

## **“The Effects of “P” on Crime”**

### **INTRODUCTION**

#### **Ese Junior FALEALII**

On the morning of the 16 May 2002 readers of the New Zealand Herald were confronted with this large colour photo on the front page of their newspaper. The associated article went on to describe the callous shooting of bank teller John Vaughan at point blank range by a “crazed” killer at the Mangere Branch of the ASB Bank on the preceding day.

For one reader the photo did more than to convey a sense of horror at the pointless killing of a man who had already raised his hands in surrender and was offering no resistance. The particular reader, the mother of Ese Falealii recognised the killer as her son. She courageously picked up the telephone and called the Police.

Soon after his arrest, Ese Falealii pleaded guilty to:

- The murder of John Vaughan at the ASB Bank.
- The murder of 18 year old Marcus Doig in a Pakaranga pizza shop a week earlier.
- The attempted murder of John Bell, the owner of the Pakaranga pizza shop.
- Along with a string of violent aggravated robberies committed at other premises such as TABs, bars and other commercial premises.

Falealii was sentenced to life imprisonment with an 18 year minimum non-parole period.

His three co-offenders were also charged, with different combinations of those same offences. They were the ones who put the sawn off shot gun in his hands,

chose the target premises and drove him to and from the scenes.

A feature in the background of all the offending was methamphetamine or “meth” and in its pure crystalline form “pure” or “P”. Almost every one of those armed robberies, Ese would later say in his evidence both at the depositions hearing and at the trial of his co-offenders, was preceded by a session of smoking P.

With Ese named as a witness for the prosecution, not surprisingly defence counsel for the three co-offenders requested that he be called to give oral evidence at the depositions hearing of the charges against them.

As I prepared for that hearing, the common theme that emerged from Ese’s statements was that the drug was usually consumed just before he went in and committed the armed robberies. His statements described how he was taken to the targets, the co-offenders would explain where to go and what to do and while all this was being done the methamphetamine pipe would be passed around as the co-offenders worked him into the necessary state of intense arousal. A further common theme, that emerged from the statements of the terrified shop assistants and other people who had found themselves staring down the end of the sawn off shotgun that Ese wielded (and sometimes fired off indiscriminately) was that the offender presented as:

- Highly agitated
- Unpredictable
- Extremely aggressive
- Talking quickly and using foul language

These next photos show him in the East Tamaki TAB. The manager behind the counter was absolutely terrified (and still affected even when he came to give evidence in the trial over a year later).

This offender was the man I was to meet together with two Police officers on a Sunday afternoon in the cells at the Auckland Central Police Station just before the depositions started.

He presented on that occasion as a rather awkward, quiet and respectful 18 year old. As we spoke it was apparent that he was not well educated but nevertheless he was able to understand and communicate quite clearly.

My assessment of him on that occasion was similar to the way in which he presented to the psychiatrist who prepared the report for Court prior to his sentencing. The psychiatrist referred to him in this way:

*“At interview on each occasion Mr Falealii presented as quiet and respectful in manner ... He established reasonable rapport and engaged well ... His vocabulary was relatively simple but clear and appropriately used.”*

Of course by the time he was interviewed for the report and at the time I spoke to him he was off P.

## **Outline of Presentation**

In this presentation I will cover:

### *Part 1*

- What is “P”
- How it is used
- Who is using it
- How it is made
- Why they are making it
- Crime associated with “P”

Rees will then address:

### *Part 2*

- Pharmacology
- Clinical effects
- Methamphetamine and aggression
- Methamphetamine and psychosis
- Methamphetamine and violence
- Methamphetamine, psychosis and intent
- Methamphetamine and insanity

### **WHAT IS “P”**

Methamphetamine is a powerfully addictive synthetic stimulant which is commonly used as a recreational drug. It was developed from its parent drug amphetamine. It appears in two main forms in the New Zealand market.

1. A powder which is usually white in colour but can be found in shades of brown, orange, yellow or pink depending on impurities in the product. The powder is soluble in water and alcohol and can be injected in this form. Or it can be snorted as a powder.
2. Crystals – This form of methamphetamine is the most pure and is becoming much more common. The white or translucent crystals have the appearance of rock salt. Both the powder and the crystals are associated with the terms “pure” and “P”. You may also hear the crystals called “ice” or “burn”.

### **HOW IT IS USED**

The form of the drug determines how the drug is used.

Smoking meth is the most common method. This can be accomplished in several different ways:

- (a) Smoking on tinfoil
  - (i) Meth placed on the tinfoil
  - (ii) Heat is applied
  - (iii) Smoke rises
  - (iv) Fumes inhaled, using a funnel
- (b) Smoking using a light bulb
  - (i) Common method
  - (ii) Filament and screw assembly removed
  - (iii) Meth placed inside
  - (iv) Heat applied
  - (v) Fumes inhaled
- (c) Smoking using a pipe.
  - (i) Similar principles to the light bulb.

Snorting meth – similar to what you might think of with snorting cocaine.

- (a) Can be done with “lines” or with a form of an inhaler, and referred to as a “bullets” or “star bullets”.

Injecting meth – this is for the true addict – the effect is much faster.

Meth can also be eaten or drunk.

- (a) Some advantages
  - (i) Prevents nasal problems of snorting

- (ii) Avoids keeping meth paraphernalia in your home
- (b) Some disadvantages: meth has a very bitter taste.

Because it is odourless, if smoking is your preference it can be consumed relatively easily even in a public place.

## **WHO IS USING P**

The worrying thing for law enforcement agencies, welfare agencies and the community in general is that (despite the photos you see up there) there is no stereotypical methamphetamine user. It transcends socio-economic boundaries. Given the statistics it could be said with some degree of confidence that children or grandchildren of those present tonight have tried “P”, are presently using it or have friends who use it.

It is much more readily available than many realise and is used by people of all ages, backgrounds, incomes and ethnicity. For example:

Recreational/social users. They often combine it with other drugs (cannabis) and alcohol. Their reason for use - to stay up later, party harder and of course for its pleasurable effects (which Rees will tell you about)

Other users, for other reasons:

- (a) Athletes and Students – for initially heightened performance
- (b) Blue collar and service workers – it enables them to do extra shifts, and longer hours (its quicker and probably cheaper than buying an extra 200 espresso shots)
- (c) Weight loss (particularly in young women).

It is also relatively cheap at street level. You can buy a point (a tenth of a gram, for \$80 to \$120). That’s enough to get between 2 to 4 hits.

One of the officers in the Auckland Drug Squad commented recently in a Police Association newsletter that “P use among 17 to 35 year olds is becoming socially acceptable”.

His words - “There is this perception amongst government agencies and the public in general that this is a lower socio-economic problem stemming from places like South Auckland, but that is not the case at all.”

On a fairly grim note he warned that the majority of New Zealanders are ignorant of the growing destruction that P is causing in their communities in the toll being taken on families and individuals lives. He warned “Watch the youth suicide rates increase significantly in the next 5 years”.

## **HOW IT IS MADE**

Methamphetamine in its various forms has been available in this country since the late 1980s. At that time it was mostly sourced from the United States and Australia.

It was not until the 1990s that it began to be manufactured locally but then it was only in small volumes for personal use rather than commercial distribution. These days some meth is still smuggled in from overseas, particularly in its pure form.

But most is made here, in clandestine laboratories, commonly referred to as “Clan labs”.

One thing that makes the drug so attractive to the manufacturer and that makes its detection by the Police so difficult, is that everything that is required to set up a clan lab or a mobile laboratory can be fitted into a small sports bag and moved from place to place with very little risk of detection.

In recent years the number of meth clan labs discovered by the Police has increased exponentially:

- (a) 1997: 2
- (b) 1998: 2
- (c) 1999: 5
- (d) 2000: 9
- (e) 2001: 41
- (f) 2002: 147
- (g) 2003: 248
- (h) 2004: So far its 150. That is without Police having the extra resources to go out and actively find them. (The latest that I am aware of was discovered last Wednesday in the Metropolis in Chancery Lane in the City. You may have seen the article in the New Zealand Herald. Along with the lab was \$1 million worth of meth (at street value) and a firearm).

In addition to the ease of manufacture, another factor which makes methamphetamine so attractive to those making it are the high yields obtained from the base product or precursor substance pseudoephedrine.

Where does the pseudoephedrine come from?

- (i) Initially, pseudoephedrine was simply purchased from pharmacies in NZ, in the form of “off the shelf” medication such as:
  - (i) Actifed
  - (ii) Sudomyl
  - (iii) Telfast
  - (iv) Benedryl

But, soon pharmacists got onto that, and made it more difficult –

requiring identification, keeping registers, limiting the amount that can be purchased. That led to teams of pill shoppers touring the country, going from chemist to chemist buying a packet or two at a time.

In 2000 a packet of 120 mg Telfast antihistamine tablets retailing at \$12 to \$14 would sell on the black market for \$25 to \$30. Now the black marketeer can sell the same packet for \$100 (or more if demand is high and supply is short).

(j) As it has become more difficult to buy in bulk in New Zealand, those making methamphetamine have turned to overseas for supplies. This is now a significant problem for the Customs Department. The product is either:

(i) Brought in by couriers. The main source countries are in Asia, particularly China.

As I understand it from the people we deal with in the Customs Department, the products they are seizing from

the couriers are pseudoephedrine and the natural product ephedrine which is extracted from the ephedra plant. These seizures are split 50:50 as between ephedrine and pseudoephedrine.

Those caught bringing the product in, I am told, are mainly short stay students but also their parents.

The early seizures were from people who were caught bringing in capsules strapped to their bodies. Now they are alive to the fact that the capsules can be detected by x-rays and so are removing the powder from the capsules before strapping it to themselves.

A recent seizure at Auckland Airport involved two Chinese nationals who were both short stay students. They were caught with an amount in excess of 4kg of pseudoephedrine strapped to their bodies.

- (ii) The other way the precursors come in is by mail to an address in New Zealand. 90% of the mail intercepts involve Chinese short stay students. Last year by way of example, Customs intercepted a package from Hanoi containing 13,000 tablets of precursor. That was a good sized haul then. Now its average.]

I am told that in the year ended 30 June 2004 Customs seizures at the border (that includes airport and mail deliveries) was 1.2 million tablets or the crushed equivalent. That is double the amount they seized in the previous 12 months and a 3,000% increase from 3 years ago. At the moment it is 450 intercepts in a 12 month period.

Bringing the precursor in from overseas does however have many advantages:

- It is easier to obtain so it can be sourced in bulk.
- It is cheaper.

Other sources are:

- (k) Burglaries – pharmacies or pharmaceutical companies
- (l) Internet ordering – which is becoming more common

Once the precursor has been sourced essentially, all that's needed is a cook and some alcohol to mix with the precursor. Then some iodine, hypophosphorous acid, water, caustic soda, and acetone.

It is not really that hard to do. And it's not too hard to hide – but here are some of the indicators of a clan lab.

- Blacked out windows
- Running water for extended periods
- Chemical smells
- Irregular hours for visitors
- Motorised pumps/motors running for long periods
- People acting as “lookouts” watching the street.

There are risks involved – and these are:

- (a) Explosion
- (b) Toxic fumes and gases [you hear stories from the police about how it is easy to spot the cook, he's the pasty, yellow, looking one].
- (c) Chemical fires
- (d) Acid spills
- (e) Building contamination
- (f) Dangers for the police and ambulance workers who attend the scene of fires and explosions.

My knowledge of chemistry is limited to Stage 1 BSC. However, I understand that even if the supply of pseudoephedrine and ephedrine were to dry up – as a result of becoming classified as Class C drugs – and so introducing a more effective penalty (at the moment it is not an offence to import it – the available charge is possession or perhaps conspiracy which is not easy to prove). Then the

manufacturers will simply turn to another precursor substance.

However, other methods of manufacture using those other substances are more dangerous, they use more toxic chemicals and the waste products from some of the super labs which have been seen in USA and Europe are often dumped indiscriminately causing potential for greater public harm than exists here in New Zealand at the moment.

## **WHO IS MAKING IT – THE GANGS**

Those most commonly associated with the manufacture of methamphetamine are the gangs, particularly the motorcycle gangs who were traditionally associated with the importation of LSD and speed. On occasion gangs which have traditionally competed will work co-operatively. For example sharing a cook or co-operating on distribution. Interestingly some of the gangs who are making it wont allow their patched members to use it because of the effects of the drug.

## **WHY ARE THEY MAKING IT?**

For the money. The gangs are into it because it is so profitable. To return to the high yield I mentioned a moment ago.

To give you some idea of the profits:

- (a) Take, say, 1,000 120mg tablets. On the black market that is about \$10,000 of precursor. Broken down, it yields 120 grams of pseudoephedrine.
- (b) The manufacturers (or cooks as they are called) are usually untrained. Even so, even a novice cook can achieve a 50% conversion rate. So out of 120 grams of pseudoephedrine a cook should be able to get at least 60 grams of pure methamphetamine.
- (c) A gram of methamphetamine sells for about \$1,000.

- (d) At \$1,000 per gram, that is \$60,000 worth of “P”; not bad for an investment of about \$10,000.
- (e) And what is more, that quantity can be easily manufactured in a day.

Without a doubt, “P” is providing the best return of any illicit drug on the market. And the gangs are getting extremely rich on it. Just a few examples among many.

Last year a search warrant executed at an unremarkable Mt Eden home located \$140,000.00 in cash in a hidden cavity behind a wall mirror.

Again last year when the police executed a search warrant on an inner city fully furnished serviced apartment the residents were 3 unemployed 20 year olds. In their car the Police located \$33,000.00 in cash and a “tick book” recording recent sales.

An unemployed owner of a brand new car was found with \$120,000.00 in a clean sac in the boot of the car.

## **OFFENDING ASSOCIATED WITH P**

Obviously those who participate in the manufacture – pill shoppers if the necessary knowledge or intent can be proved and cooks - and those who are involved in distribution and sale commit offences.

Methamphetamine itself was reclassified in 2003 and is now a Class A controlled drug. In other words “one which poses a very high risk of harm”. The maximum penalty for importation, manufacture or supply is life imprisonment.

It also gives the police greater powers in terms of search and seizure (eg. Search without warrant).

There is also the Proceeds of Crime legislation but with sophisticated profit laundering that is not always easy to succeed in.

There are also the down stream consequences which we know about – robbery, burglary, theft etc on the part of those who need the funds to maintain their habits. And the wasted human potential for those who progress on from casual use.

Then there is the violent crime committed by those affected by P. The anecdotal evidence emerging from files arriving in our office and from the Police we work with is that there is increasing incidence of P featuring, where crimes of violence are committed.

Rees will talk about the effects of the drug and what in particular leads to its use being associated with violent crime.

Connected to this violent offending, over the next few years the Courts will inevitably face the issue of how to deal with the defences of insanity and perhaps automatism and intoxication when they are raised at trial. We may see interesting medico legal issues emerging and Rees will talk about these.

As to insanity, a thumbnail sketch from a lawyer's perspective by way of introduction to what Rees will say is that the foundation of any insanity defence must be the existence of a "disease of the mind". In any trial medical witnesses are permitted to say whether they regard a disorder as a "disease of the mind" but their classification is not final and whether or not a particular condition is a "disease of the mind" is a question of law for the Judge.

"Disease of the mind" does not include a temporary mental disorder caused by some factor external to the accused such as a blow on the head, the absorption of a drug, alcohol or an anaesthetic. However, the effect of such an external factor will support an insanity defence if it causes a disease of the mind or triggers an existing but quiescent disease of the mind. Rees will consider if there might be anything different about the effects of P, as opposed to other drugs, so as to provide an accused with a foundation for an insanity defence and the

consequences of that.

## **EFFECTS**

I will hand over to Rees in a moment. But before I do I will leave you with some thoughts from Ese Falealii about the effects of “P” on him.

In the course of his evidence, which took just over a week at trial, he spoke about the effects of P and what it did.

In cross-examination he was asked about whether the drug affected his memory. This was for obvious reasons, because defence counsel were very anxious to discredit what had been an excellent recall of the events associated with the robberies and murders.

He was asked,

*“Does smoking P affect your memory ... it affects people in different ways. For me yes and no.*

*So does it affect your memory ... No not at all ... it actually opens the doors up that were closed in your memory, sort of. It makes you remember further down. It is a strange drug.”*

That answer supported what the Crown’s psychiatrist had told us about P. For people who are not heavy users, the drug can in fact enhance memory and recall.

And Ese’s recall of events was particularly striking. As he gave his evidence (and this was more marked at depositions rather than at trial) he seemed to be describing the events of a film that he was watching as it scrolled through in his head.

On a number of occasions he was able to respond to a “what happened next” question with an answer that occupied up to 2 pages of typed transcript. The danger of interrupting him I found to my cost on a couple of occasions was that he

would completely lose his train of thought. So I learned to just let him go.

Finally, on the question of how the drug helped him committed the appalling crimes, I asked him to describe how he felt after taking P. He said this to the jury:

*“Its not like smoking pot or heroin or coke. It’s a totally different drug you know, doesn’t give you a buzz. Sometimes you don’t even know it – that you are buzzing, um, kind of takes a bit of fear away. Kinda boasts your adrenaline. Makes you hyped up. Keeps you up for ages. Makes you do things that you don’t normally do when you are straight.”*