



**Australian Government**  
**Department of Home Affairs**



# **Department of Home Affairs submission to the Inquiry into Australia's Illicit Drug Problem: Challenges and opportunities for law enforcement**

**Parliamentary Joint Committee on Law Enforcement**

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## Introduction

- The Department of Home Affairs (the Department) and the Australian Border Force (ABF) welcome the opportunity to provide a submission to the Parliamentary Joint Committee on Law Enforcement inquiry into *Australia's illicit drug problem: Challenges and opportunities for law enforcement*.
- The ABF takes this opportunity to acknowledge and thank all domestic, international, industry, and academic partners.
- Alongside federal, state, territory, and international law enforcement efforts, this submission focuses on the pre, at, and post border related opportunities and challenges.
- For the purposes of this submission, "illicit drugs" and "precursors" will be those that are defined/captured as a border controlled drug, a border controlled plant, or a border controlled precursor, as specified in Section 4 of the *Customs Act 1901* (Customs Act), and Part 9.1 and 9.2 of the *Commonwealth Criminal Code Act 1995* (Criminal Code).
- The ABF recommends that this submission be read in conjunction with the submissions provided by the Attorney-General's Department (AGD), Australian Federal Police (AFP), and the Australian Criminal Intelligence Commission (ACIC).

## What we do

- The ABF's mission is to protect the Australian border and enable legitimate travel and trade.
- The ABF's statutory powers are defined in a range of legislation, which provide the parameters for officers screening and intervention activity in relation to travellers and cargo. These include, but are not limited to the *Australian Border Act 2015*, *Customs Act 1901*, *Migration Act 1958*, *Maritime Powers Act 2013*, *Crimes Act 1914*.
- Across Australia's maritime domain, Maritime Border Command protects Australia from the trafficking of illicit drugs through the use of air and maritime assets. Ahead of the Australian border, and among other activities, the ABF deploys a modest network of offshore-posted officers who work with foreign counterparts to disrupt the trade in illicit drugs.
- With regard to illicit drugs, the Department and ABF work closely with internal stakeholders and external entities nationally and internationally to share knowledge, information, and expertise, in order to protect the Australian community by detecting, deterring, and disrupting the trade of illicit drugs, drug precursors, and associated manufacturing equipment through coordinated intelligence and law enforcement action.
- The ABF applies an intelligence-informed and risk-based approach to harden supply chains particularly against activities lead by Transnational, Serious and Organised Crime (TSOC) groups seeking to exploit border controls and frameworks.
- Collaboratively, the Department and ABF work to operationalise the:
  - *Whole of Government [National Drug Strategy 2017–2026](#)* through enhancing the capability of the ABF to prevent the illegitimate importation of illicit drug and precursors.
  - *[National Strategy to Fight Transnational, Serious and Organised Crime](#)* through efforts to prevent and disrupt TSOC in all its forms, including the production and trafficking of illicit drugs.
  - *[National Ice Action Strategy 2015](#)* through initiatives focused on reducing supply and enhancing data and research.
  - *[Department of Home Affairs Illicit Drug Action Plan](#)* through initiatives focused on combatting the importation of illicit drugs and precursors into Australia.

## Overview of Australia's illicit drug market and its impacts

- Australia's high consumption of illicit drugs continues to drive numerous harms across the Australian community. In addition to criminal offences, illicit drug harms impact other major aspects of everyday life such as individual and community health and well-being, family and societal impacts, and far-reaching economic and environmental impacts.
- In 2020–21:
  - at an estimated street value exceeding \$10 billion dollars and across the four major illicit drugs – methylamphetamine (also known as methamphetamine), 3,4-methylenedioxymethamphetamine (MDMA), cocaine, and heroin, Australians consumed an estimated 15.7 tonnes of these drugs.
  - drug-related principal medical diagnosis accounted for 152,000 hospitalisations<sup>i</sup>.
  - illicit drug offences were the second most common offence in Australia, with 62,698 offenders<sup>ii</sup>.
- In 2021, there were 1,704 drug-induced deaths, with opioids<sup>iii</sup> continuing to be the most common drug class present in drug-induced deaths over the past decade<sup>iv</sup>.

## Trends and challenges

- Australia's approach to illicit drugs is to minimise harm through supply, demand, and harm reduction efforts. However, Australia is a lucrative and highly profitable illicit drug market.
- Australia is the largest per capita consumer of illicit stimulants (amphetamine, methylamphetamine, MDMA, and cocaine) as ranked against the 28 Sewage Core Group Europe (SCORE) countries participating in the March-April 2021 wastewater analysis<sup>v</sup>. Despite the impact of COVID-19 restrictions on Australia's illicit drug consumption, most of the major markets demonstrated resilience as did the ability of criminal actors and TSOC groups to quickly adapt their methodologies and continue to supply the Australian (and global) market.
- High consumer demand, exploitation of legitimate supply chains, cyber enablers, the growth in synthetic and designer drugs, and the ability to launder drug money, enables criminal actors' and TSOC groups with liberal opportunities to produce, traffic, and supply the Australian drug market.
- Alongside a myriad of differing inter and intra national drug and chemical controls, information sharing with border, law enforcement, and industry stakeholders internationally is complex. Legislation that regulates the collection, use, and disclosure of information is highly fragmented and sits across a significant number of Acts.
- Among others, ABF officers primarily apply the *Privacy Act 1988*, the Customs Act, the Migration Act and the *Australian Border Force Act 2015* for which these Acts contain restrictions on what can be shared and in what circumstances. The ABF's ability to share actionable information internationally is challenging, particularly where a foreign country's legal architecture includes the provision of the death penalty for drug offences.
- Widespread use of anonymising technologies and the dark web presents a direct challenge to community safety and challenges some of the existing powers available to Australian law enforcement agencies to detect, prevent, and disrupt serious criminal activity.
- Across all trade and travel modalities, TSOC groups use trusted insiders and professional facilitators<sup>vi</sup> to navigate, manipulate, or exploit the international supply chain. Criminal infiltration within, and across all trade related sectors and services presents a real and perpetuating challenge.
- The sole limitation to the trafficking of illicit drugs and precursors resides in the physical restrictions associated with the movement of illicit substances on or off any given craft (land, sea or air based) and on, or within, a person.

- Tried and tested trafficking modalities and concealments such as hiding illicit drugs or precursors inside very dense materials or mixing the illicit commodities within apparently similar goods is a continued practice. The ABF notes that sophisticated TSOC groups are increasingly experimenting with, and deploying, novel concealment methodologies – such as tailor made concealments through the use of 3D printing technologies.
- Methodologies employed by TSOC groups include the use of:
  - mis-declaration – deliberately declaring a consignment as containing a different commodity.
  - ‘piggybacking’ – using legitimate importers’ details with or without the importers knowledge.
  - ‘rip on / rip off’ – whereby illicit goods are placed amongst legitimate cargo or baggage offshore (port of departure) and is retrieved near to, or at, the port of arrival.
  - ‘scattergun’ – whereby multiple packages containing illicit goods are sent to different locations.
  - diversion of underbond goods (during transportation between customs-controlled places).
  - mother-daughter transfers at sea, geo-tagged drops at sea, and underwater concealments.
  - walk-offs by corrupt industry insiders.
  - under water hull attachments – whereby illicit goods are strapped to the hulls of ships to evade detection.
- With regard to methamphetamine, the ABF estimates that only 20 per cent<sup>vii</sup> of illicit drug importations are detected at the Australian border.

#### Maritime, Aviation and Mail domains

- Speed and versatility, coupled with increasing volumes of international cargo<sup>viii</sup>, enables TSOC groups (or opportunistic actors) to conceal and import high volumes and varying quantities of illicit substances into Australia.
- Sea and air vessels – small through to large – continue to be used to import illicit drugs into Australia. The use of remote ports presents challenges for the ABF. Within the maritime domain, the trafficking of illicit drugs using smallcraft and commercial vessels is a sustained concern.
- TSOC groups and vendors continue to use International Mail as a cost-effective, efficient, and perceived low-risk means to anonymously import high volumes of low-weight illicit drugs or precursor consignments amongst large volumes of mail. Scattergun<sup>ix</sup> importations of drugs and precursors is likely to continue as TSOC groups use this methodology to exploit limitations in the ABF’s ability to target and intercept in this operating environment.

#### Migration exploitation

- Disingenuous non-citizens, particularly within the temporary visitor and student visa stream, play a crucial role in production, importation, and distribution of illicit drugs and precursors.
- Enabled by corrupt facilitators such as migration agents, education providers, and labour hire intermediaries, TSOC groups actively recruit and facilitate the entry of non-citizens to engage in a full range of illicit drug activities including underwater divers, couriers, recipients, catchers, crop sitters, remitters, and distributors.

#### Chemicals

- From a border perspective, chemicals are the most complex and challenging commodity to manage. The challenges associated with chemicals – in this case drug precursor chemicals – is that the bulk of these chemicals have a legitimate commercial, industrial, consumer or medical use.



- Given the wide range of legitimate uses, the trade in chemicals is more difficult to prohibit and the absence of a federal legislative mechanism to address possession of commercial quantities of precursors encourages TSOC groups to continue with precursor importations while hampering the ability of ABF and federal law enforcement to prosecute individuals involved.
  - There is currently no offence for the possession of marketable/commercial quantity of precursors, which is a key deficiency in the legislation.
  - The current offence of possessing controlled precursors (s.308.2 of the Criminal Code) has a maximum penalty of two years imprisonment, which is equivalent to the penalty for drug possession with no quantum.
- Of concern is the advancement in illegal drug chemistry that is producing designer precursors. Designer precursors are close chemical relatives of traditional drug precursors however, they are purpose-made to circumvent national and international trade controls and are not known to have any legitimate use other than to produce illicit drugs.
- The ABF's ability to detect and respond to the trafficking of precursor chemicals, illicit drugs, and trade based money laundering<sup>x</sup> is stressed. This is due, but not limited, to:
  - increasing trade volumes<sup>xi</sup>, and the scale and speed at which facilitation occurs relative to the ABF's resourcing base;
  - an ageing border system and associated technology base;
  - exploitation of the Integrated Cargo System by corrupt trusted insiders and professional facilitators;
  - increasing sophistication of TSOC groups to infiltrate international supply chains and amongst other methods, launder drug money back through the trade system; and
  - TSOC groups embracing the latest technologies, alongside existing equipment and processes, to securely connect with their networks and buyers, conceal and track their sales, and receive their payments through encrypted digital currencies.

#### New Psychoactive Substances

- New psychoactive substances (NPS) create challenges for law enforcement agencies globally due to the absence of a universally accepted definition and the fact that these substances are not controlled under the *1961 Convention on Narcotic Drugs* or the *1971 Convention on Psychotropic Substances*. However, the offences in Part 9.2 of the Criminal Code prohibit the importation of NPS based on their effect rather than their chemical structure. This progressive piece of legislation ensures that law enforcement can effectively stay ahead of criminals.
- Of the emerging trends and risks in Australia's illicit drug market, the lacing of illicit drugs with synthetic opioids – for example illicit methylamphetamine<sup>xii</sup> laced with fentanyl<sup>xiii</sup> – is a risk and potential for concern. Illicit methamphetamine in itself is corrosive to consumers, society, and the environment. Production generally involves using pseudoephedrine or ephedrine along with easily obtainable products such as nail polish remover, acetone, drain cleaner, battery acid, mercury, paint thinner, ether, aluminium, and lithium.
- When methamphetamine or crystal methamphetamine (ice)<sup>xiv</sup> is laced with a synthetic opioid such as fentanyl, international experience shows that the overdose death rate significantly increases. Given the lethality of fentanyl – and even more so carfentanil<sup>xv</sup> – in the smallest of doses, anyone exposed to the product in its pure or adulterated form presents a serious risk to life and public safety.

#### Technology

- Technological advancement has produced many benefits however, it has also empowered TSOC groups to grow their business. Alongside utilising the darkweb, clear net, social media platforms, and encrypted apps, technological advances have led to an increase in the illicit drug market, for which global inter-connectivity has enabled anyone with an internet connection to go online and buy illicit drugs or precursors.

- Anonymising and encrypting technologies challenges the ability of law enforcement agencies' to access data for the purposes of gathering evidence, conducting investigations, and taking appropriate and lawful actions to address criminal conduct.
- Existing technological systems create challenges for the Department and ABF. By way of example, regular exploitation of the Integrated Cargo System <sup>xvi</sup> poses significant vulnerabilities as trusted insiders are able to manipulate reporting, observe cargo holds, and see cargo whereabouts at any time. This access provides TSOC groups with insights and notifications on whether their cargo has, or is going to undergo, border-targeting scrutiny enabling TSOC groups to stay ahead of, adapt, and respond to border-targeting.
- Equally, identifying sellers and purchasers of illicit drugs has become more difficult with the rise of e-commerce services, which use automated bots to interact with customers. Omitting cost savings and efficiencies for legitimate and lawful buyers and sellers, the by-product of automated bots ensures that only the sender and the recipient are able to access any information they exchange, presenting considerable challenges for law enforcement.
- TSOC groups continue to target vulnerabilities in the supply chain and to adapt to changes, such as growing use of automated ports and tracking mechanisms. As ports continue to move to automated discharge operations, TSOC groups may also engage in cyber-related exploitation of digitalised logistics platforms to circumvent Australian border scrutiny. TSOC groups will also send operatives onshore, using temporary visas, to receive consignments or coordinate the illicit importation and distribution of goods.

### **Current approaches and opportunities**

- Law enforcement action predominately addresses supply side issues however, evidence has shown that social and educational campaigns work to reduce demand. Highlighting the significant social, financial and opportunity costs associated with illicit drugs for the health, law enforcement, and judicial systems could be an effective way to influence societal perspectives on drug use. The ABF acknowledges that deploying non-law enforcement strategies to reduce demand for illicit drugs requires investment and sustainment over an extended period before a change in Australia's consumer market is likely to be observed.
- Under the Simplified Trade System agenda the ABF, in collaboration with the Department of Agriculture, Fisheries and Forestry and industry stakeholders, is developing an enhanced intervention model for sea and air cargo to better detect illicit drugs and precursors.
- Complementary to screening technologies, the ABF uses detector dogs to detect illicit drugs at the border. Detector dogs are able to search people and cargo quickly without intrusion and are a complementary detection tool alongside screening technologies. The ABF has a reputation as a world leader in breeding, training, and operationally deploying detector dogs for which the ABF is actively working to deepen domestic and international canine tradecraft and partnerships.
- The ABF is implementing a new Australian Border Targeting Centre (ABTC) that will integrate ABF and partner data, coordinate border intelligence and risk management, and provide advanced analytical capabilities to improve identification and coordinated targeting of serious border threats. An interim governance framework has been produced to enable and support operational decision-making. The framework is being refined to ensure it is fit for purpose and provides enduring capability. A foundational pillar of the ABTC is collaborating with industry to securely achieve live, or early access to, data.
- The ABF actively pursues opportunities to deepen joint targeting and intelligence with our key partners. Operationally, the ABF is participating in global operations with the World Customs Organization (WCO) and with United Nations (UN) treaty bodies such as the International Narcotics Control Board (INCB). Collaboration and access to INCB systems and tools has the potential to significantly expand the ABF's access to targeting data, whilst allowing improved profiling in the air cargo and international mail streams.

- Greater effort to deepen partnerships, nationally and internationally, is needed. Increased law enforcement collaboration, intelligence collection, information sharing, and scrutiny of individuals would enable the identification of high-risk threats, entities, and criminal actors.

#### Technology and screening services

- Including the deployment of next generation 3D x-ray scanning technologies and automated threat detection, the ABF is collaborating with partner agencies, international counterparts, industry and academia to identify emerging technologies and leading edge practices. Among others, the ABF is currently seeking advice from the Australian Nuclear Science and Technology Organisation (ANSTO), Commonwealth Scientific and Industrial Research Organisation/Data 61. The ABF has also gone to market with a Request for Information for detection technologies for sea cargo to inform the future sea cargo intervention model.
- AusCheck provides background checking services for the aviation and maritime security identification card (ASIC and MSIC) schemes, major national events (MNE), and national health security (NHS) scheme, in collaboration with the Australian Security Intelligence Organisation and the ACIC. Work is also underway to initiate background checking of people working in critical infrastructure sectors to assist with the identification and management of personnel security risks, including risks from trusted insiders.
- An AusCheck background check for the purpose of an ASIC or MSIC has recently been extended to include a criminal intelligence assessment by the ACIC, expanding considerations of the card applicant's criminality beyond their criminal history and convictions to also include consideration of whether or not the person may commit, or may assist another person to commit, a serious and organised crime as defined by the *Australian Crime Commission Act 2002*.
- Outlined in the explanatory materials<sup>xvii</sup> for the legislative reforms, trusted insider risks for the aviation and maritime sectors were specifically referred to as a justification for this reform. In practice, any consideration of a card applicant's criminality is limited to criminal activity under Australian jurisdiction for which section 25 of the *AusCheck Regulations 2017* defines.
- AusCheck, with agreement from and in conjunction with the ACIC and AGD, is open to exploring further opportunities to use the AusCheck scheme to assist treating the risk of TSOC groups exploiting trusted insiders in the aviation and maritime sectors to facilitate importations of illicit drugs.

#### Trusted Insiders

- TSOC groups exploit and manipulate trusted insiders<sup>xviii</sup> and professional facilitators for expert advice and assistance to move illicit drugs and precursors through the international supply chain – in Australia, this includes 420 depots, 150 warehouses, and 400 Cargo Terminal Operators.
- TSOC groups' access to the supply chain through trusted insiders can provide information as to the whereabouts of cargo, any holds placed on consignments and its' status. This represents a significant challenge when considering any controlled deliveries, covert examinations, or any tactical actions, as TSOC groups have advance visibility of ABF and law enforcement interest in a consignment.
- In June 2021 the AFP's Special Operation IRONSIDE confirmed that criminal infiltration within supply chains had reached a scale of national concern. The ABF is addressing supply chain integrity through Operation JARDENA (Op JARDENA), which leverages the ABF and partner agencies' full operational, regulatory and enforcement capabilities.
- Op JARDENA officers work with the Department's Cyber and Infrastructure Security Centre and the AFP-led Taskforce CENTINEL to target vulnerabilities and methodologies associated with the importation of illicit drugs. Including trusted insiders, the immediate focus is on strategic strikes against TSOC groups and high threat entities who are exploiting vulnerabilities in our control framework, seaports, airports and international mail gateways.



## Conclusions

- TSOC groups, alongside corrupt trusted insiders and professional facilitators, exploit all legitimate modalities and enablers of international trade – this includes sea, air and international mail streams alongside the movement of monetary value through traditional means and digital currencies.
- Criminal infiltration and exploitation of international trade supply chains has reached a scale of national concern and is eroding Australia's prosperity and the safety of our community.
- Designer precursors and non-controlled precursors present new challenges as traditional screening, diversion and prevention techniques are ineffective in addressing the trafficking of these substances.
- The ABF's experience is that deepening international collaboration, information sharing and joint operational efforts with law enforcement and industry partners is effective in addressing and disrupting the illicit drug trade however, collaboration, cooperation and information sharing with domestic and international partners is complex and challenging.
- The navigation of information sharing with foreign countries that impose the death penalty for drug offences puts significant limits on the ABF's upstream intervention possibilities – which in turn limits the ABF's ability to further protect the Australian community.
- The societal, economic, environmental and health harms caused by illicit drugs warrants the continuation of discussions with Government, domestic law enforcement partners, industry and academia in assessing whether Australia's legislative architecture could be further refined (or reformed) to enable and simplify law enforcement's interoperability, consistency and information sharing arrangements.
- Should the Australian illicit drug market see the increasing use – or lacing into other drugs – of synthetic opioids such as fentanyl or any fentanyl analogues e.g. carfentanil, it is likely that opioid related illicit drug deaths will increase.
- To affect a greater detection and disruption effect pre, at, and post border requires financial and non-financial investments in personnel, technology, domestic and international partnerships.
- Investment in partnerships and technologies to modernise border systems with greater and improved security options and access controls will further harden Australia's border from the importation of illicit drugs and chemicals.

## Further information

- Representatives from the ABF would be happy to elaborate on the points made in this submission.

- i National Mortality Database (NMD) - Australian Institute of Health and Welfare ([aihw.gov.au](http://aihw.gov.au))
- ii Recorded Crime - Offenders, 2020-21 financial year | Australian Bureau of Statistics ([abs.gov.au](http://abs.gov.au))
- iii Opioids include heroin, opiate-based analgesics (such as codeine and oxycodone) and synthetic opioids (such as tramadol and fentanyl).
- iv ABS Causes of Death Report 2021 ([abs.gov.au](http://abs.gov.au))
- v National Wastewater Drug Monitoring Program Report 16.PDF ([acic.gov.au](http://acic.gov.au))
- vi Professional facilitators include lawyers, accountants, financial brokers and informational technology experts
- vii Estimate is derived from consolidated data out of the 2019-20 ACIC Illicit Drug Data Report, specifically for methylamphetamine.

Weight Detected at the Border (A)	Estimated Domestic Consumption (B)	Non-border National Seizures (C)	Potential leakage through the Border (A) / (B) + (C) *100
5,271Kg	11,147Kg	9,408Kg	20.4%

viii

Consignments	Financial Year			
	2018-19	2019-20	2020-21	2021-22
Air Cargo	53.05 (m)	57.74 (m)	72.65 (m)	85.01 (m)
Sea Cargo	1.93 (m)	3.07 (m)	7.32 (m)	4.76 (m)

- ix 'Scattergun' approach is when criminals send multiple packages containing illicit goods to different locations in the hope the majority will evade detection.
- x Trade-based money laundering is the process of disguising the proceeds of crime by moving funds through trade transactions, in an attempt to legitimise their illegal origin or finance illegal activities.
- xi Over the full financial periods covering 2018-19 through to 2021-22, air cargo has increased by 60 per cent to just over 85 million consignments and sea cargo has increased by 85% to 6.256 million manifests.
- xii Methamphetamine is a stimulant drug for which a much weaker and regulated form of the drug is used legitimately prescribed and used.
- xiii Fentanyl is a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent. In its prescription form it is prescribed for pain, but fentanyl is also made illegally. Fentanyl and other synthetic opioids are the most common drugs involved in overdose deaths. 2 milligrams of fentanyl can be lethal.
- xiv Crystal meth is a distilled, more potent, illicit form of methamphetamine that resembles rocks, crystals or glass.
- xv Carfentanil is used as a tranquilizing agent for elephants and other large mammals. Carfentanil is approximately 100 times more potent than fentanyl. The lethal dose range for carfentanil in humans is unknown.
- xvi Australia's Integrated Cargo System is a key information system used by the Department and ABF to manage and regulate trade. It is used for the lodgement, clearance and risk assessment of all sea and air cargo imports and exports.
- xvii Revised Explanatory Memorandum to the Transport Security Amendment (Serious Crime) Bill 2020: Transport Security Amendment (Serious Crime) Bill 2020 – Parliament of Australia ([aph.gov.au](http://aph.gov.au))
- xviii Trusted insiders include maritime supply chain employees, shipping crew, dockworkers, employees at freight forwarding companies, non-compliant traders, customs brokers, airline crew, baggage handlers, and parcel forwarding services. In essence, a trusted insider is a person who holds a position of trust and has access to, and knowledge of, customs controlled information.