

Submission No 99

Standing Committee on Legal and Constitutional Affairs
Parliament House,
Canberra, Australian Capital Territory, 2600,
Australia

Dear Sir/ Madame

Herewith is my Submission in relation to your Current Inquiry: Inquiry into crime in the community: victims, offenders, and fear of crime

Yours faithfully

Bob Bottom, OAM

SUBMISSION

By Bob Bottom

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To: Standing Committee on Legal and Constitutional Affairs
Inquiry into crime in the community: victims, offenders and fear of crime

From whichever angle anybody looks at current trends in crime throughout Australia, there is one inescapable fact: there are more victims of crime, more offenders and more fear of crime as a direct and indirect result of the illicit drug trade.

Not only drug addicts themselves but their families, friends and others have become victimised by the flow on effect of the drug trade, more people have become involved in crime to support drug habits, and a heightened fear of crime has evolved in the wider community with more and more people being burgled or robbed or injured or even killed by persons affected by drugs.

It is a modern phenomenon for Australia - a country which hitherto during its progress through two centuries always had its fair share of crime but a healthy respect for law and order to contain it and community sanction against anti-social behaviour.

That ethos has been eroded by manifestations of the illicit drug trade.

Australia has been betrayed, in a sense, by a failure to take heed of its past. A betrayal influenced to a significant extent by well meaning do-gooders, some manipulators, and even ordinary families, who have hijacked debate to over-emphasise harm minimisation for drug addicts rather than old-fashioned education, prevention and law enforcement.

In recent years it has become fashionable for even some of Australian's police chiefs, prosecutors, judges, magistrates, church leaders, politicians and of course academics and media commentators to portray action against illicit drugs as an unwinnable war. The truth is Australia has been involved in such a war before - and won.

A serious illicit drug trade had previously emerged during the second half of the 1920s and first half of the 1930s.

Back then, however, there was a more straightforward approach - on the one hand, community abhorrence against illicit drug use, and, on the other hand, community acceptance of a get tough approach by law enforcement.

That was at the same time when American authorities were battling the legendary Al Capone era in organised crime, when similar gangsters had emerged in Sydney and Melbourne Australia promoting not bootleg liquor but a cocaine trade.

After strict laws were enacted against the carrying of concealed weapons, to strip criminals of their pistols, gang members resorted to using cut-throat razors, spawning what became known as the razor gangs who fought battles over control of the drug trade.

Such was the reaction in Sydney to casualties with L-shaped slashes appearing in hospitals, coupled with a then universal community condemnation of illicit drug taking, that parliament with bipartisan support enacted a law providing for jail sentences for anyone "habitually" consorting with "reputed" criminals.

Not only did that law enable the police to actually wipe out the razor gangs but, more significantly, allow authorities in 1936 to ultimately proclaim total victory over the cocaine trade.

The reality was that nobody could habitually use illicit drugs without consorting with criminals to buy supplies. Thus the illegal trade evaporated.

Seldom is it acknowledged that it remained suppressed for three decades. Even during World War 11, Australia had no significant illicit drug trade.

It was not until the 1960s when a serious illicit drug trade began to re-emerge, initially attributable to a large influx of American servicemen using Australia for rest and recreational leave from the Vietnam War.

A federal bureau of narcotics was set up and state police forces re-introduced special drug squads

Even so, in 1967, when ample supplies of heroin became available from connections in the so-called Golden Triangle of Asia, there was still such a small market that crooks from Sydney exported heroin instead to the United States where there was a market. A notable example was what became known as the Corset Gang, which included three former NSW policemen, caught smuggling high grade heroin into the United States in quantities that at that time eclipsed the fabled French Connection.

It was not until the 1970s that the modern drug trade became widespread. By 1977 community concerns forced the establishment of special Royal Commissions at both federal and state levels. A plethora of recommendations followed, prompting a multifaceted strategy of action based principally on improved law enforcement, education and rehabilitation.

By perception and in reality, it represented a tough on drugs strategy.

State and federal police set up taskforces, the federal bureau of narcotics was absorbed into an upgraded federal police force (1979), the Australian Bureau of Criminal Intelligence was established (1981) and a National Crime Authority set up (1984). As these measures were being put into effect, there was optimism that the tide was turning.

The number of illicit drug users, if not reduced, appeared static.

Somehow, something went wrong. Notwithstanding other factors, a strategic decision made in 1985 may be singled out as a primary turning point.

It was the approach taken with the introduction of what was officially termed a National Campaign Against Drug Abuse, launched at a meeting of federal and state health ministers in 1985, which opted to treat drug abuse primarily as a health issue - focusing attention on harm minimisation. Aside from any softer attitude to illicit drugs

developing among trendy health professionals, it was decided to concentrate on harm minimisation because HIV/AIDS had become a major issue.

A deliberate decision was made then to "situate" the program within the Federal Department of Health rather than the Federal Attorney-General's Department, and the harm minimisation strategy clearly defined:

"Harm minimisation is an approach that aims to reduce the adverse health, social, and economic consequences of alcohol and other drugs by minimising or limiting the harm and hazards of drug use for both the community and the individual without necessarily eliminating use."

[Underline mine]

Whilst some initiatives were subsequently undertaken to inform the community about the adverse effects of drugs, the illegality of illicit drug taking received little if any emphasis. Community messages instead were subsumed by appeals to drug users to make sure they used clean needles when injecting heroin and to wear condoms when having homosexual sex.

That strategy continued for seven years until 1992 - by which time it was obvious that it had failed.

Illicit drug use, particularly of heroin, had mushroomed to crisis levels.

Only when the strategy was reviewed and relaunched in 1993 as simply the National Drug Strategy was a discernible re-emphasis placed on the crime aspects of drug use and trafficking.

While that strategy was pursued for another four years until 1997, the illicit drug trade got even worse.

History will show that there has been a dramatic turning point since a new approach, or the approach of old, was instituted with a re-shaped National Drug Strategy introduced in 1998.

Otherwise known as a "Tough on Drugs" strategy, it is working.

Yes, part of the framework still retains an element of harm minimisation, but with more direct emphasis on education and rehabilitation, and greater emphasis still on law enforcement to actually reduce the supply and use of illicit drugs in the community.

Just as there has been rare acknowledgment of Australia's success in winning the drug war of the 1930s, there has been curiously little publicity anywhere in Australia on just how Australia is now at last beginning to win the current drug war.

Over a three year period, the number of people using illicit drugs as well as the number of deaths from illicit drug overdoses has dropped by nearly 25 per cent.

Now, in anyone's language, that is really something. All indications are that the trend is continuing.

Yet nobody hears much about it. Why?

Even when the Prime Minister of Australia, John Howard, made references to the dramatic change in a speech on 5 September, it was virtually ignored.

Some of the things he stated are worth noting.

Since the introduction of a "Tough on Drugs" strategy in 1997 under his prime ministership, some \$625 million had been allocated to the fight against drugs - committed to education, rehabilitation and law enforcement.

"What I'm pleased to say is that we have hard evidence it is working, not reported enough because it runs against the popular view," the Prime Minister said. "The popular view in many sections of the media and amongst commentators is you should more or less sort of take all the constraints off, give in, don't bother fighting, you can't

stop it, get on board, forget about trying to fight it. Now that's not a view I accept and it's not a view the majority of Australians accept. And that's one of the reasons why the success we've had over the last few years is not as widely reported as it should be."

Among other things, the Prime Minister pointed out that, over the past three years, there had been a 23 per cent reduction in the proportion of people using illicit drugs and that heroin overdose deaths among 15 to 44 year olds had fallen from 958 to 725 in the year 2000, which was a drop of almost 25 per cent.

And he stated that the early signs in relation to subsequent years were also very encouraging.

In comparison, according to the United Nations 2001 report on global illicit drug trends, heroin abuse remained generally stable in western Europe, and had increased in eastern Europe and parts of Asia.

No greater reassurance could be extended to the Australian community now than initiatives or strategies that this Committee may consider to capitalise on the downward trend in illicit drug use to reduce crime generally.

In plain language, as much as drug addicts may be assisted or rehabilitated as health clients under harm minimisation the reality is that what they are doing is illegal and many of them become petty drug dealers and/or commit crimes to obtain money to support their habits.

There are ample statistics now available that confirm the nexus between drugs and crime.

A very telling exposition was outlined in a special article by Liz Porter in *The Sunday Age* in Melbourne on 20 May, 2001, in which she quoted the experiences of magistrates.

"The numbers of people charged with actual possession and use of drugs is just the tip of the iceberg," a deputy chief magistrate, Ms Jelena Popovic, was quoted as saying.

"The truth of the matter is that most home burglaries and burglaries on commercial premises are committed in order to finance drug habits. So are car thefts. You also need to include the statistics on 'obtaining financial advantage by deception', which is often people selling stolen goods to second-hand shops.." She said between 80 and 90 per cent of criminal matters coming before court were related to drug addiction. She said: "The reality is that magistrates courts are drug courts ... I don't think people have any conception of how much crime is directly related to drug dependency."

When the same newspaper disclosed less than a month later, on 10 August, 2001, that the number of deaths in Victoria from heroin overdoses had dropped to 29 for the first seven months of that year, compared with 214 for the same seven months the year before, the paper's social policy reporter Chloe Saltau pondered:

Why, then, does Australia's peak crime-fighting body [National Crime Authority] profess to have lost the war on drugs? Why does NSW police commissioner Peter Ryan feel the same way? And why does VicHealth chief executive Rob Moodie believe the Australian Federal Police are "delusional" if they think the battle to halt the illicit drug trade is being won? [Italics mine]

Why indeed.

Health experts were then quoted - and, extraordinarily, they still rejected the whole concept of a "war" on drugs.

During the successful war against illicit drugs in the 1920s and 1930s, it was actually health authorities who not only advocated a war but combined with police to use health regulatory agencies to stamp out the involvement of corrupt pharmacists and doctors in the illicit trade.

As for a chairman of the NCA, Gary Crooke [who canvassed supplying heroin to addicts], and a commissioner of police from NSW, Peter Ryan, throwing in the towel, so to speak, they of all people should have taken a leaf from the history books of the NSW police.

Instead of Crooke and Ryan, two names that do deserve a place in history in tackling the drug trade are Thomas Wickham and Wharton Thompson. When a Drug Act was enacted by the NSW Parliament in 1929, Wickham, a sergeant, and Thompson, a constable, were appointed the sole members of the NSW police force's first drug squad, whereupon the duo, as recorded in Dr Alfred W McCoy's authoritative book, DRUG TRAFFIC, "swept the streets, making hundreds of arrests of drug dealers and users". "Outraged by razor violence and narcotics traffic," McCoy wrote, "the Sydney community - the press, public and parliamentary parties - decided to eliminate a noxious vice and those responsible for it. Drawing on such Draconian, pre-modern legal practices as ostracism, rustication and arbitrary detention, the courts and police simply cast out the pariahs. In retrospect the suppression of the cocaine traffic does not appear to have been a terribly difficult task. The regular and repeated contact between addicts and street pedlars, pedlars and distributors, distributors and importers, made identification relatively simple ... It was a remarkable exercise in social control ... For all of their bravura, the criminal gangs of the 1930s crumbled under police pressure". What a difference there is today, when the harm minimisation lobby cannot even give the Australian Federal Police, Customs and other law enforcement bodies credit for their stepped-up actions in recent years, which have resulted in seizures of tonnes of hard drugs, to the extent of causing a heroin drought. Nor have they been able to bring themselves to really even welcome in human terms the fact that deaths from heroin overdoses have dropped so dramatically.

It was as if they fear losing face - or their jobs.

Australia-wide, the number of deaths from drug overdose had reached the stage where the number of young people dying exceeded each year by far the total number of young Australians killed throughout the entire period of the Vietnam War.

Whilst fingers are invariably pointed at the cost of law enforcement in the drug field, the reverse applies to the hundreds upon hundreds of millions of dollars now being devoted, however admirably, to health aspects of the drug fight. It is a giant money pie, a self-perpetuating avenue for anybody with any novel idea about how to look after drug addicts. Despite some successes, in general terms of effectiveness, they have been a monumental failure.

Just as disciplines have been enacted in more recent years to monitor the effectiveness of law enforcement in the drug field, accountability for success or otherwise of harm minimisation measures - especially of those being funded by taxpayers - has been patently lacking.

Nowhere is there any mention anywhere in public records by anybody in the health field of any admission of failure on their part of any of their misdirected policies when heroin use was allowed to spiral particularly throughout the late 1980s and much of 1990s.

Based on Royal Commission reports from the late 1970s and beginning of the 1980s, there were then an estimated 20,000 heroin addicts throughout Australia.

Towards the end of the 1990s, the numbers had risen to 74,000. Whereas in the 1970s and 1980s addicts were mostly aged 20 and above, by the 1990s youth as young as 14

had become embroiled, with three quarters of them in New South Wales and Victoria, despite a plethora of well meaning harm minimisation programs being made available. Health professionals have all but ignored the real-life dynamics of how the illicit drug trade operates - and expands. It is much like a pyramid, or, in health terms, like a contagious disease.

A salutary observation was made by the Honorable Justice E S Williams in the report of 1980 of his Australian Royal Commission of Inquiry into Drugs:

"The community's attitude to illegal drug users must also reflect the consideration that most illegal drug users spread the use of illegal drugs. Whether to help a friend or make a little money, most will distribute drugs on which they are dependent. This distribution makes more drugs available to other people for experimentation and some of those people who experiment with the drugs will become dependent upon them. In the Commission's view this important consideration has not been sufficiently taken into account by a large number of well-meaning people who have adopted too sympathetic an attitude towards the victims of illegal drug use."

Aside from the now familiar professional advocates of decriminalisation, legalisation and overall tolerance of use of illicit drugs, there has been a growing network of parents of illicit drug users who seek to not only excuse their sons or daughters for their drug use but seek to blame society for categorising their behavior as illegal.

As the Australian Christian Lobby has pointed out, *Who are the main proponents of harm minimisation? - Those who have lost family and friends, others.*

As understandable as family trauma or loyalties may be, embarrassed parents tend to overlook - or deliberately ignore - the harm their sons or daughters may have done to others, either in spreading their habits among their friends or more seriously robbing their own relatives, neighbours and strangers to obtain money to buy drugs. That scenario has become more pronounced as more and more young people from more affluent families have become involved with illicit drugs.

According to the Australian Institute of Health and Welfare, nearly 9 out of 10 illicit drug users obtained their drug from friends or acquaintances.

The well-to-do in particular do not like their siblings being regarded as being caught up in anything illegal, even if they are in fact petty drug dealers by selling to their friends. That is a situation that applies to a minority, but it has become a very vocal minority, lending great weight to the harm minimisation lobby.

Most people, thankfully, think differently.

According to a National Drug Strategy Survey conducted in 1995, at the peak of the growth in the drug trade, there was no general community support for a relaxation of drug laws. Over 91% of people opposed proposals to legalise the personal use of heroin, amphetamines (92%), and cocaine (92%), while 55% opposed legalising cannabis.

Before the current "Tough on Drugs" strategy was introduced in 1998, deaths due to heroin overdose continued to rise at an alarming rate, trebling in less than a decade to a peak in 1999 of 968 - an extraordinary increase of more than fifteen thousand (15,000) per cent on figures of just half a dozen deaths in the 1960s.

Along with the rise in heroin deaths, crime linked to the drug trade also increased.

Whilst some states have carried out their own surveys, the most reliable guide to the nexus between drugs and crime are the results of DUMA - Drug Use Monitoring in Australia, administered by the Australian Institute of Criminology, and funded by the Commonwealth. DUMA uses urine samples and questionnaires to gather information on drug use and crime from people who are detained at police stations.

Available results so far show that approximately three quarters of male detainees tested positive for drugs, regardless of the charge for which they were detained. The strongest links were between opiate use and property crimes.

More disturbingly, early reports disclosed that around one third of detainees had sold illegal drugs for money at some point in their lives.

As welcome as such confirmation may be, we have never needed criminologists or academics to confirm what has been obvious to the man in the street all along.

During the late 1970s, with the price of heroin then higher than it is now, it cost around \$55,000 a year to buy heroin to maintain a medium heroin addiction.

Prices have since fallen, but, as a NSW study has determined, a heroin user consuming, for example, three caps of heroin daily still has to raise between \$33,000 and \$40,000 per annum just to support his or her drug use.

That is above the medium average income for most communities in both capital city and country regions of Australia.

Not even parliamentarians, let alone ordinary citizens have that sort of disposable income available to fund an indulgence or habit after meeting average living expenses.

So of course drug use leads to other crime - including traffic violations and accidents.

Under present laws there is very clear community sanction against driving while under the influence of alcohol. But what about drugs?

Do harm minimisation proponents tell their addict clients not to drive? When addicts leave trial injecting rooms after injecting themselves with heroin, do medical observers ensure that they don't drive off in a car?

When ordinary medical practitioners dispense certain levels of legal doses of morphine to ease pain for patients of terminal cancer they are required to issue them with a certificate prohibiting them from driving.

Imagine the scenario if heroin were made available for free through much vaunted heroin trials. Who would want addicts driving down their streets after going to town for a heroin hit three times a day! Who would feel safe catching a bus or travelling in an aeroplane knowing the driver or pilot had been allowed to just hit up on heroin!

With so many younger people now addicted, what a spectacle there would be for schoolyards with addicted schoolmates trooping off at lunch time to clinics for a heroin fix. Community sanction does not allow teenagers under age 18 to buy cigarettes or alcohol.

The mind boggles!

Clearly, the time has come for a dose of reality.

The challenge now is to continue to reduce the supply and use of illicit drugs, as well as educate young people against trying drugs and rehabilitate those who have, and thus break the nexus between drugs and crime.

Australia currently spends more than three billion dollars (\$3,000,000,000) on its police services, only a small proportion of which is devoted to policing drugs. At the same time, hundreds of millions of dollars are being spent on some 10,000 drug programs throughout Australia.

Of all research data available, one by the NSW Bureau of Statistics and Research has confirmed a historical fact: police action aimed at reducing the supply of illicit drugs can deter heroin use and prompt heroin users to enter treatment.

Now that Australia is beginning to win the current drug war, more attention should be given to encouraging rather than discouraging modern police with old-fashioned values like Thomas Wickham and Wharton Thompson to go all out and finish the job.

Bob Bottom, OAM

* Awarded Order of Australia Medal in 1997 for "investigating and reporting upon organised crime".