

Response to Operation Tone

Department of Health and Human Services

1. Introduction

On 19 September 2017 the Independent Broad-based Anti-Corruption Commission's (IBAC) report titled *Operation Tone* was tabled in Parliament. The report examines the conduct of a number of Ambulance Victoria paramedics engaged in serious corrupt conduct, namely the theft, trafficking and use of drugs of dependence, and misappropriation of Ambulance Victoria equipment. Whilst it was noted that many paramedics are exemplars of their profession, *Operation Tone* identified a culture of illicit drug use and misappropriation of Ambulance Victoria equipment by individuals and among certain groups.

The *Operation Tone* report includes one recommendation to Ambulance Victoria and one recommendation to the Department of Health and Human Services (the department). Ambulance Victoria is responding to IBAC independently. IBAC's recommendation to the department reads as follows:

Recommendation 2

That DHHS consider the issues raised in Operation Tone and whether similar vulnerabilities could exist in other Victorian health services. The Department is to report to IBAC by 28 September 2018 on steps taken to address any such vulnerabilities in the broader health sector.

Operation Tone highlighted key vulnerabilities identified during IBAC's investigation into Ambulance Victoria. These include:

- Ambulance Victoria staff involvement in the misuse of drugs of dependence and the theft of drugs of dependence such as fentanyl and morphine;
- sharing of drugs of dependence and personally prescribed medications; and
- misappropriation of supplies for the benefit of self and others, including intravenous bags and cannulation equipment.

Illicit drugs are those that are prohibited for possession, and may be traded on the illegal drug market for recreational use. They may include substances such as heroin or methamphetamine (also known as "ice").

Drugs of dependence are medicines that may be provided to a patient for the treatment of a medical condition by a health practitioner, but also have a history of misuse or associated with addiction.

Operation Tone recommended that Ambulance Victoria conduct a comprehensive review of the use of illicit drugs and the misuse of drug of dependence by Ambulance Victoria employees, as well as the development and implementation of a more robust framework to prevent and detect such drug use. Ambulance Victoria were asked to consider:

- the development and communication of a clear policy on the use of illicit drugs and misuse of drugs of dependence, and the consequences of such use by AV employees, with reference to contemporary best practice
- the adequacy of the current drug testing regime and how it can be improved
- the adequacy of drug controls including drug disposal processes
- improving training and communication
- ensuring mechanisms are in place to encourage employees to report suspected misconduct or corrupt conduct including illicit drug use, misuse of drugs of dependence and misappropriation of equipment
- strengthening recruitment processes and policies

- improving training and communication to operational employees on relevant policies, including drug handling policies and procedures, and use of AV equipment for personal use
- providing appropriate welfare and support arrangements to employees who appear to be using illicit drugs and/or drugs of dependence.

Ambulance Victoria will be reporting back to IBAC about the progress made to implement these recommendations in September 2018.

While the prevalence of use of illicit drugs and misuse of drugs of dependence in health services is difficult to measure noting that health professionals in many sectors have access to drugs of dependence, the vulnerabilities identified in Operation Tone have application to the broader health sector.

The department supports all reasonable measures aimed at ensuring that health-related workplaces are safe and free of risk to the health and wellbeing of all employees and members of the public. Given the severity of the activities highlighted in Operation Tone, and the risk these activities pose to the community, especially in the risk to patients and employees who may be drug dependent, the department has already taken some preliminary steps on release of the report including revising communication to health services about how best to detect and prevent misappropriation of drugs and increased its compliance activity.

In considering IBAC's recommendation to assess the vulnerabilities of Victorian's health services and whether recommendations IBAC provided to Ambulance Victoria are applicable to other health services, the department has focussed its effort on Victoria's 30 large health services (16 metropolitan and 14 regional public hospitals) due to their size and reach to the community.

The 30 large public health services selected were that have had multiple sites or a 100 bed capacity.

It has also focussed on the misuse of illicit drugs and drugs of dependence, rather than the misappropriation of equipment, given the relative impact on the community and the department's regulatory responsibility for reducing the harms caused by the misuse of drugs of dependence through the *Drugs, Poisons and Controlled Substances Act 1981*.

The department has taken into consideration other relevant investigations like the Western Australia Corruption and Crime Commission *Report on serious misconduct risks around dangerous drugs in hospitals* (the WA CCC Report), which was tabled in the WA Parliament on 25 May 2018. In its response, the department has analysed current mechanisms to reduce the likelihood of the misuse of drugs or dependence, an assessment of whether despite these vulnerabilities still exist and whether other actions can be taken to minimise the likelihood further. Measures taken into consideration also include those proposed to Ambulance Victoria by IBAC.

2. Current mechanisms to reduce the likelihood of prescription or illicit drug misuse large public hospitals

Victoria has a number of mechanisms in place to reduce the likelihood of harm in its 30 large public health services, with some of these applying through existing governance and performance monitoring of our health services, as well as legislative requirements regulated either by the

department or by external regulators. These mechanisms reflect that the department and other regulators consider the misappropriation of drugs of dependence or use of illicit drugs by employees in health services can have severe consequences on the community and the patients that employees treat.

The May 2018 WA CCC report described the key factors that increase the likelihood of health professionals being placed at greater risk of drug misuse and abuse. These factors included the availability of drugs in the workplace and stress.¹ IBAC's Operation Tone highlighted that governance and cultural factors in an organisation play a key part in deterring and detecting these vulnerabilities, along-side regulatory mechanisms that set minimum standards for the storage and monitoring of drugs of dependence.

IBAC considers that the theft of controlled drugs for personal use or to be sold for financial gain is a significant corruption risk within the public health sector. Intelligence reports by law enforcement agencies and alerts by health departments nationally suggest that the misuse of pharmaceutical prescription medications in the community is increasing, in particular opioid analgesics (such as fentanyl, morphine and oxycodone) and benzodiazepines (such as Valium[®] and Xanax[®]). The department acknowledges that the increased demand for these substances and the access that health service staff have to these drugs creates a risk of corruption. Recent investigations by IBAC, Victoria Police and other Australian integrity agencies highlight the issue of drug thefts within the public health sector.²

It is acknowledged that the prevalence of drug misuse in hospital and health services is not well known, but given the consequences to the reputation of health services and the risk to health practitioners who may be drug affected and patients who may be treated by drug affected employees it is important that health services, the department and other regulators remain vigilant in deterring and detecting drug misuse.

2.1 Governance and policy arrangements for public health services

Governance of public health services in Victoria is set out in the *Health Services Act 1988* (Vic). The board of each health service is directly accountable to the Minister, and the Minister may direct a health service, initiate reviews or request information. Health service boards and executive are required to ensure that their health service is compliant with the relevant policy and legislative requirements, including their obligations to report lost or stolen drugs to the appropriate authorities and maintaining a safe work environment for their employees.

Performance Monitoring Framework

The department monitors health service performance through the Victorian Health Services Performance Monitoring Framework (PMF). The PMF encourages early identification of performance issues before they become performance failures and introduces a more robust and transparent information exchange between the department, health services and other entities to support improvement at the service level and across the health sector.

The PMF was revised and updated in 2017 to take into account the Review of Hospital Safety and Quality Assurance in Victoria (the Targeting Zero review). The *Victorian Health Services Performance monitoring framework 2018-19* does not include measures that directly relate to drugs of dependence misappropriation, however several measures relating to culture, governance and leadership help

¹ Western Australia Corruption and Crime Commission - *Report on serious misconduct risks around dangerous drugs in Hospitals*, 25 May 2018 – Misuse of pharmaceutical drugs by health professionals

² Corruption risks associated with the public health sector, October 2017, Independent Broad-based Anti-corruption Commission

support a strong workplace culture to reduce the likelihood of vulnerabilities identified in Operation Tone and ensure they do occur they are appropriately handled. As a part of the PMF, health services are also required to report to the department sentinel events which relate to adverse outcomes in patient treatment and their cause, which may detail whether inappropriate use of prescribed medicines or illicit drugs may have been a cause.

Financial governance

The department's policy and funding guidelines outline the requirements with which funded organisations must comply, in addition to their contractual and statutory obligations. Through such requirements, the department is able to underpin arrangements within health services to address issues identified in Operation Tone (such as need for clear policies, staff training, staff support services and appropriate recruitment procedures).

Victorian public hospitals are subject to the provisions of the *Financial Management Act 1994* (Vic) and the *Standing Directions of the Minister for Finance 2016* (the Standing Directions).

Under the Standing Directions each agency is required to establish a sound control environment including the security of property and accountabilities to minimise fraud or corruption occurring. Property can include drugs of dependence.

In the event that the preventative control systems fail, the agency is required report the loss or theft to the department, along with the responsible Minister, the Auditor General and the health service's Audit Committee.

2.2 Regulation of drugs of dependence within health services

All Victorian health services, including major public hospitals are subject to the requirements of the Victorian *Drugs, Poisons and Controlled Substances (DPCS) Act 1981* and the 2017 Regulations made under the Act set minimum standards for the handling prescription-only medicines. These requirements help ensure that prescription-only medicines are stored, accessed and supplied in a way that reduces the likelihood of harm to the community.

The Medicines and Poisons Regulation (MPR) Branch in the department is responsible for administering the DPCS legislation and does so through the following measures:

- MPR issues permits to enable corporate organisations such as health services to obtain prescription-only drugs from authorised suppliers (such as wholesalers). MPR assesses whether or not an organisation has suitable systems and facilities to comply with DPCS legislation prior to issuing such a permit. Once a permit is issued, MPR has ongoing over-sight of permit holders and investigates possible non-compliance.
- MPR routinely audits health practitioners or organisations like health services for compliance with DPCS legislation. MPR is able to take a number of steps in assisting compliance with legislation, including advising health practitioners in writing of areas that are required to address, inspecting their place of practice and providing personalised counselling.

Depending on the severity of non-compliance, MPR may refer matters to the Australian Health Practitioners Regulation Agency (AHPRA) or Victoria Police. Where appropriate, MPR may issue a formal notice of a deficiency or commence prosecution action against health practitioners or organisations in accordance with the legislation.

2.3 Reporting of health practitioner conduct that places the public at risk of harm

The *Health Practitioner Regulation National Law Act 2009* (National Law) regulates health professions in Australia³ and it is inclusive of registered health practitioners working in Victorian public hospitals. The National Law requires health practitioners to be registered under the National Registration and Accreditation Scheme (NRAS) and their employers to make mandatory notifications (or reports) about certain conduct by a registered health practitioner. Conduct that triggers a mandatory reporting obligation includes practising while intoxicated by alcohol or drugs; and placing the public at substantial risk of harm because of an impairment (the definition of impairment includes substance abuse or dependence).

Concerns have been raised that the current mandatory reporting requirements for treating practitioners (a health practitioner treating another health practitioner) under the National Law may deter some practitioners from seeking assistance and treatment for their health conditions.

Consequently, in August 2018, Health Ministers approved a targeted consultation process for proposed amendments to mandatory reporting requirements by treating practitioners that strike a balance between ensuring health practitioners can seek help when needed, while also protecting the public from harm. The consultation process will inform a Bill to progress amendments as soon as possible.

2.4 Reporting of criminal conduct or corruption in health services

In the most severe cases of drug misuse, either illicit or prescribed medicines, health services are required to report to Victoria Police.

Any incident involving a Victorian public sector employee committing theft should be reported to IBAC as corrupt activity. From December 2016 strengthened mandatory notification requirements were legislated that require principal officers to report to IBAC suspected corruption within their agency. This would include the theft of drugs from a health service. This is a vehicle for addressing corruption in its earlier stages before it causes significant and irreversible damage to public agencies, its staff and clients.⁴

3. Assessing the level of vulnerabilities

While Victorian public hospitals and health services are subject to a number of mechanisms to reduce the likelihood of misappropriation of drugs of dependence, it is a complex environment and there may be still be an underlying risk or gaps that leave Victorian public health services vulnerable.

The multiplicity of regulatory and performance management arrangements in Victorian health services means there is no single repository of data that can assess whether large public hospitals have in place key preventative measures to reduce the likelihood or are adequately delivering of their legislative and performance responsibilities. Given this, to assess the vulnerabilities, the department took three key steps:

³ Fourteen health professions are regulated under the National Law: Aboriginal and Torres Strait Islander health practice, Chinese medicine, chiropractic, dental, medical radiation practice, medical, nursing and midwifery, occupational therapy, optometry, osteopathy, pharmacy, physiotherapy, podiatry, and psychology. This will change to 16 in late 2018 when amendments to the National Law commence which will recognise nursing and midwifery as two separate professions and the addition of paramedicine as a new profession to be regulated under the National Law.

⁴ <http://www.ibac.vic.gov.au/docs/default-source/mandatory-notifications/directions-for-mandatory-notifications.pdf>

1. increased its DPCS compliance activity of health services;
2. surveyed 30 large public health services about the mechanisms that they have to address these vulnerabilities; and
3. sought data from key agencies that should receive reports about activities related to illicit drug use or drugs of dependence misappropriation.

This information helped determine the risk profile of health services and whether any further action needs to be taken to address any vulnerabilities identified.

3.1 Increased compliance activity with health services

Arising from the findings in the Operation Tone investigation, MPR reorganised its compliance activities to focus on auditing Victorian health services to assess their compliance with medicines and poisons legislation over the preceding 12 months (March 2018 – March 2019). The refocused compliance work by MPR includes an increase of 50 additional health service inspections (including some of Victoria's 30 large health services), in addition to the 80 health service reviews that are normally completed annually. Approximately half of the additional inspections will or are occurring at rural health services.

During these audits, the department reviews important indicators such as drug storage facilities and test samples of drug transaction records to test whether drugs of dependence are being appropriately stored and recorded. It is also an opportunity to educate health services about the ramifications of drug misappropriation, what steps that can be taken to deter and detect occurrences and what obligations are on health services for reporting any detected incidences.

Of these increased inspections, the department has not identified specific drug of dependence misuse issues in health services at this time, noting that Drugs and Poisons Officers do not inspect every drug transaction record, but samples of a reasonable number of records available at each site. The WA CCC report referred to an estimate that there may be millions of transactions of drugs within health services over a three year period.⁵ MPR also advocates for health services to conduct audits of their own records. This is consistent with the WA CCC Report, which recommended that health services conduct audits of drugs received, drug transactions and quantities on hand.⁶

Of the hospitals inspected by MPR, there were seven occasions where issues were identified with the records of dependence. Upon investigation, these issues were proven to be minor in nature. Overall, it shows that some health services don't appreciate that keeping and reviewing accurate records is a foundational mechanism to detect misappropriation and that they have a legal obligation to keep accurate records.

The department will continue to carry out targeted compliance with health services focussing on detecting the misuse of drugs of dependence.

3.2 Survey of health services

All 30 large public health services were surveyed to determine whether key ways Operation Tone identified to reduce the likelihood of misappropriation of drugs of dependence were in place or were being considered to be in-place in the future. This survey gave an overall picture of whether foundational mechanisms were performing well and also where there were opportunities for improvement, either within health services or where the department as system managers and regulators could improve monitoring and educational activities.

⁵ Western Australia Corruption and Crime Commission - *Report on serious misconduct risks around dangerous drugs in Hospitals*, 25 May 2018 – Analysis of notifications from WA Health

⁶ Western Australia Corruption and Crime Commission - *Report on serious misconduct risks around dangerous drugs in Hospitals*, 25 May 2018 – Recommendations

The aggregated data of the survey results is shown in **Table 1** with questions broadly covering two themes - governance and culture, as well as how services managed drugs of dependence.

The survey asked health services to report whether actions recommended to Ambulance Victoria to deter or detect illicit or drugs of dependence were in-place or could be considered by health services in the future to implement. The department's system of governance allows health services to make decisions to best meet their organisational and local needs, recognising that a solution in one place may not be the most effective solution in another environment. Due to this variability, not all tools suggested by Operation Tone may be applicable or appropriate for all health services.

Culture and workforce support

Cultural supports to detect and deter illicit drug use and drugs of dependence misuse or misappropriation were outlined in Operation Tone include: educating and communicating drug misuse policies to staff; encouraging the reporting of suspected drug misuse; providing welfare and support to those experiencing drug misuse; and strengthening recruitment processes to address possible drugs misuse amongst new employees.

Overall, the survey results indicated that there is a capacity amongst the 30 large health services to identify and address the issues if they arise through a variety of mechanisms. The survey found that 80 per cent of health services surveyed had made available information to staff the policies related to vulnerabilities highlighted in Operation Tone.

The survey identified that some health services have mechanisms in place that go beyond those identified by IBAC, including oversight of policies and procedures by medication safety committees, aggregated data being collected over a longer time period of incidents to identify trends and online education programs.

However, only 60 per cent of health services surveyed had an overall framework in place to address the misuse of drugs of dependence or the use of illicit drugs amongst staff. Those without a framework may not be considering how individual tools work together to address this issue.

Some underlying policies appeared to be lacking in a majority of surveyed health services, including providing information about the consequences of drug misuse and employees not providing their own medication for use by others. Additionally, only half of those surveyed indicated that they provide or would consider providing formalised training and/or information seminars for new employees on relevant issues. This indicates that while there is a general awareness of the issues there is a need to re-inforce policies and assist health services to develop these.

These results provide some clear directions to improve the culture and workforce supports to prevent and identify drug misuse. Additionally, in May 2018 the department developed a guidance document *Managing the risk of drug and equipment misuse by health service staff* (the guidance material) to outline many of the issues identified in Operation Tone to health services. The guidance material was prepared with consideration of legislation and best practice principles relevant to the prevention, detection and response to issues relating to the management of drugs by health service providers.

The department has also looked to the actions taken by Ambulance Victoria in response to Operation Tone. Ambulance Victoria has adopted new organisational approaches such as new recruitment processes, training packages for all operational staff and has reviewed relevant policies and procedures. The department sees merit in facilitating the sharing of these mechanisms with other health services and other already in place in some health services.

Safer Care Victoria will work with health services to develop best practice policy frameworks appropriate to their health service and facilitate the sharing of good examples across health services.

To re-inforce the importance of strong governance and cultural mechanisms to detect and deter inappropriate illicit drug or drug of dependence use or possession the department will introduce measures in the 2019-20 Victorian Health Service Performance Monitoring Framework. These measures will require health services to provide evidence that they have a framework in place to address vulnerabilities identified in Operation Tone.

Table 1: Aggregated survey results of 30 large Victorian health services about mechanisms to detect or deter the misuse of drugs of dependence or illicit drugs

Governance and culture	
Has a framework in place, and could indicate that the framework had been reviewed at the time of completing the survey	60%
Provides, or would consider providing policy documents in easily accessible locations around the workplace (either in hard copy or in electronic copy).	80%
Provides, or would consider providing formalised training and/or information seminars for new or existing staff	50%
Includes, or would consider including information in policy documents about the consequences of the misuse of drugs including: <ul style="list-style-type: none"> - Addiction, harm and even death in some circumstances; - Consequences to employment, or registration with the Australian Health Practitioner Regulation Agency. 	47%
Has, or would consider having, a policy that employees must not have any detectable levels of illicit substances when on-duty or on-call.	43%
Has, or would consider having, a policy that employees must not possess, distribute or dispense drugs within the workplace, unless within the capacity of their expressly authorised duties.	87%
Has, or would consider having, a policy that employees must not provide their own personal medication for use by others.	30%
Provides, or would consider providing, clear instructions to staff on how reports can be made.	83%
Providing or would provide counselling to staff that are affected by drug misuse	95%
Understand that randomised drug testing was an option for health services to detect or deter drug misuse.	100%
Confirmed that, in addition to the responsibilities to report incidents of lost drugs to the department, the health service is aware of its responsibilities to make reports: <ul style="list-style-type: none"> - To AHPRA of any incidents of health practitioners misusing drugs; and - To IBAC of any corrupt conduct, including the theft of any goods (including medicines) from a public health service by a staff member 	100%

Storage and recording of drugs of dependence	
Confirmed that the health service has considered strategies to deter and detect incidents where staff members may do any of the following: <ul style="list-style-type: none"> - Make false administration records; - Misappropriate residual amounts of liquid drugs of dependence after administration to a patient; - Tamper with plastic ampoules prior to use; - Try to misappropriate drugs during the drug destruction process. 	100%
Engages, or would consider engaging, internal auditors to regularly and randomly review and scrutinise the records of usage of drugs of dependence within the health service.	60%
Ensures, or would consider ensuring, that any drugs of dependence are made non-recoverable when being destroyed.	93%
Reviews, or would consider reviewing, administration records of drugs of dependence where the quantity or frequency of usage is noticeably more than would be reasonably expected for the purpose.	77%
Reviews, or would consider reviewing, administration records of drugs of dependence from ampoules where no (or few) records have been made to document the destruction of part of the liquid from an ampoule (when it would otherwise normally be warranted).	70%
Regularly inspects, or would consider inspecting, loose ampoules containing drugs of dependence that are made of plastic for signs of tampering.	37%

Randomised drug testing

The survey results showed that all health services understood randomised drug testing was an option for health services to detect or deter drug misuse.

There are protocols for drug and alcohol screening in some health sectors, as was noted in IBAC's report. These occur via the National Registration and Accreditation Scheme (NRAS) administered by the AHPRA, when a Board forms the belief that a practitioner has a drug or alcohol impairment. Most public sector health services also have policies in place that include the capacity for drug testing where the employer has a reasonable concern about an employee's drug or alcohol use.

Storage and recording of drugs of dependence

All health services surveyed had reviewed their systems to deter and detect misappropriation of drugs of dependence by staff members in the last 12 months. Additionally, over 90 per cent of health services surveyed responded that they are taking or would take steps to ensure that drugs of dependence are appropriately destroyed. This may be a direct result of the regulatory activity completed by MPR where appropriate access and security are checked as a part of compliance and applications.

The department notes that only 60 per cent of health services engage an auditor to regularly and randomly review and scrutinize records of usage of drugs of dependence – this indicates that some health service permit holders may not be actively detecting misappropriation and therefore may not be aware of these incidents. While these audits are conducted independently by the department as a part of its monitoring activities, health services are reminded that the overall responsibility rests with their organisation to manage these risks

While over 70 per cent of those surveyed reviewed records for drugs of dependence and ampoules use, only 37 per cent of respondents agreed that they regularly inspected loose ampoules containing drugs of dependence that are made from plastic or signs of tampering. This is particularly concerning given the risks highlighted in Operation Tone, this regular checking helps detect drug tampering, such as where liquid fentanyl is replaced with other substances.

Ambulance Victoria in response to Operation Tone has committed to implement a new compliance audit regime, to better monitor drugs of dependence - the department sees merit in assessing whether these could be applied in some health services.

The department will increase monitoring of those health services who have not regularly and randomly reviewed their records of usage of drugs of dependence and work with them to establish these arrangements.

3.3 Mandatory reporting requirements for health services

Health services are to report incidents that may relate to the misuse of illicit drugs or misappropriation of drugs of dependence which have been outlined previously.

IBAC has previously recognised the extent of the ‘overcrowding’ in the public health complaint reporting and oversight process⁷. However, reporting to other agencies and regulatory authorities helps ensure that organisations that service the community have are accountable for ensuring appropriate practices are in place and that systemic issues can be identified and addressed. All 30 largest health services have been reminded by the department about their obligations to report through previously released guidance material and meetings with CEOs of hospitals.

As a part of the assessment of vulnerabilities, the department has analysed the type and level of reporting made to the department, AHPRA and IBAC who have a key role in monitoring the level drug misuse in hospital services.

Reports of lost drugs of dependence made to the department

Any person or body that has the lawful authority to obtain scheduled drugs in Victoria also has the requirement to report to MPR instances where drugs are unaccounted for. Often these instances are identified through discrepancies in records. The department assesses all reports that it receives for necessary action depending on the circumstances and severity of the reported incident. **Figure 1** provides detail of these reports it had received from 14 July 2015 to 13 July 2018.

The most concerning circumstance when drugs are unaccounted for are those where a staff member has intentionally misappropriated drug stock. All incidents are also reported to Victoria Police. Where a health practitioner staff member has intentionally misappropriated drug stock, the incident must also be reported to AHPRA.

These types of incidents are concerning and represent areas for health services to improve practices. However, they do not necessarily mean that a staff member has intentionally caused drug stock to go missing. Whenever the department receives any report, the reporter must always indicate what steps will be taken to reduce the likelihood of a repeat event.

Aside from intentional misappropriation, there can be a wide variety of other reasons why drugs may be lost or unaccounted for. These reasons may include, but are not limited to:

- misplacing stock
- failing to make a record of administration or supply
- an inaccurate record of administration or supply
- incorrect calculations in stock records
- selecting incorrect stock for administration or supply
- transferring stock to an incorrect destination
- the general public (and not authorised health service staff) gaining access to, and misappropriating stock.

⁷ Corruption risks associated with the public health sector, October 2017, Independent Broad-based Anti-corruption Commission

In reviewing notifications, the department identifies notifications that represent the more significant or serious events (or series of events) to take further action. MPR may also visit the health service premises to inspect its premises and records to see if there are other events that should have been reported, or to advocate possible improvements in the way the health service operates to reduce the likelihood of a repeat event.

Where the department receives a report that identifies a health service staff member has been responsible for stealing or misappropriating drug stock, and is a registered health practitioner, the department requires the reporter to also report the incident to the Australian Health Practitioner Regulation Agency (AHPRA). This aligns with the mandatory national requirement for health service providers to make a mandatory report to AHPRA if they become aware that a health practitioner staff member is practising while intoxicated by drugs, or may be placing the public at risk because of a significant departure from accepted professional standards. The theft of drugs from a health service would be considered a significant departure from accepted professional standards.

From 14 July 2015 to 13 July 2018 the department received 582 reports from health service providers where drugs could not be accounted for, or where discrepancies in records indicated the possibility of lost drugs. These reports from health service providers included those from hospitals, as well as those from other health service providers. 178 reports were received from hospitals over this specific time period. The department also received additional reports from other entities that do not provide health services (including drug wholesalers or research organisations). 17 of the reports received from health service providers over the three year period identified health practitioners as stealing or misappropriating drugs.

Of the thirty large Victorian health services that were surveyed for the systems that they may have in place to address the types of issues identified in Operation Tone (discussed in Sections 3.2 of this document), nine did not make any notifications over the period that was analysed for lost drug reports (14 July 2015 to 13 July 2018).

The absence of reports suggests that some larger health services do not adequately monitor drug usage in their workplace to identify misappropriation. It may also be an indication that health services do not understand their responsibility to report such incidences or that health services have cultural barriers to reporting.

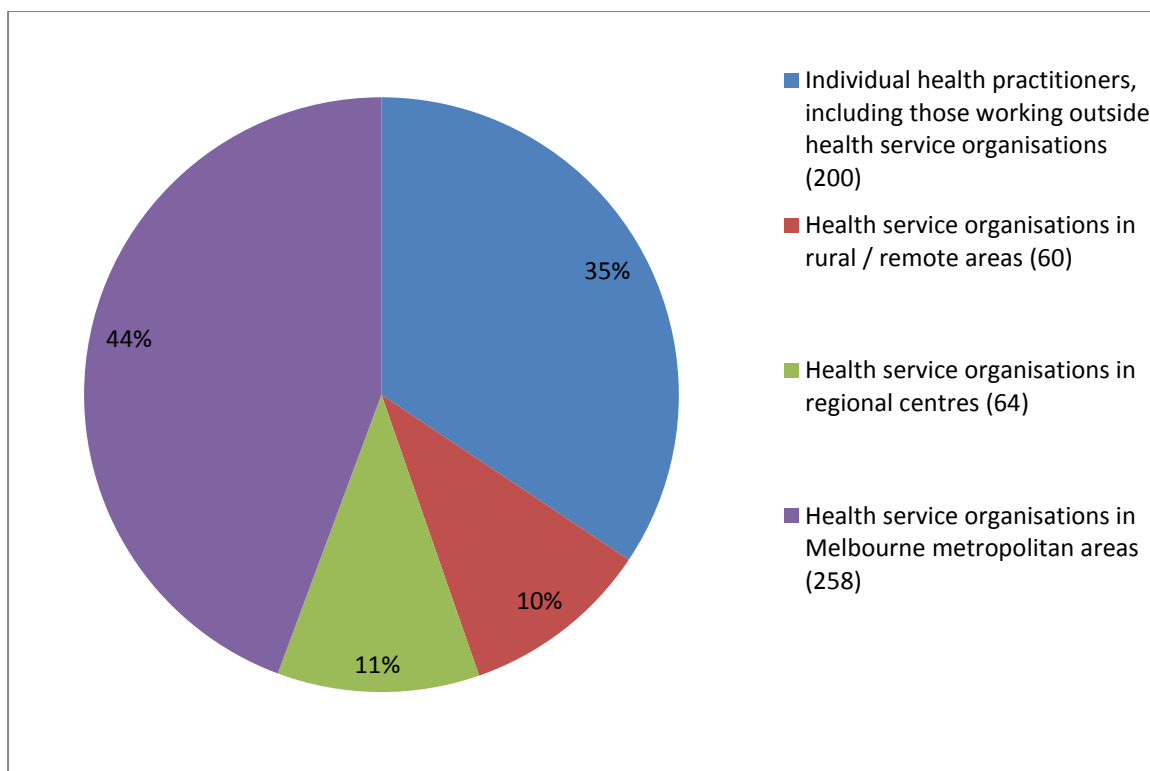


Figure 1: The type of persons or organisations that submitted notifications of unaccounted drugs within health services from 14 July 2015 to 13 July 2018

It is likely that not all incidents within Victoria are reported, and that the true number of lost drug incidents may be greater than that quoted above. It is possible that some individuals within health services may be disinclined to report incidents involving colleagues. The WA CCC report highlighted a number of reasons why health professionals may feel reluctant to report. These included the sense of loyalty to co-workers, fear of retribution, fear of tarnishing their employer or the health system, fear of the judgment of others or fear of losing their job.⁸ For such reasons, it is vital that health services enable staff to make reports anonymously.

Table 2 provides a summary of drugs that were most commonly included in the lost drug reports that were received from any Victorian hospital between 14 July 2015 and 13 July 2018. The table includes the number of reports that each drug was included in. It should be noted that some reports included multiple drugs.

Table 2: The most common drugs which were subject of lost drug reports between 2015-2018

Drug	Number of reports
oxycodone	46
oxycodone and naloxone in combination	25
morphine	24
fentanyl	23
diazepam	13
hydromorphone	11
other	82

⁸ Western Australia Corruption and Crime Commission - *Report on serious misconduct risks around dangerous drugs in Hospitals*, 25 May 2018 – Concerns about failure to notify

As outlined in **Table 2**, oxycodone is represented significantly more than other drugs in the reports. It is likely that this is a consequence of oxycodone being one of the most commonly used medications to treat pain in Australia. While many lost drug reports would not necessarily be the result of theft or misappropriation, if any drugs were to be misappropriated, oxycodone is also one of the most highly sought after drugs for illicit drug use. Similarly, morphine and fentanyl are commonly used for pain relief, and would be highly sought after for illicit use.

Diazepam is a Schedule 4 drug, so legislation does not require health services to apply the same level of scrutiny to it as others listed in the Table 2. However, the fact that diazepam is frequently represented in reports would be an indication that health services have recognised it as a drug that may be prone to misappropriation so have put closer monitoring in place for this drug.

The department has always focussed on such higher risk drugs in its compliance activities. However, the department will take into account the drugs that are featured in Table 2 in carrying out its future compliance activities.

Notifications of drug misuse made to AHPRA

To consider if the issues identified in Operation Tone exist in Victorian health services more broadly, including private and public health services of various sizes as well as primary care, the department requested data from AHPRA relating to notifications about Victorian health practitioners who misused drugs of dependence from 1 July 2014 to 30 June 2018. AHPRA receives and manages notifications about the health, conduct or performance of health practitioners in Victoria.

Only the primary issue of a notification is recorded on AHPRA's database. Due to this limitation, AHPRA provided data for primary issues that may relate to a practitioner abusing or misusing substances, including drugs of dependence. The issues identified include:

- Drugs and poisons offence
- Inadequate storage or security
- Misuse, abuse or addiction – Alcohol
- Unauthorised access to medications
- Misuse, abuse or addiction – Drugs

Table 3 provides the number of notifications completed between 1 July 2015 to 30 June 2018 where one of these issues was identified as the primary issue and the outcome of that notification. This includes all health professions registered with AHPRA, other than paramedicine which had not yet entered the scheme.

A considerable number of notifications (225 in total) were made to AHPRA that relate to the misuse, abuse and addiction of drugs over the time period. For 93 of these notifications, further action was taken by AHPRA.

This is indicative that there are ongoing concerns relating to health practitioners' misuse of drugs, and that there is a need for health service providers to provide improved oversight and support for these practitioners.

Table 3: Summary relevant notifications made to AHPRA between 1 July 2015 and 30 June 2018 involving abuse or misuse substances, including drugs of dependence

Issue/Outcome	No further action	Refer all of the notification to another body	Accept undertaking	Caution or reprimand	Impose conditions	Practitioner Surrender	Cancel registration	Total
Drugs and poisons offence	11		2	3	7			23
Inadequate storage or security ⁹	4							4
Misuse, abuse or addiction – Alcohol	58		10	3	22			93
Unauthorised access to medications	12		4	14	4		2	36
Misuse, abuse or addiction – Drugs	132	1	34	8	49	1		225
Grand Total	217	1	50	28	82	1	2	381

The mandatory requirement for employers and education providers to report concerns to AHPRA acts as an important enabler for these matters to be proactively managed.

Notifications made to IBAC

The department also sought information from IBAC about reports made by health services. As at September 2018, IBAC has indicated that it does not have a specific category in its case management system for the particular issue of misappropriation or misuse of drugs in Victorian health services.

Without figures it is hard to determine whether reporting to IBAC is occurring to a satisfactory level. However, the threshold for reporting to IBAC would encompass any incidents involving the theft of drugs from public hospitals and health services such as those reports received by MPR or relevant reports made to AHPRA.

Beyond 2018, the department will continue to work with IBAC to ensure all agencies within the department's portfolio receive up to date information on their IBAC mandatory reporting requirements.

The department will also explore whether it is appropriate for it to share information about theft of drugs of dependence information in public health services with IBAC.

3.4 Overall rate of reporting

Given that 9 of the 30 large health services had not made a single report to MPR over that time period, it can be assumed that health services are not reporting appropriately.

The department reminded the 30 large health services of their reporting requirements, including reporting to IBAC, in the guidance material issued in May 2018. MPR has also simplified the process of reporting by enabling online reporting, which has been in place since April 2016.

⁹ No recorded notifications with this as an issue prior to 1 July 2016.

The level of reporting may also be compounded by the number of surveyed health services not actively auditing drugs of dependence records. Therefore, incidents of misappropriation may be going undetected or not reported.

Cultural barriers can be addressed through policies that set clear expectations around reporting and support for staff who do report. As mentioned further above, the department will introduce measures in the PMF to ensure these foundational cultural policies are in place.

The department has made submissions to the IBAC Committee and the Department of Premier and Cabinet concerning limitations with the operation of the Protected Disclosure Act 2012 and suggestions for improvement. The department's submissions addressed the need to expand the protected disclosure regime to allow for greater flexibility for whistle-blowers in the way complaints can be made and inclusion of funded agencies in the definition of 'public body'.

To increase reporting of lost drug incidents that occur within Victorian health services beyond September 2018, the department will work towards introducing relevant measures into the 2019-2020 Victorian health service Performance Monitoring Framework (PMF) based on information provided by regulators like MPR about health services rate of reporting.

Reporting landscape and joint action between agencies

In addition to the reports made to the department, AHPRA and IBAC, health services in some cases will also report to Victoria Police, the department's integrity unit, Department of Treasury and Finance and/or the relevant human resources unit. IBAC has previously recognised the extent of the 'overcrowding' in the public health complaint reporting and oversight process – this overcrowding may also be contributing to this under-reporting. The department will continue to examine practical solutions for reporting and mechanisms for improved cross referencing between other relevant regulatory authorities.

Data received across the regulators is not aggregated or systematically analysed to identify trends or particular risks that may have been identified in health services. While each regulator will need to ensure that information is shared in a way that is consistent with relevant privacy laws, sharing of information across agencies is likely to better detect and deter drug misuse in health services. This liaison across the oversight agencies may lead to opportunities to jointly conduct investigations.

The department will continue to examine practical solutions to streamline reporting and mechanisms for improved cross referencing between other relevant regulatory authorities. The department is willing to explore possibilities to conduct joint investigations with regulators, including IBAC.

4 Conclusion

The department has found that in assessing its 30 largest health services, there is a general understanding of issues related to illicit drug use or misappropriation of drugs of dependence. However, there is a variable spectrum of activities undertaken to detect or deter.

It is acknowledged that each of the 30 largest health services may take different approaches to tackle the vulnerabilities highlighted in Operation Tone, several foundational actions and policies should be in place across the 30 large health services so that the community can be assured there is a minimum standard to protect against vulnerabilities highlighted in Operation Tone. Safer Care Victoria will work with health services to establish best practice policy and governance mechanisms, and to share good examples across health services. The department will incorporate the need for a policy framework as a part of its PMF.

The level of under-reporting is concerning given that there are legislative requirements over and above moral obligations to the community that publicly funded organisations are transparent. The department will be placing these organisations under increased monitoring arrangements through MPR and PMF.

The assessment showed that the majority had mechanisms in place to support appropriate access, security and storage of drugs of dependence. However, only 60 per cent independently audit their records of the usage of drugs of dependence. Health services need to be vigilant and recognise that auditing is a key way to detect misuse of drugs of dependence including detecting tampering of ampoules.