.8	2	1.6	4	3.1	0	0.0	1	0.7	2	1.3
	Escapée - Police custody	2	1.8	8	6.4	3	2.3	5	3.7	4	2.8	1	0.7
	Escapée - juvenile detention	0	0.0	1	0.8	1	0.8	0	0.0	1	0.7	0	0.0
	Escapée - other custody	0	0.0	1	0.8	1	0.8	1	0.7	1	0.7	1	0.7
	Breach Apprehended Violence Order	76	69.2	153	123.1	179	137.2	265	193.6	204	142.7	178	119.3
	Breach bail conditions	40	36.4	44	35.4	30	23.0	51	37.3	73	51.1	90	60.3
	Breach of recognizance	11	10.0	13	10.5	11	8.4	13	9.5	22	15.4	15	10.0
	Fail to appear	48	43.7	54	43.4	43	33.0	45	32.9	46	32.2	35	23.4
	Other offences against justice procedures	194	176.6	215	173.0	158	121.1	136	99.3	135	94.4	105	70.3
	Driving offences	Culpable driving	0	0.0	0	0.0	0	0.0	4	2.9	9	6.3	6
PCA		291	264.9	266	214.0	241	184.7	310	226.5	456	319.0	438	293.5
Drive while disqualified		176	160.2	187	150.5	203	155.6	364	265.9	730	510.7	600	402.0
Drive manner/speed dangerous		62	56.4	58	46.7	56	42.9	68	49.7	60	42.0	71	47.6
Other offences	Other driving offences	444	404.2	434	349.2	514	393.9	722	527.4	1148	803.1	1818	1218.0
		299	272.2	397	319.4	490	375.5	468	341.9	569	398.0	645	432.1

**NSW Recorded Crime Statistics
1995 - 2000
Recorded Criminal Incidents**

Fairfield Local Government Area

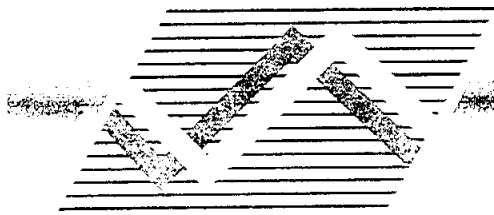
Type of offence	1995		1996		1997		1998		1999		2000		
	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	Total population	Rate per 100,000	
Homicide	Murder*	5	2.7	8	4.2	5	2.6	4	2.1	7	3.7	5	2.6
	Attempted murder	3	1.6	9	4.8	15	7.9	15	7.9	14	7.4	16	8.4
	Murder accessory, conspiracy	0	0.0	0	0.0	3	1.6	0	0.0	1	0.5	1	0.5
	Manslaughter - not driving*	0	0.0	1	0.5	1	0.5	0	0.0	0	0.0	0	0.0
	Manslaughter - driving*	0	0.0	0	0.0	4	2.1	1	0.5	2	1.1	4	2.1
Assault	1113	595.0	1376	727.6	1380	726.0	1500	786.7	1529	803.6	1592	832.5	
Sexual offences	Sexual assault	61	32.6	57	30.1	77	40.5	85	44.6	63	33.1	87	45.5
	Indecent assault, act of indecency	68	36.4	69	36.5	84	44.2	101	53.0	70	36.8	82	42.9
	Other sexual offences	22	11.8	17	9.0	14	7.4	18	9.4	15	7.9	19	9.9
Abduction and kidnapping	12	6.4	17	9.0	16	8.4	30	15.7	28	14.7	23	12.0	
Robbery	Robbery without a weapon	208	111.2	291	153.9	367	193.1	455	238.6	329	172.9	399	208.6
	Robbery with a firearm	48	25.7	80	42.3	78	41.0	67	35.1	58	30.5	49	25.6
	Robbery with a weapon not a firearm	60	32.1	137	72.4	187	98.4	281	147.4	266	139.8	282	147.5
Other offences against the person	40	21.4	38	20.1	46	24.2	93	48.8	103	54.1	115	60.1	
Theft	Break and enter - dwelling	1986	1061.7	2867	1516.1	3420	1799.2	3218	1687.7	2551	1340.8	2995	1566.1
	Break and enter - non-dwelling	1291	690.2	1667	881.5	1263	664.4	1355	710.6	1195	628.1	1375	719.0
	Possess implements	67	35.8	65	34.4	95	50.0	126	66.1	91	47.8	156	81.6
	Receiving	116	62.0	118	62.4	138	72.6	161	84.4	115	60.4	96	50.2
	Goods in custody	325	173.8	335	177.1	636	334.6	896	469.9	791	415.7	666	363.9
	Motor vehicle theft	2878	1538.6	2824	1493.3	2700	1420.4	2537	1330.5	2287	1202.0	2562	1339.7
	Steal from motor vehicle	1359	726.5	1889	998.9	1830	962.7	1777	931.9	1863	979.2	2392	1250.8
	Steal from retail store	662	353.9	778	411.4	677	356.2	576	302.1	584	306.9	688	359.8
	Steal from dwelling	440	235.2	521	275.5	454	238.8	467	244.9	523	274.9	500	261.5
	Steal from person	449	240.0	510	269.7	510	268.3	430	225.5	409	215.0	449	234.8
	Stock theft	18	9.6	10	5.3	9	4.7	14	7.3	5	2.6	4	2.1
	Fraud	433	231.5	839	443.7	798	419.8	889	466.2	1099	577.6	1034	540.7
	Other theft	1040	556.0	1177	622.4	1109	583.4	1106	580.0	1266	665.4	1422	743.6
Demand money with menaces	30	16.0	34	18.0	35	18.4	50	26.2	46	24.2	46	24.1	
Extortion, blackmail	2	1.1	3	1.6	5	2.6	3	1.6	4	2.1	6	3.1	
Arson	146	78.1	212	112.1	201	105.7	194	101.7	181	95.1	259	135.4	
Malicious damage to property	1901	1016.3	2197	1161.8	1702	895.4	1677	879.5	2008	1055.4	2042	1067.8	

**NSW Recorded Crime Statistics
1995 - 2000
Recorded Criminal Incidents**

Fairfield Local Government Area

Type of offence	1995		1996		1997		1998		1999		2000		
	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	Total	Rate per 100,000 population	
Drug offences	Possession and/or use of cocaine	1	0.5	3	1.6	2	1.1	9	4.7	28	14.7	21	11.0
	Possession and/or use of narcotics	575	307.4	658	347.9	895	470.8	1278	670.2	1054	554.0	747	390.6
	Possession and/or use of cannabis	133	71.1	162	85.7	275	144.7	318	166.8	317	166.6	174	91.0
	Possession and/or use of other drugs	41	21.9	21	11.1	75	39.5	103	54.0	100	52.6	100	52.3
	Dealing, trafficking in cocaine	4	2.1	0	0.0	0	0.0	1	0.5	6	3.2	2	1.0
	Dealing, trafficking in narcotics	436	233.1	364	192.5	387	203.6	279	146.3	236	124.0	169	88.4
	Dealing, trafficking in cannabis	11	5.9	17	9.0	15	7.9	11	5.8	17	8.9	6	3.1
	Dealing, trafficking in other drugs	9	4.8	5	2.6	13	6.8	15	7.9	10	5.3	20	10.5
	Cultivating cannabis	37	19.8	40	21.2	21	11.0	37	19.4	16	8.4	12	6.3
	Importing drugs	1	0.5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Other drug offences	54	28.9	214	113.2	280	147.3	232	121.7	160	84.1	127	66.4	
Offensive behaviour													
Offensive conduct	16	8.6	21	11.1	37	19.5	34	17.8	46	24.2	31	16.2	
Offensive language	42	22.5	37	19.6	100	52.6	146	76.6	158	83.0	101	52.8	
Prostitution offences	4	2.1	2	1.1	5	2.6	6	3.1	4	2.1	6	3.1	
Betting and gaming offences	0	0.0	6	3.2	0	0.0	0	0.0	0	0.0	1	0.5	
Weapons offences	130	69.5	168	88.8	171	90.0	228	119.6	415	218.1	405	211.8	
Against justice procedures	Escapee - Corrective Services custody	5	2.7	2	1.1	2	1.1	0	0.0	0	0.0	0	0.0
	Escapee - Police custody	10	5.3	7	3.7	11	5.8	15	7.9	7	3.7	16	8.4
	Escapee - juvenile detention	0	0.0	1	0.5	0	0.0	0	0.0	0	0.0	0	0.0
	Escapee - other custody	0	0.0	0	0.0	1	0.5	0	0.0	2	1.1	1	0.5
	Breach Apprehended Violence Order	81	43.3	113	59.8	200	105.2	243	127.4	211	110.9	203	106.1
	Breach bail conditions	35	18.7	71	37.5	90	47.3	212	111.2	204	107.2	176	92.0
	Breach of recognizance	22	11.8	61	32.3	38	20.0	19	10.0	28	14.7	29	15.2
	Fail to appear	94	50.3	167	88.3	156	82.1	88	46.2	55	28.9	61	31.9
	Other offences against justice procedures	208	111.2	331	175.0	282	148.4	296	155.2	358	188.2	263	137.5
	Driving offences												
Culpable driving	0	0.0	1	0.5	1	0.5	3	1.6	6	3.2	6	3.1	
PCA	165	88.2	256	135.4	251	132.0	356	186.7	606	318.5	514	268.8	
Drive while disqualified	191	102.1	289	152.8	357	187.8	698	366.1	1208	634.9	1101	575.7	
Drive manner/speed dangerous	59	31.5	86	45.5	66	34.7	94	49.3	101	53.1	128	66.9	
Other driving offences	397	212.2	604	319.4	699	367.7	1076	564.3	1680	883.0	3059	1599.6	
Other offences	435	232.6	515	272.3	668	351.4	1394	731.1	2590	1361.3	2235	1168.7	

APPENDIX C
DRUG AND THEFT OFFENCES IN CABRAMATTA LOCAL AREA
COMMAND:1998 TO 2000 by **PETER DOAK**
NSW BUREAU OF CRIME STATISTICS AND RESEARCH, APRIL 2001



May 2001

DRUG AND THEFT OFFENCES IN CABRAMATTA LOCAL AREA COMMAND: 1998 TO 2000

Peter Doak

Over the three years from January 1998 to December 2000 the number of recorded incidents for drug offences in Cabramatta Local Area Command (LAC) has fallen, indicating that police are apprehending fewer drug offenders. Over the same period the number of recorded incidents for receiving and goods in custody has also fallen sharply. The number of recorded incidents for theft offences, other than receiving and goods in custody, in Cabramatta LAC fell between 1998 and 1999 but rose between 1999 and 2000.

The level of crime in Cabramatta is the subject of frequent attention in the media. Many reports appear to be based on speculation and anecdotal evidence. This brief examines recorded crime statistics for drug and theft offences for the Cabramatta Local Area Command (LAC) for the years 1998 to 2000. Rates of offending per 100,000 population in Cabramatta LAC are compared to corresponding rates for the whole of NSW. Trends in the monthly incidence of drug and theft crime for the 24 months from January 1999 to December 2000

are presented.¹ Where the trends are significant the magnitude of the change is indicated by the percentage change in the annual totals for 1999 and 2000.

INCIDENCE OF DRUG OFFENCES

Cabramatta is a known centre of dealing and trafficking in drugs, particularly heroin. Table 1 shows the rate per 100,000 population of recorded drug offences in Cabramatta LAC² and NSW. It is important to note that drug offences are normally detected by police rather than

Table 1: Rate per 100,000 resident population for recorded drug offences, Cabramatta LAC and NSW 1998 to 2000

Drug offence	1998		1999		2000	
	Cabramatta LAC	NSW	Cabramatta LAC	NSW	Cabramatta LAC	NSW
Possession and/or use of cocaine	12.8	4.4	32.8	3.1	30.9	3.2
Possession and/or use of narcotics	2,100.0	47.7	1,697.7	47.0	1,173.3	37.8
Possession and/or use of cannabis	351.5	178.1	313.6	179.5	167.1	168.0
Possession and/or use of other drugs	153.8	28.8	109.4	35.9	99.9	39.1
Dealing, trafficking in cocaine	1.8	2.0	5.5	3.2	3.6	1.4
Dealing, trafficking in narcotics	463.2	12.0	399.3	13.5	279.7	12.8
Dealing, trafficking in cannabis	11.0	17.3	16.4	15.4	3.6	13.1
Dealing, trafficking in other drugs	16.5	7.6	7.3	8.9	12.7	11.6
Cultivating cannabis	22.0	36.2	7.3	30.3	9.1	24.9
Other drug offences	344.2	49.7	211.5	47.6	178.0	42.5
Total drug offences	3,476.7	383.7	2,800.9	384.4	1,957.9	354.4

Table 2: Recorded incidents for drug offences, Cabramatta LAC and NSW 1998 to 2000

<i>Drug offence</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>24-month trend 1999 to 2000</i>	<i>Annual % change 1999 to 2000</i>
Possession and/or use of cocaine	7	18	17	Not significant	
Possession and/or use of narcotics	1147	931	646	Downward	-30.6
Possession and/or use of cannabis	192	172	92	Downward	-46.5
Possession and/or use of other drugs	84	60	55	Not significant	
Dealing, trafficking in cocaine	1	3	2	Not significant	
Dealing, trafficking in narcotics	253	219	154	Not significant	
Dealing, trafficking in cannabis	6	9	2	Not significant	
Dealing, trafficking in other drugs	9	4	7	Not significant	
Cultivating cannabis	12	4	5	Not significant	
Other drug offences	188	116	98	Not significant	
Total drug offences	1899	1536	1078	Downward	-29.8

reported to police. Changes, over time, in the rates of recorded incidents for drug offences in a specific area reflect changes in the level of police activity in attempting to apprehend drug offenders in that area. On the other hand, comparisons of rates between different areas show the relative seriousness of the drug problem in each area. Very high rates of recorded incidents for drug offences in an area indicate a serious drug problem. It is also important to recognise that the rates for the Cabramatta LAC will be inflated by the number of non-residents who travel to Cabramatta to purchase drugs.

It is clear that the Cabramatta LAC has very high rates of recorded incidents for drug offences. In 2000, for example, Cabramatta LAC accounted for 26.4 per cent of possession of narcotics offences and 18.6 per cent of dealing and trafficking in narcotics offences but less than 0.9 per cent of the population of NSW. For offences involving narcotics, the rates are up to forty times the NSW rate. For cocaine and 'other' drugs the offending rates for Cabramatta LAC, while much lower than for narcotics, are still many times the NSW rates. For cannabis the offending rates for Cabramatta LAC are much closer to, and sometimes lower than, the NSW rates.

Table 2 shows the number of recorded drug offences in each of the years 1998, 1999 and 2000 for Cabramatta LAC and the results of the tests for trend in the monthly incidence of drug offences for the 24 months from January 1999 to December 2000. There has been a general decline in the number of recorded incidents for drug offences in the Cabramatta LAC in the years 1998 to 2000. There were statistically significant downward trends in the monthly incidence of possession and/or use of narcotics, possession and/or use of cannabis and total drug offences. The annual number of recorded incidents of possession and/or use of narcotics fell 30.6 per cent, the annual number of recorded incidents of possession and/or use of cannabis fell 45.6 per cent

and the annual total number of recorded incidents for drug offences fell 29.8 per cent between 1999 and 2000. The monthly trend in the incidence of dealing and trafficking in narcotics, which fell by a similar percentage, just failed to reach the 0.05 significance level ($p=0.055$).

INCIDENCE OF THEFT OFFENCES

It is well established that many drug dependent people resort to property crime to fund their drug use. It is therefore reasonable to expect high rates of theft to be recorded in and around areas with high rates of drug offending. Table 3 shows the rate per 100,000 population of theft offences for Cabramatta LAC compared with the rate for all of NSW. Unlike drug offences most theft crimes are reported to police. The exceptions are receiving and goods in custody which are mainly detected by police. Like recorded drug offences, the incidence of receiving and goods in custody offences is more a measure of police activity than an indication of the scale of crime.

Table 3 indicates that, over the three years 1998 to 2000, the annual rates per 100,000 population for break and enter – dwelling, possess implements, motor vehicle theft, steal from person and fraud offences in Cabramatta LAC are consistently and considerably higher than the corresponding rates for NSW. The annual rates for break and enter – non-dwelling, steal from motor vehicle, steal from retail store, steal from dwelling and other theft offences are consistently and considerably lower in Cabramatta than the corresponding rates for NSW. The annual rates for receiving are two to three times higher and the annual rates for goods in custody are from five to eight times higher in Cabramatta LAC than in NSW as a whole. For total theft offences, excluding receiving and goods in custody, there is little difference in the rates per 100,000 population for Cabramatta LAC and NSW. When receiving and goods in custody are included in total theft offences the rates for Cabramatta LAC are from nine to twenty per cent higher than the corresponding rates for NSW.

Table 3: Rate per 100,000 resident population for theft offences, Cabramatta LAC and NSW 1998 to 2000

<i>Theft offence</i>	<i>1998</i>		<i>1999</i>		<i>2000</i>	
	<i>Cabramatta LAC</i>	<i>NSW</i>	<i>Cabramatta LAC</i>	<i>NSW</i>	<i>Cabramatta LAC</i>	<i>NSW</i>
Break and enter – dwelling	1,821.7	1,354.2	1,331.1	1,213.3	1,749.0	1,250.8
Break and enter – non-dwelling	514.5	770.1	413.9	716.9	613.9	766.9
Possess implements	153.8	25.3	93.0	24.4	174.4	26.4
Motor vehicle theft	1,312.7	850.5	1,316.6	755.5	1,516.5	808.8
Steal from motor vehicle	877.0	1,192.0	964.6	1,216.0	1,253.2	1,385.9
Steal from retail store	179.4	333.3	153.2	329.1	281.5	325.9
Steal from dwelling	274.6	489.2	242.5	474.0	263.3	490.0
Steal from person	371.7	183.6	339.2	181.1	392.3	197.4
Fraud	516.3	414.1	661.9	421.2	599.3	409.0
Other theft	476.0	920.0	621.8	1011.3	672.0	1,121.9
Subtotal	6,497.6	6,532.4	6,137.9	6,342.7	7,515.4	6,783.1
Receiving	150.1	43.7	100.3	35.4	61.8	29.7
Goods in custody	1,124.1	133.2	875.3	149.1	773.7	145.4
Total theft offences	7,771.9	6,709.3	7,113.4	6,527.2	8,350.9	6,958.1

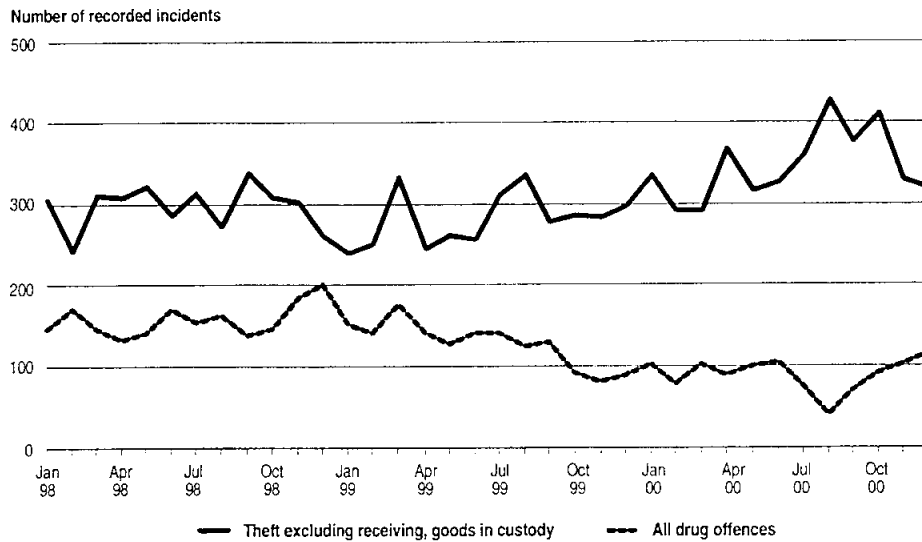
Table 4 shows the number of recorded theft offences in each of the years 1998, 1999 and 2000 for Cabramatta LAC and the results of the tests for trend in the monthly incidence of theft offences for the 24 months from January 1999 to December 2000. There is a clear pattern of increase in the incidence of theft offences in Cabramatta LAC in the years 1998 to 2000. There were statistically significant upward trends in the monthly incidence of break and enter – dwelling, break and enter – non-dwelling, motor vehicle theft, steal from motor vehicle, and steal from person over the 24 months from January 1999 to December 2000. Between 1999 and 2000, the number of break and enter – dwelling offences

increased by 31.9 per cent, the number of break and enter – non-dwelling offences increased by 48.9 per cent, the number of motor vehicle theft offences increased by 15.7 per cent, the number of steal from motor vehicle offences increased by 30.4 per cent, and the number of steal from person offences increased by 16.1 per cent. The annual totals for receiving and goods in custody have declined each year from 1998 to 2000 though there is no significant downward trend in the monthly incidence of these offences over the 24 months from January 1999 to December 2000. There was a significant upward trend over the 24 months from January 1999 to December 2000 in the monthly incidence of total theft

Table 4: Recorded incidents for theft offences, Cabramatta LAC and NSW 1998 to 2000

<i>Drug offence</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>24-month trend 1999 to 2000</i>	<i>Annual % change 1999 to 2000</i>
Break and enter – dwelling	995	730	963	Upward	31.9
Break and enter – non-dwelling	281	227	338	Upward	48.9
Possess implements	84	51	96	Not significant	
Motor vehicle theft	717	722	835	Upward	15.7
Steal from motor vehicle	479	529	690	Upward	30.4
Steal from retail store	98	84	155	Not significant	
Steal from dwelling	150	133	145	Not significant	
Steal from person	203	186	216	Upward	16.1
Fraud	282	363	330	Not significant	
Other theft	260	341	370	Not significant	
Subtotal	3,549	3,366	4,138	Upward	22.9
Receiving	82	55	34	Not significant	
Goods in custody	614	480	426	Not significant	
Total theft offences	4,245	3,901	4,598	Upward	17.9

Figure 1: Incidence of drug offences and theft offences, Cabramatta LAC, 1998 to 2000



offences both excluding receiving and goods in custody (up by 22.9%) and including receiving and goods in custody (up by 17.9%).

Figure 1 graphically displays the information set out above. As noted the number of drug offences detected is largely a measure of policing activity. Receiving and goods in custody offences have been excluded from the theft category because they also measure policing. The general increase in the number of recorded theft offences and the decline in the number of detected drug offences are clearly illustrated.

SUMMARY

Cabramatta LAC has very high rates of drug offending, particularly for narcotics offences. The number of drug offences detected by police has declined substantially between 1998 and 2000. This fact notwithstanding, in 2000, police at Cabramatta LAC detected drug offences at five times the rate and narcotics offences at twenty to thirty times the rate of NSW as a whole.

The pattern of theft offences recorded for Cabramatta LAC is far less simple. The rates for receiving and goods in custody offences are much higher than for NSW as a whole. These rates have declined between 1998 and 2000

though there was no statistically significant downward trend in the monthly incidence of these offences in the 24 months from January 1999 to December 2000. Despite this decline, in 2000, the rate of detection of receiving offences in Cabramatta LAC was more than twice that of NSW as a whole. The rate of detection of goods in custody offences in Cabramatta LAC was more than five times that of NSW as a whole.

The number of theft offences recorded for Cabramatta LAC has risen between 1998 and 2000. For the 24 months from January 1999 to December 2000 there have been statistically significant upward trends for half of the theft offences and for total theft offences. For the offences of break and enter – non-dwelling, motor vehicle theft and steal from motor vehicle there were also significant upward trends in NSW as a whole but the magnitude of the rise between 1999 and 2000 was approximately twice as great in Cabramatta LAC as in NSW overall. The monthly incidence of break and enter – dwelling and steal from person offences showed statistically significant upward trends for the 24 months from January 1999 to December 2000 in Cabramatta LAC but there was no corresponding upward trend for all of NSW.

NOTES

- 1 The trend test used was Kendall's rank-order correlation test (see, for example, Conover, W.J. 1980, *Practical Non-Parametric Statistics*, 2nd edn, John Wiley and Sons, pp. 256-260). A two tailed test was used to determine whether there had been an increasing or decreasing trend in the recorded numbers of criminal incidents over the most recent twenty-four month period covered in the brief. The test for trend is not sensitive to seasonal variations; it is sensitive only to a generally increasing or generally decreasing trend over the time period examined.
- 2 Annual population numbers are not available for Cabramatta LAC. Population estimates have been used for rate calculations. At the 1996 census the population of the area covered by Cabramatta LAC was 54,186. The population is very stable with an average annual growth rate in Fairfield Local Government Area of only 0.4 per cent between 1995 and 2000. Applying this growth rate gives estimates of 54,620 (1998), 54,840 (1999) and 55,060 (2000)

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TITLE	NUMBER
<i>Banks and Community Obligations</i> by Gareth Griffith	1/00
<i>The Future of the Snowy River</i> by Stewart Smith	2/00
<i>The Protection of Human Rights: A Review of Selected Jurisdictions</i> by Gareth Griffith	
<i>Incidence and regulation of domestic violence in NSW</i> by Rachel Simpson	4/00
<i>DNA testing and criminal justice</i> by Gareth Griffith	5/00
<i>Teacher Registration</i> by Marie Swain	6/00
<i>Salinity</i> by Stewart Smith	7/00
<i>New Water Management Legislation in NSW: A Review</i> by Stewart Smith	8/00
<i>Crimes Amendment (Child Protection – Excessive Punishment) Bill 2000: Background and Commentary</i> by Gareth Griffith	9/00
<i>Adoption and Care and Protection of Children: The Proposed Legislative Changes</i> by Marie Swain	10/00
<i>State Owned Corporations: A Review</i> by Stewart Smith	11/00
<i>Pre-Trial Defence Disclosure: Background to the Criminal Procedure Amendment (Pre-Trial Disclosure) Bill 2000</i> by Gareth Griffith	12/00
<i>Copyright, Privilege and Members of Parliament</i> by Gareth Griffith	13/00
<i>Federal-State Financial Relations: After the GST</i> by John Wilkinson	14/00
<i>Waste Management in NSW: A Review</i> by Stewart Smith	1/01
<i>Permanency Planning and Adoption</i> by Abigail Rath	2/01
<i>Euthanasia: An Update</i> by Gareth Griffith	3/01
<i>Options for Sydney's Second Airport</i> by Stewart Smith	4/01
<i>Electoral Misconduct and the Regulation of Political Parties</i> by Rowena Johns	5/01
<i>Police Powers and Drug Law Enforcement in NSW</i> by Gareth Griffith	6/01