

Why steal a gun when you can import one?

Submission to the Senate Standing Committee on Legal and Constitutional Affairs inquiry into
The ability of Australian law enforcement authorities to eliminate gun-related violence in the community

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Acknowledgements

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Executive summary

On the basis of statistics from State and Commonwealth government sources, I suggest that thefts of firearms from licensed shooters are not the principal or major source of illegal firearms. I suggest that mandatory monitored electronic alarm systems will create 'shopping lists' of firearms that trusted insiders at security companies can sell to criminals.

Surveying available media reports of importation incidents, I suggest that controls, methods and measures used by the Customs service may not be effective in preventing the widespread importation of illegal firearms. Media reports indicate that senior government officials have also expressed this view.

Surveying available media reports, I suggest that there genuine questions to be asked about the security of Australian Defence Force arsenals from theft.

On the basis of statistics from State government sources, I suggest:

1. That the overwhelming majority of violent crimes do not involve firearms,
2. That knives are commonly used in violent crimes,
3. That when murders are attempted, knives are much more likely to result in a fatal outcome and might be said to be more lethal,

And that as a result, it would be errant to describe illegal guns as having a high 'lethality'.

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1. Terms of Reference

The Committee's terms of reference are:

The ability of Australian law enforcement authorities to eliminate gun-related violence in the community, with reference to:

- a. the estimated number, distribution and lethality of illegal guns, including both outlawed and stolen guns, in Australia;
- b. the operation and consequences of the illicit firearms trade, including both outlawed and stolen guns within Australia;
- c. the adequacy of current laws and resourcing to enable law enforcement authorities to respond to technological advances in gun technology, including firearms made from parts which have been imported separately or covertly to avoid detection, and firearms made with the use of 3D printers;
- d. the extent to which the number and types of guns stolen each year in Australia increase the risk posed to the safety of police and the community, including the proportion of gun-related crime involving legal firearms which are illegally held;
- e. the effect banning semi-automatic handguns would have on the number of illegally held firearms in Australia;
- f. stricter storage requirements and the use of electronic alarm systems for guns stored in homes;
- g. the extent to which there exist anomalies in federal, state and territory laws regarding the ownership, sale, storage and transit across state boundaries of legal firearms, and how these laws relate to one another; and
- h. any related matters.

1.1 'The ability of Australian law enforcement authorities to eliminate...'

Before any other consideration, the Committee's terms of reference (hereafter referred to as the 'Terms') address themselves to the ability of Australian law enforcement to eliminate gun-related violence. The Terms then list specific factors that might be thought to bear on that ability. Other than the last item – item h, consisting of 'any related matters' – you will notice that they all relate, directly or indirectly, to the sources of firearms for criminals.

Is 'eliminate' a meaningful term of reference?

The terms describe the **elimination** – not minimisation, prevention, limitation – of gun-related violence. This is an interesting choice. It suggests that it is possible for Australian law enforcement to 'eliminate' violence of a certain category. While the elimination of violence generally is very desirable, it is also highly unlikely. No rational person would suggest it were possible to totally eliminate knife violence, which accounts for many times more violent crimes than gun violence, as will be discussed later.

The term 'elimination' is embedded with a list of factors, some of which appear to be thinly-disguised proposals, such as restricting 3D printing, imposing onerous storage obligations and banning semi-automatic handguns. A person reading the Terms could be left with the impression law enforcement could totally eliminate gun-related violence from Australia, if only laws were changed. This is beyond the practical ability of law enforcement, irrespective of laws. Suggesting otherwise undermines mature debate.¹

¹ Nevertheless, it makes for a snappy announcement, see <http://greens.org.au/node/5172>

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2. 'Gun-related violence'

The Terms address themselves to 'gun-related violence'. There are of course many other crimes that can lead up to gun related violence (eg illegal import of a firearm or the theft of a firearm). However, the Terms make it clear that violence is the problem sought to be addressed. Any sensible response must begin by considering the gun-related violence in its context and then working 'upstream' to the source.

2.1. The 'lethality of illegal guns'

The Terms also direct themselves to the 'lethality of illegal guns'. In the context of violence generally, the NSW Bureau of Crime Statistics and Research has produced some interesting reports relating different weapons to categories of violent crime. When attempted murder and actual murder incidents are compared, it appears that if your attacker tries to kill you:

1. With a firearm, you might be expected to survive on about 70% of occasions,
2. With a knife, you might be expected to survive on about 42% of occasions,
3. Without a weapon, you might be expected to survive on about 41% of occasions.²

The table goes on to suggest that firearms are used in less than 1% of assaults and robberies, where you are many times more likely to be attacked with a knife.³ Summarising their 2005 report, the Bureau concludes:

[W]hen we consider firearm incidents as a proportion of all incidents recorded, firearms are rarely used. Instead, our analysis suggests that robberies and assaults are far more likely to involve a knife, with over three times as many robberies and over nine times as many assaults involving a knife. A higher proportion of murders and attempted murders are committed with a firearm, with 20 per cent and 46 per cent of these incident types involving firearms, respectively. However, homicide offences are rare.⁴

You are much more likely to be attacked with a knife, an iron bar or nothing but bear hands. If it is 'lethality' that the Terms want to measure, then guns are apparently less lethal than knives.

² "Table 1: Weapons used in recorded criminal incidents of murder, attempted murder, robbery and assault, NSW, 2005", *Contemporary Issues in Crime and Justice* Number 98, August 2006, NSW Bureau of Crime Statistics and Research (available: <http://www.bocsar.nsw.gov.au/agdbasev7wr/bocsar/documents/pdf/cjb98.pdf>).

³ Ibid.

⁴ Page 6, *ibid*.

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3. Sources of firearms

This is the critical factual question in formulating policy that effectively minimises the supply of firearms into criminal hands. If you don't correctly resolve this factual question then any resulting policy is likely to be ineffectual and potentially counter-productive.

3.1. The Australian Defence Force

In late 2006, the then NSW Police Minister reportedly expressed concern over stolen Defence Force arms.⁵ This was buttressed just two months later by reports that Defence personnel stole and sold firearms from the Moorebank armoury to biker gangs.⁶ The Army Intelligence and Security Unit reportedly found that thefts had occurred over a fourteen year period from 1980 to 1994, with the recovery of a rocket launcher occurring in 2001.⁷ Further information surfaced in late 2007 through FOI requests initiated by *The Courier Mail*. In late 2007, it was reported that a quartermaster sergeant at Puckapunyal amassed dozens of weapons and high explosives in private caches.⁸ The overall impression is one of Defence opacity and admissions that thefts of Defence arms are likely to continue.⁹

The revelations of 2006-7 (above) apparently did not necessarily translate into weapons security and handling improvements within Defence. In late 2012, a dozen semi-automatic pistols and a couple of combat shotguns were reportedly stolen from HMAS Coonawarra in an incident that triggered a fleet-wide security review.¹⁰ This theft was reportedly likely to have been conducted with the benefit of inside information¹¹ and under pressure exerted by an outlaw motorcycle gang.¹²

It would be beneficial to understand how far below the surface these reports scratch in describing the extent of thefts from Defence armouries. Certainly, Defence holds weapons that are highly desirable to criminals. To what extent are Defence armouries a source of weapons for criminals?

3.2. Importation of firearms

In May 2012, NSW Police Commissioner Scipione reportedly warned the NSW Police Minister that illegally imported firearms represented a 'national security threat'.¹³ The Minister reportedly called

⁵ The minister reportedly said: "The further revelation today that perhaps truckloads of guns, hand grenades and other weapons have gone missing from Defence Force establishments is truly concerning... It does seem that the Federal Government has dropped the ball on security at their defence establishments. It's a terrifying development that the Federal Government doesn't know where its weapons are." (ABC news online, Saturday 16 December 2006, available: <http://www.abc.net.au/news/2006-12-16/nsw-govt-says-alleged-adf-weapons-theft-worrying/2155354>).

⁶ "ADF staff 'stole, sold guns to biker gangs'", *The Australian*, 22 January 2007.

⁷ Ibid.

⁸ "Disarming tale of lonely 'resistance'", *The Age*, 1 September 2007.

⁹ "Release shows massive array of weapons has gone AWOL Forces lose guns cache", *Courier Mail*, Page: 6. Tuesday, 25 September, 2007

¹⁰ "Navy security review after heist", *Sydney Morning Herald*, 1 December 2012.

¹¹ "Darwin navy intruder had inside knowledge", AAP, 30 November 2012.

¹² "Navy gun thief 'pressured by bikies'", AAP, 15 April 2013.

¹³ "Customs must tackle 'failings' on firearms", *The Australian*, 14 May 2012.

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for Customs to recognise that it had a problem in the wake of 220 semi-automatic Glock pistols being illegally imported through a local Post Office.¹⁴

In the same month, the leaders of the Customs service reportedly boasted of the very professional (and unspeakably costly, at around 480 FTE per annum) analysis and modelling undertaken to seize illegal imports, including around 4,052 firearms.¹⁵ About seven months later, in January 2013, it is reported that Police busted an international arms smuggling syndicate aided by corrupt Customs officers who falsified inspection records.¹⁶ A couple of months later, reports in the media described an “extremely haphazard” state of internal controls within the Customs service.¹⁷ Mr Pezzullo (one of Custom’s most senior executives) was reported to be **planning** (as opposed to carrying out) a management review of the Agency’s internal professional standards function.¹⁸

In March 2013, the NSW Premier reportedly called on the Federal Government to crack-down on illegal firearm importation.¹⁹ In August 2013, NSW Police reportedly ‘smashed’ a gun importation racket,²⁰ with an editorial proclaiming: “The number of illegal firearms seized every year by NSW police is easily overshadowed by the number of illegal firearms that are smuggled into Australia.”²¹

The reported chain of events begs for a timeline. Let’s consider a timeline of the media reports.

May 2012	NSW Police Commissioner describes arms importation as a ‘national security threat’; NSW Police minister calls on Customs to recognise problems.
May 2012	Customs leaders boast of expensive, sophisticated intelligence and analytical capability.
Jan 2013	Police bust an arms smuggling syndicate aided by Customs officers.
March 2013	Leaked official reports describe a crisis of haphazard internal controls at Customs.
March 2013	Customs senior executives reportedly <u>plan</u> a review of internal professional standards function.
August 2013	Police ‘smash’ a gun importation racket. Editorial again highlights the seriousness of the illegal importation problem.

The impression gathered from the media reports does not reflect well on Customs leadership and suggests just what might have led to the establishment of a ‘Customs Reform Board’.²² A vast amount of money is expended on ‘intelligence’ and ‘analysis’, but is this effective in light of negative reports about internal standards at Customs? A recent ANAO audit reveals that Custom’s

¹⁴ Ibid.

¹⁵ “Customs turns to intelligence in Canute-like battle to stem tide of illegal imports”, *The Australian*, 5 May 2012.

¹⁶ “Two face extradition for importing guns”, *The Australian*, 4 January 2013.

¹⁷ “Lid finally lifted on Customs in crisis”, *The Australian*, 17 March 2013.

¹⁸ Ibid.

¹⁹ “Tackle guns before laws, NSW premier says”, AAP, 12 March 2013.

²⁰ “Sydney Gun Importation Racket Smashed”, *Sydney Morning Herald*, 21 August 2013.

²¹ “Firing the Gun Runners”, *The Daily Telegraph*, 19 August 2013.

²² Paragraph 9, “Management of Detained Goods”, ANAO Audit Report, available:

<http://www.anao.gov.au/Publications/Audit-Reports/2012-2013/Management-of-Detained-Goods/Audit-summary>

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“framework to control and account for detained goods is generally sound, the implementation of some key controls by staff at various facilities fell short of the agency’s requirements.”²³

Crucially, armouries were said to be left open during the day,²⁴ storage facilities were said to be non-compliant and a long timeline (out to 2015) was said to be in place for conducting protective security risk assessments of storage facilities that hold high-risk detained goods.²⁵

The picture painted by the media and ANAO reports is not one that leads to the conclusion that Customs has controls, methods and measures that are effective in preventing the widespread importation of illegal firearms. To what extent are illegal firearms simply flowing into Australia through ‘regulated’ channels?

3.3. Homemade guns

NSW Police reportedly suggest that about 10% of seized firearms are ‘improvised’:

“A lot of them are very crude and dangerous, especially to the user. They misfire, don’t fire at all or even explode in the user’s hands.”²⁶

We might assume that firearms seized by Police are inherently those firearms which are much more likely to be used in violent crimes. It seems reasonable to conclude that criminal manufacture within Australia is a significant source of firearms.

²³ Paragraph 18, *ibid.*

²⁴ Paragraph 37, *ibid.*

²⁵ Paragraph 39. *Ibid.*

²⁶ “Bikies’ DIY arsenal: Pistol-packing Western Sydney a handgun hotspot”, *The Daily Telegraph*, 16 June 2014.

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4. Storage

The Terms propose stricter storage requirements, including electronic alarm systems in homes. Installation of alarm systems – especially monitored alarm systems – would necessarily result in security companies having lists of licensed firearms owners and possibly a list of firearms at particular premises. These ‘shopping lists’ of firearms could be stolen by trusted insiders at security companies and sold to criminals. This is a real and significant risk and should be avoided.

4.1. What’s wrong with centralised and or well-documented storage of firearms?

Criminals tend to target armouries where high-value firearms are conveniently centralised, such as those of security companies.²⁷

4.2. Isn’t theft from licensed shooters a major source of illegal firearms?

Reportedly not in Victoria, where only 15% of firearms (including, presumably, air rifles and paintball guns which are usually described as firearms) seized from criminals in 2010-11 were ‘stolen weapons’.²⁸

4.3. Aren’t pistols stolen from licensed shooters a major source of illegal firearms for criminals?

It is reported that only about 10% of firearms stolen in NSW are handguns.²⁹ Reports on seizures from NSW criminal gangs report as many as 24 handguns seized from a total of 35 weapons.³⁰ Most licensed firearm owners hold non-semi-automatic longarms (rifles and shotguns), which are far less desirable to criminals than handguns.

The Australian Institute of Criminology reports that in 2008-9 only six percent of firearms stolen were handguns, suggesting that fewer than 100 registered handguns were stolen Australia-wide (excluding WA) in that year.³¹ This whole year’s worth of Australian handgun thefts (<100) is, as a comparison, less than half of the 220 Glock pistols said to be imported via a post in a single firearms smuggling arrangement.³² Is it really a sustainable proposition that licensed owners are a major source of illegal firearms?

4.4. Slogans, myths and rhetorical questions

To promote the myth that theft from licensed shooters is the major source of illegal firearms, at least one catchy slogan has been crafted:

²⁷ For example: “Pistols on underworld black market”, *The West Australian*, 22 October 2009

²⁸ “Revealed: The small Victorian towns with more guns than people”, *The Herald Sun*, 9 January 2012.

²⁹ “The merchants of death”, *The Australian*, 30 January 2013.

³⁰ “Gun crime squad angers Middle Eastern leader”, *Sydney Morning Herald*, 8 February 2013.

³¹ Executive Summary, “Firearm theft in Australia 2008-09”, available:

http://www.aic.gov.au/publications/current%20series/mr/1-20/16/02_execsummary.html

³² See footnote 13.

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“All guns start out legal before they become illegal”³³

This slogan distils the myth into something readily digestible, without articulating:

1. A collection of perfectly legal metal ingredients becomes an illegal firearm in the workshop of a capable individual, and
2. A gun can start out legal overseas (like a Glock pistol in Austria) before someone imports it.

The slogan might be supplemented with a rhetorical question, like “Why take the risk of illegally importing firearms when you can get what you want right here?”

Given the Customs issues outlined earlier in this submission, I suggest the rhetorical question could easily be reversed to ask “Why take the risk illegally stealing a firearm from a cantankerous local when you can safely order from a willing seller overseas?”

³³ “Why do we need any more semi-automatic pistols in Australia?”, *Sydney Morning Herald*, 18 April 2012.