



# Organizational Crime and the Difficulties of Law Enforcement

By P.M. Woodward,

There are different kinds of drug or drug-related offences extending from mere possession for individual use to trafficking which, if done on an organisational basis, can include or involve the commission of crimes of violence in the course of such trafficking.

Organisational crime is sometimes, but wrongly, referred to as "organised crime". Most crime is organised although much is not the work of a continuing organisation. It is this crime which presents problems to law enforcement agents.

For much of the crime which involves either the use or distribution of drugs, rehabilitation may be of assistance. It is, however, no answer to or cure for addiction. For the organisational bosses it has no attraction. The crime boss involved in the distribution of drugs is rarely to be found in possession of the drug or associated with those who work for him. He continues to ply his trade and to amass his fortune without hindrance, frequently from either law enforcement agents or the Commissioner of Taxation. He can ultimately be brought to book but only by dint of hard and dangerous work on the part of the police or other enforcement agents.

In New South Wales there has been in my lifetime one relevant Royal Commission. The citizens of the United States of America have a Grand Jury which is a real substitute for a Royal Commission but generally there is little to assist the police investigator in rounding up his prey. He can rely upon undercover agents, informers, mistakes on the part of the criminal and much good luck. Until recently he had to contend with lack of co-operation with other governments and enforcement agencies, lack of interest on the part of the community and opposition from institutions more concerned with the alleged infringement of civil liberties than with the liberty of the subject to live without interference from vandals, hoodlums and other types of criminals.

The Royal Commission conducted by me proved that without the powers vested in such a commission it is difficult to stop the progress of organisation or mobster crime. By virtue of the provisions of the Royal Commissions Act and where the commissioner is a Supreme Court judge, investigations can be conducted, in the nature of a Grand Jury inquiry to ascertain whether offences have been committed and if so by whom.

That was one of the terms of my commission. In normal circumstances no worthwhile investigation is made until a crime has been committed. Once it has been committed and a person charged with its commission, it is frequently too late to commence an investigation. The accused is not bound to answer any questions and must be brought before a magistrate as soon as possible to be charged and a determination made as to whether he is to stand trial.

Experience has shown that the prime indications of drug trafficking are usually money and associates. The major trafficker does not usually carry drugs or associate with persons who do. Money used in large quantities, other than in cash, leaves a trail. To use cash discloses the possession of it which is the object of the person possessing it to hide. Money cannot be used in the normal fashion without leaving evidence of its existence or use. This evidence has been referred to as a "paper trail" and is available to an investigator to indicate the existence of money or assets. Discovery of a large volume of assets excites the interest both of the tax gatherer and the law enforcement agent.

Thus there are two areas where there is a profit to the criminal in avoiding discovery by obliterating or disguising the paper trail. It is done in a number of ways, but the overall exercise is referred to as "laundering". Laundering can be described as dealing with and manipulating a supply of money in cash so that its appearance can be explained to free the person acquiring it from any semblance of complicity in an illegal transaction or from any liability to pay tax upon it.

Any form of laundering must be viewed upon the basis that it is not likely, usually, to be the subject of investigation by a Royal Commission. My Commission was an unique one. Until a Grand Jury or similar procedures are introduced in this country the person who intelligently launders money has little to fear from law enforcement agencies, although he may be easier prey to the Commissioner of Taxation.

Laundering can be performed in a number of ways but in many cases it costs money and at times is expensive.

The attribution of income to gifts from living persons, to benefits from deceased estates, to interest-free loans from relatives and friends, or to the repayment of long overdue debts by persons overseas, are examples of the less expensive, if somewhat unconvincing methods of laundering. It needs only willing helpers who, in some circumstances, may be required to indulge in some form of swearing. In the absence of a Royal Commission, the only false swearing likely to be required is in the making of a declaration alleging the existence

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of a loan in order to corroborate a taxpayer's story. In law enforcement procedures where a presumption of guilt does not exist, such evidence is not required to combat it.

One of the most expensive methods used is to introduce amounts of cash into periodic or seasonal takings of legitimate business. This may result in the payment of tax upon the amount by which the profits are thereby increased, and as well as increase in the rate of tax. However, profit may be decreased by an alleged increase in deductible expenses and alleged income may be shared between partners and the rate of tax thereby decreased. Such forms of laundering may be applied to part only of the illicit funds.

Gains have also been attributed to the backing of winning horses, winning wagers at various "games" of chance and success in lotteries. Some evidence to support such allegations can be obtained or purchased, with assistance given, for a fee, in the right quarters.

Real estate transactions can be used to hide the source or direction of funds, and thus the identity of cash involved in the consideration. With the privilege attaching to solicitors' trust accounts and their freedom from many normal methods of examination, a facility is provided whereby an accommodating solicitor may assist to disguise the existence of a fund.

The expenditure of money for the acquisition of assets such as farms, machinery and equipment cannot be made without leaving some evidence, not only of its acquisition, but of the sources of the money involved. Many of such transactions will be revealed in various places in the form of documents and books of account. But, under present procedures, access to such information is available only to the Commissioner of Taxation or, if an exceptional situation has been established and some person has been charged. Even then that person cannot, in interrogation, be forced to answer questions and so is reasonably safe.

There are a number of methods in which money can be laundered —

1. With the assistance of some inside information the winner of some form of lottery may be induced to part with the winning ticket or a share of it for the value of the prize or the share and some further financial encouragement. The purchaser is thus able to explain the relevant acquisition.
2. The winner in a horse race may be backed so that the wager at the price at which the bet is laid will produce the sum required in order to make the subsequent acquisition of such sum apparently clean. As no horse can be guaranteed to win it is unlikely that such a method of laundering money would be acceptable unless there is evidence afterwards available to establish the authenticity of the bet and so the winning of the money. It is, therefore, in the circumstances, not the making of the bet, but the evidence that the bet has been made which is important. There are known methods of achieving this end, by the purchase or other acquisition of a betting ticket. The ticket must of course be acquired after the winning bet has been paid in cash, so long as the identity of the original punter, whose evidence would defeat the scheme, is not available to the investigator.
3. Cash money may be taken to some gambling organisation, either legal or illegal, and with it can be purchased a quantity of "chips". Thereafter, whether having gambled or not, the chips can be cashed. Such gambling houses will, if requested, pay a cheque in lieu of such in exchange for the chips. The money thus acquired can claim to have been won in gambling and it is unlikely that the truth of the transaction, even if it could be traced to the gambling institution, would be disclosed.

4. Money may be smuggled out of Australia and then subsequently returned either as a loan or as a benefit from the benevolence of an overseas relative or friend, or as a repayment from a debtor.

5. It is always open for a person to receive money in what appears to be a legitimate fashion when, in fact, the money has come into the hands of the bearer in cash and then been paid to the recipient by cheque, alleged to be in payment for goods or services provided. This is a procedure however, which needs little other than arduous investigation to establish its mala fides.

The advantages available to me but denied to the usual law enforcement agent were exemplified by the questions I was able to ask of a number of witnesses in relation to the receipt of money, particularly in instances where it had been recently acquired. Such receipt frequently required an explanation. Many, some fatuous, were given. To add some conviction, stories were told of betting wins and particulars were supplied. When it was realised that these could be checked against documents, such as bookmakers' betting sheets, and bets could be traced, informants became vague and were unable to remember the race, the track, date, horse, wager, odds, the bookmaker or the winnings.

By the time I was prepared to question many of the persons who excited my interest, I had already obtained copies of their cheques, bank vouchers, deposit slips, pass sheets, pass books, contracts, transfers and other relevant documents. Frequently I had available to me copies of their income tax returns and accountants attached to my staff had been able to prepare asset betterment tables based on the information revealed in the documents supplied to me. Such information is rarely available to the ordinary police officer investigating a crime. Nor is he able, once a crime has been committed and a person has been charged, or is about to be charged, to demand that questions put by him to that person should be answered. There are very few questions that *must* be answered when put to a citizen in normal circumstances. One of them, for example, is a request as to the identity of a person who was driving a car at the particular time when an offence was committed and the person being questioned is the owner of that vehicle.

The problems which confront one in investigating organisational crime were illustrated by those which confronted me when I was investigating in Griffith, the growth, cultivation and distribution of marijuana. I learnt a number of facts from which conclusions were both inescapable and justified. The surprising thing is that although a number of these facts had been suspected, there were no steps taken to investigate, no arrests were made arising out of these facts, no action was taken to conduct further investigations to ascertain whether or not these facts did exist. The conclusions which I reached were as follows —

- a) Large quantities of marijuana had been grown from year to year in the Murrumbidgee Irrigation area.
- b) Careful organisation within the industry had ensured that for the most part only persons performing a minor role in the organisation were ever caught.
- c) There was some poor quality police work on the part of some local Griffith police involved in the apprehension of offenders. This criticism was not extended to all local police nor to the Drug Squad or to the Force generally.
- d) There was no organised method of detecting marijuana and society depended upon the integrity of a few public officials and other public spirited persons like a Mr Keenan and the late Donald Mackay to make observations and supply information of these to the appropriate authorities.
- e) Persons who were apprehended and imprisoned were supported by others who remained to carry on the organis-

ation. Whether the offenders went to gaol or not, they received compensation by way of money and other assets for the blame that had been taken and in amelioration of any punishment inflicted upon them — thus ensuring that there would be no disclosure of information to the authorities which might otherwise occur.

- f) There existed a form of organisation which ensured secrecy and silence because of fear induced by the imposition of sanctions to prevent the leakage of information.
- g) There were difficulties which impeded successful investigation because of the mixture of cash from legitimate enterprises with that from illicit industry.
- h) There was a lack of proper powers of entry to inspect either premises or documents or to authorise persons to do so.

I have referred to loans alleged to have been made to people by either relatives or friends from time to time. These loans were found to have several points in common —

1. They were usually made in cash.
2. The lenders usually and quite fortuitously had the cash on hand in their homes at the time the loan was required.
3. The lenders as a rule had little or no cash in the bank.
4. The lenders did not appear to be wealthy people and the loans often represented a high proportion of their available surplus funds.
5. When subsequently questioned, the lenders had little or no cash in the house.
6. There were no agreed terms for repayment of the loan.
7. There was no indication of any interest being charged or paid.
8. The loans were not evidenced in writing at the time at which they were made.
9. In almost all cases the loans had not been repaid years after they had been made, even though the borrower had often received large windfalls of money which were claimed to have come from various sources including gambling, money from Plati, and deceased estates in Plati.

An illustration of the advantages of such loans was in respect of a particular individual who was made bankrupt in November, 1968 by a petition of the Deputy Commissioner of Taxation. In 1975, he sought his discharge from bankruptcy and, in order to do so, was required to pay to the Official Receiver the sum of \$21,200 to satisfy outstanding creditors and commitments for costs. The whole of this money was obtained by him allegedly as a result of the receipt of loans from a number of friends and relatives. This man, had, prior to his seeking his discharge from bankruptcy and after the making of the sequestration order against him, acquired assets to the extent of hundreds of thousands of dollars.

There was ample evidence available to me that organisational assets existed and when money was required a call had to be made. When those persons who were subsequently charged were arrested at Coleambally, in 1975, money was forthcoming overnight for their bail to the extent of something between twenty and thirty thousand dollars. All this was provided in cash. Cash was always available for immediate bail. Funds were always supplied for the retention of legal representation, and financial assistance, whether by way of reward or otherwise, was available either prior to or after conviction.

Amongst the documents available to me were certain bank managers' diary notes and it was rather a sad form of humour that was displayed in certain entries, and I quote. In relation to a particular individual whom I shall designate as X, it was said as follows —

- 1) "X informed us that he was journeying to Sydney to pick up \$50,000. It would not surprise us if this sum was under the floorboards".
- 2) "Money from outside repatriated from Italy and other sources flows unceasingly in X's direction".

3) "X is not selling a lot of his wine. In the meantime, the money continues to roll in".

4) "This sum represents about one-third of the net partnership assets. We believe the debtors are not entirely in control of the business, but X will not admit this" and, finally,

5) "Income is always shown as having come from wines, fruits and vegetables. It is widely speculated that the particular vegetable is a Mexican variety not to be confused with snuff".

The following is another example of the provision of organisational money for bail. In March, 1977, four men were arrested and charged in relation with a marijuana plantation at Euston. They remained in custody until they appeared at Euston court on 9th March, 1977, when they were further remanded. Each was allowed bail in \$10,000 and as it was not forthcoming that day all four were transported to Broken Hill gaol. At 4.30pm on 10th March, 1977, six men arrived at the gaol. They produced about six parcels wrapped in newspaper and white paper. These parcels contained used Australian banknotes in denominations from one dollar up to fifty dollars. The notes were made into bundles of \$200. These notes were counted by prison officers and were found to total \$39,000. When the men were informed that the amount was \$1,000 short, one of them produced another \$1,000 from his pocket.

That the bail money was provided by some organisation was supported by the fact that the actual condition of the bail money revealed that it was not "bank money".

All was packaged similarly in the six parcels and all the parcels were identical in their physical construction. Each of the persons who produced the money resided in different States, yet each within one day was able to raise the amount required, which in one case was \$20,000. They then all met at some predetermined location and travelled together to Broken Hill where the four offenders were bailed simultaneously. No doubt the money came from one source and that source was the organisation's central pool which allowed it to bail all of the four men almost immediately. This illustrates to some extent what is going on and the problem that confronts police and other officers in their efforts to stem the tide of the criminal organisations involved in the drug trade.

But the problem does not end there. In many countries and cultures in the world today basic human rights and civil liberties are abused. It is desirable that such behaviour is opposed. However, there is a tendency to confuse the issues involved. Denial or ignoring of human rights has not yet occurred in this country, but it may. Whether there is an abuse of civil liberty in any particular instance may be a matter of some doubt. There is however some doubt as to what is a civil liberty. In any democracy it is aimless to talk of the imposition by an elected government of a restriction on individual freedom as an interference with a civil liberty. What is today a civil liberty may tomorrow be no longer such by a change in the law.

Liberties of the subject are really implications drawn from the two principles that the subject may say or do what he pleases provided that he does not transgress the substantive law or infringe the legal rights of others; whereas public authorities (including the Crown) may do nothing but what they are authorised to do by some rule of common law or statute. The liberties of the subject are not expressly defined in any law or code. Because Parliament is sovereign the subject cannot possess guaranteed rights such as are guaranteed to the citizen by some foreign constitutions, particularly that of the United States of America.

The most important liberties of the subject which exist and, subject to limitations which are known and need not be expressed, are;

- a) the right of personal freedom,
- b) the right of property,

- c) the right of freedom of speech or discussion,
- d) the right of freedom of conscience,
- e) the right of public meeting,
- f) the right of association,
- g) the right of the subject to have any dispute affecting him tried in accordance with the "principles of natural justice", and,
- h) the right to strike.

Any one of these rights may be curtailed by statute. Whether any right is to be curtailed is a matter for determination by the legislature. Any such curtailment may be loosely described as an interference with a civil liberty. Whether interference of such a nature is justified is another matter, but I know of no principle which prevents the imposition of a limitation upon the rights enumerated merely because it constitutes an interference with a "civil liberty".

As crime increases so it becomes necessary to restrict rights in the interests of the community. This is not a restriction of a civil liberty of the right to commit a crime. In the United States, citizens are at liberty to carry firearms. For us in Australia this is not a civil liberty.

From year to year "hobby horses" are created by persons for political and other gains and in no time a situation, if not forecast by Parkinson it might well have been, emerges where a Department is created and its appointed head sets forth on a crusade without regard to anything other than his stated objective. Some might think that Secrecy Committees would provide a substitute for the procedures which they seek to encourage in the alleged interests of individuals, many of them not deserving of the concern expressed for them. I refer to criminals. It may be said that they have to be proved to be criminal first. It is not a far step to prohibiting a charge against a person until he can be proved to be guilty.

No better example of this can be found than what was called the Lands Commission which was appointed in 1905. A sole commissioner was appointed to enquire into the administration of the Lands Department in New South Wales. It was found in the course of that Royal Commission that it was necessary to extend the Commissioner's powers by legislation. This was done on three separate occasions. On the first occasion the powers of the Commissioner were extended as follows:

- a. to enforce attendance of witnesses,
- b. to compel the production of books and documents,
- c. to compel witnesses to answer questions, and
- d. to punish persons for contempt or disobedience of any summons issued by the commissioner.

Additional provisions were enacted and considered to be necessary for the proper and efficient conduct of the particular enquiry. It is of some interest to note that all those powers exist in the present Royal Commissions Act.

By a further Act, enacted about one month later, further extensions were added to the powers of the Commissioner. He was empowered to summon a person to attend and produce property and to punish for contempt any person disobeying such summons. If after summons issued the property was not produced, the Commissioner could grant a warrant to search for and produce such property. A person to whom such warrant was granted was permitted to enter by day or night, to search, use force for such purpose and convey property so found before the Commissioner. The Commissioner was empowered to order force to be used to open any receptacle of property in his possession, custody or control. This power was not vested in a Royal Commissioner by the 1923 Act.

By an Act, again assented to about one month later, it was provided that a witness was not excused from answering any question on the ground of privilege, on the ground that the answer may tend to incriminate him in subsequent proceedings. That provision is contained in the 1923 Act.

I requested the Government of New South Wales to take

the necessary steps to extend my powers so as to permit me to authorise entry into suspected premises in certain circumstances. This was to enable me to enter the premises of persons whom I have since found to be engaged in the promotion of the marijuana industry in Griffith and to be members of a criminal organisation existing in the area. The Government, however, found itself unable to accede to my request.

In the above I appear to have placed particular emphasis upon marijuana. The position with heroin is a little different in relation to law enforcement, with the following exception:

- 1. Heroin is not produced in Australia illicitly.
- 2. It has not yet achieved the magnitude of organisational crime that the distribution of marijuana has.
- 3. The stakes involved are considerably higher. Heroin is much more valuable than an equivalent weight of gold and consequently can be carried more easily and to greater ultimate financial advantage.

Marijuana and heroin are by far the most prevalent and profitable types of illicit drugs, although cocaine is fast coming in to join the group.

Let me give some illustrations in relation to each of the drugs —

In dealing with marijuana it should be understood that I am dealing with locally produced cannabis. Imported cannabis appears to be more attractive because it is generally more potent, that is in the leaf form. For this reason it commands a higher price on the open "market". The plant grows well in portions of Australia, particularly in New South Wales, and responds readily to tender, loving care and attention. There are male and female plants and until recently it was believed that only the female plants were worthy of marketing and attention. However, there seems now to be some doubt about this situation.

In commercial crops after the males have been culled, it is usual to find between three thousand and five thousand female plants per acre at maturity. Samples taken, dried and weighed on various occasions show that each plant produces around 1 lb of saleable drug. This gives a yield figure of 3,000 to 5,000 lbs per acre (on an average about two tons per acre), which is considerably more than the average of 1800 lbs achieved during experimental growing in Canada.

The grower has been known to receive \$100 to \$150 per lb, being about \$22,400 or \$33,600 per ton for the dried packaged products from the major wholesalers who are purchasing in bulk. He may, alternatively, receive a flat predetermined payment, having undertaken to grow and harvest the crop. The wholesaler sells to the bigger dealers, say buyers of 50 to 100 lb. lots or more at \$200 to \$250 per lb, or about \$448,000 to \$560,000 per ton. One lb lots can usually be obtained from wholesalers for \$250 to \$300 and "buys" at this level tend to be made by a profit-seeking small dealer or by a person acting as a buying agent for a group of users who have pooled their resources to take the benefit of bulk purchases.

The most expensive way to buy is to purchase the standard "street deal" at a cost of \$25 to \$35 which is equivalent to an average of \$1,075,200 per ton or \$2,050,400 per acre. Theoretically set at one ounce, it has been something of a tradition that dealers are entitled to break a pound into seventeen or eighteen packages, while there is a tendency for the "deals" to get smaller, without a corresponding price reduction, when supplies are scarce. At this level the price can run as high as \$500 per lb. with a profit margin which might be as much as 100%, for it is here that the risk is greatest. With constant trading between small dealers and a multiplicity of buyers, arrest is almost inevitable within a comparatively short time no matter how carefully customers are screened and selected. But it must be remembered that these arrests are of persons conducting street sales and do nothing to help combat the

trafficking and distribution which takes place under the direction of organisational bosses.

It is not difficult in the circumstances then to realise the significance of a cultivation such as the Coleambally venture, which contained an area of thirty-one acres. Similarly the Euston area was about twelve to fifteen acres.

In other forms of cannabis the commonest is the Buddha stick, also called the Thai stick. These are made from the flowering tops of the female cannabis plant, which have been tied with cotton to a sliver of bamboo or thin wood. They are generally around four inches in length and between one and two grams in weight. It is perhaps relevant to mention that one ounce in weight is the equivalent of 28.35 grams metric. Samples checked from one seizure, the "Anoa", weighed a little over one gram and there were approximately 600 to the kilogram. These imported sticks are more highly prized than the local leaf, not only because they contain significantly higher concentration of THC. A usual price for a stick is \$15. On arrival in Australia in bulk they are sold at about \$5 to \$6 per stick and so, per kilogram, at about \$3,000 to \$3,500. The value per metric tonne is therefore easily estimated. At 600 sticks to the kilogram and with a street value of \$15, the ultimate amount involved is in the area of \$9,000,000. The value of the "Anoa" importation is certainly extremely high, involving at least five tons of such sticks.

Let me now, for comparison, turn to the heroin market. Heroin is a refinement of the sap obtained from the opium poppy which is firstly converted to morphine and then to heroin. On an average, the purity level of heroin at the time of its importation into Australia has been found to be about 85%, and that of the samples seized at street level at somewhere between ten and twenty per cent. The information available to me indicated that generally speaking the purity level of heroin was diluted by factors of 50% at two stages during the distribution. These have been referred to in general terms as the wholesale and retail levels of the marketing chain. Dependent upon the availability of supplies and the financial condition of those at the lowest end, it is not uncommon to find the purity of heroin reduced even further.

Of recent times heroin has been found to be more expensive in Bangkok and other areas of Thailand for a number of obvious reasons. However, until about twelve to eighteen months ago, it could be obtained in Bangkok for as little as \$1,000 a lb. It was imported into New South Wales where it was sold to a wholesaler for about \$9,000 to \$10,000 a lb. The wholesaler added material which reduced the heroin purity level by a factor of 50% and from this obtained 68 half-ounce bags. These he sold to retailers for between \$700 and \$1,000 each. The retailer further cut the heroin, reducing its purity level to about 20%. The heroin was then packaged into either grams or "hit" parcels, usually wrapped in foil. Twenty eight gram parcels were made from each bag while four hits were made from a gram. Gram foils were sold to consumers for between \$100 and \$120 each. Consumers might further weaken and re-package some of the heroin they purchased and might sell it to other consumers to cover the cost of their own habit. Hits were sold to consumers for around \$30 each. The practice of reducing the potency of a quantity of heroin by adding foreign material to it is described as "cutting".

It will be remembered that a group of Australians were arrested in Bangkok in October, 1978, comprising William Sinclair, Fellows and Haywood. They were charged with being involved in the illegal possession of some eight kilos of heroin. It was high-grade and in fact I had an opportunity to inspect it in the suitcase in which it had been carried. Applying the figures that I have referred to above, and assuming that it was of the purity of approximately 85% and converting the weights to metric, the ultimate street value of that commodity

would have been in the vicinity of one half million dollars per kilo, or in other words there was a suitcase which had a street value of approximately \$4,000,000.

Little else is needed to illustrate the difference between the value of a quantity of marijuana and that of heroin.

To refer to heroin as being "worth its weight in gold" is certainly to downgrade heroin and upgrade gold. In July, 1978, according to the Statistical and Data Services Division of the Drug Enforcement Administration, a department of the United States Department of Justice, it was estimated that an ounce and a half of pure heroin (42.36 gram) was worth US\$70,320, which was the value of a standard mint bar of gold bullion (400 troy ounces) on the commodities market as of May 16th, 1978. This made pure heroin, at the current retail price, worth about 300 times its weight in gold.

Although a Royal Commission constituted under the New South Wales Act, 1923, has a number of rights and powers considerably in excess of law enforcement agents, it is not as a statutory institution well designed to undertake the role of investigator. A Royal Commissioner has no right of entry on to premises, no power to intercept communications, no ability to carry out surveillance, no power to employ undercover agents and indeed no power to employ most of the measures that law enforcement bodies around the world use as the central techniques of investigation in attempting to identify persons involved in illegal acts.

Available information suggests that drug abuse, in most areas throughout the world, is on the increase and I understand that the New South Wales and other police departments do not dissent from this view. The problem is increasingly one associated with imported drugs and trafficking in them and it is a problem which the enforcement efforts of both State and Federal governments are failing to contain.

The time has come to review some of the traditional techniques which are mostly derived from other but dissimilar fields of investigation, and to assess whether they adequately serve the drug enforcement effort or whether better could be done. It is not unreasonable to suggest that several substantial changes ought to be made in the way in which police departments conduct their investigations.

Drug trafficking is in some senses a new form of organised crime. Police departments tend to be traditionally administered, but police administration can only hope to meet the challenges of new forms of criminal activity by accepting innovation and change. This must particularly be the case in the presence of a failing effort; failing not through lack of diligence or application, but failing in the sense of not coping with an enlarging problem and because of a failure to have and use more sophisticated methods of enforcement.

The alternative to a police department unable to free itself from the chains of the traditional form of administration is to devise other more acceptable institutions — a drug commission, a drug bureau — as many systems of government have done. All of these, however called, are specialised agencies facing special problems of law enforcement in the drug field.

I do not recommend the establishment of a specialised drug orientated agency nor the establishment of something in the nature of a crime commission, the services of which can be used in relation to all forms of organised crime, not merely that associated with drugs and drug trafficking. That is to my mind a decision which must wait until police departments have been given an opportunity to implement suggested changes (such as inter-agency co-operation, central intelligence, and others of a more tactical nature) and the results have been evaluated.

It has been contended that for State and Federal law enforcement officers to have any practical prospect of intercepting major traffickers, they may need access to the capacity to interrogate, similar to that found in the Companies Act, and

a process to compel the production of documentary material similar to that which has been available to me during the course of my investigation.

Too much time has in the past been spent arresting street offenders in comparison to time spent attempting to intercept trafficking above the street level. Most police officers throughout the world had operated similarly for considerable periods, having commenced with a similar misjudgment, but have now moved to correct the imbalance.

In New York City the Police Department has deliberately adopted, in the interests of true efficiency, a rule involving a division in available manpower resources of 65% of the department's effort being directed at the trafficking area and 35% at street level. In the future, success in the war against organisational crime, particularly in relation to drugs, will depend on future levels of manning. It must be realised that resources are limited and police commissioners and government have legitimate calls for other areas of law enforcement administration. In the existing crusade against drugs and drug distribution the present procedures involve the use of undercover agents, informers, surveillance, and the provision of inducements for the supply of information.

Introduction of already existing and accepted procedures to extend to drug-related offences does not constitute a breach of principle and may be warranted by the circumstances. To require the owner of a motor vehicle to answer certain questions relating to the identity of a driver can be extended to a situation where a person is found to be in possession both of drugs and of a large quantity of money, and fails to give a reasonable explanation as to the source of the money. If he is charged with being found in possession of money reasonably suspected of having been unlawfully obtained, and the circumstances when the charge comes to be heard warrant it, the onus may be cast on him of giving a reasonable explanation. It may be argued that there is no reason why in such circumstances a person arrested in possession of drugs and of money reasonably suspected of having been unlawfully obtained should not be considered to have committed an offence if he fails to answer relevant questions. There is no transgression of any civil liberty. If he has come into possession of the drugs innocently, he may say so. If he denies that the drugs are in his possession, he may make the denial. He is not being asked to concede that he has committed an offence but has been required to answer questions which may assist police or other officers in their investigations. It is pointless to require flexibility and innovation from police officers if government is not prepared, itself, to be flexible and innovative.

A great deal of what is missing from the enforcement effort can be explained by the drug trafficker's ability to outmanoeuvre enforcement officers. Law enforcement must match, wherever possible the adroitness of its opponents.

In Australia, in the area of law enforcement, constitutional limitations impose greater liberty in State governments than in that of the Commonwealth. Because, however, heroin is not produced locally and is imported into Australia, there is little that a State government can do, acting alone, to modify pressures created by the supply of such a drug. For optimum effectiveness of the overall drug effort all action, both in relation to supply and demand, should be integrated into one system. State and Federal governments should be committed to closer inter-agency co-operation with a view to reduction of both supply and demand, which should be regarded as constituting one problem. There should be established a single joint intelligence system. Techniques of inter-agency co-operation, especially that of the task force concept, should be adopted. An objective of a State/Federal enforcement policy should be to contain the drug abuse problem. There should be a State administrative plan on drug problems, which should be published annually. As a general rule priority should be given to

drugs which have the greatest potential for causing social damage and to investigate high level traffickers and organisational trafficking. In order to accomplish this, governments must provide to their enforcement agents the means to secure convictions in such areas.

Drug law enforcement, both in the Commonwealth and in the States, is in the hands of a number of agencies. If one excludes the legislation and efforts relating to drugs, it is probable that the individual systems function satisfactorily. There can be no doubt, however that they are inadequate when faced with organised or organisational crime, particularly that relating to drugs. The result of the attack on major organised crime and drug related crime in Australia is poor. It is reasonable to assume that major figures in the criminal enterprise are not apprehended and frequently their identity is not established. There is lacking throughout Australia adequately organised co-operation between State and Federal agencies. Such co-operation should be extended to include intelligence, objectives directed at individuals, field investigations and prosecutions.

In the past there has been wasteful competitiveness between law enforcement agencies who are supposed to be working in the same cause. Citizens of this country should not be required to bear the cost of counter-productive rivalries between such agencies.

The establishment of a central crime intelligence unit within Australia is on its way. The task force concept introduces into the anti-drug effort a new level of sophistication and avoids border hindrances. Not only is a co-operative operational effort needed but also an intelligence structure to match. Major drug trafficking requires the collaboration of a large number of people. It is essentially organisational crime.

The establishment of a central intelligence service or a co-operative intelligence service set up on a State/Commonwealth basis was recommended by his Honour, Mr. Justice Moffitt in his report as a Royal Commissioner to make an inquiry in respect of certain matters relating to allegations of organised crime in clubs in the State of New South Wales.

In the United States a powerful investigative force is the American Grand Jury. This derives from the concept in the American system of law that a man cannot be prosecuted for a serious crime unless a Grand Jury has had an opportunity to determine whether or not prosecution is warranted. Such an institution to some extent resembles the institution of the Royal Commissioner established under the 1923 Act. Much has been said for and against the institution and there is much merit in the arguments on both sides. The investigation of organisational crime however has achieved much more by dint of the existence of the Grand Jury than it ever would without it.

In the light of my experience and the result of my investigations made overseas, and after discussions with the Honorable Mr. Justice Williams, Royal Commissioner appointed by Federal Government to investigate certain aspects relating to the drug situation in Australia, a recommendation was made to both the State and Federal governments for the establishment of a Joint Task Force. This force was constituted in accordance with the recommendations made by Mr. Justice William and me and has now operated for just over a year and its report is due for publication at any moment. It is sufficient to say at this stage that it has achieved a considerable amount of progress, particularly in relation to investigating organisational crime in drug matters.

The cultivation, production and distribution of narcotic and other prohibited drugs is essentially the industry of organisations. Such an organisation gains power and wealth and, because of its resources, is difficult to break. The pushers are caught from time to time but, without persistent effort on the part of law enforcement agencies, without help whenever it



can be provided, time, care, attention and good luck, it is difficult to break the organisation or to capture the leaders. It is in the area of providing help that legislation needs reforms. There are other crimes and forms of criminal organisations that deserve attention, but few that are as destructive of our society or present such difficulties to law enforcement as the drug rings or organisations.

Governments and societies are presented frequently with the challenge in a battle which is never ending and generally unlikely to conclude in complete victory against the criminals. There is no sphere of criminal activity which offers greater reward to the criminals, greater obstacles to law enforcement and secures greater emotive support to both contenders in the fight. To those whose lives, families or fortune are destroyed by the use of drugs, there could be no worse criminal. To many of those who are not so affected, any genuine and realistic effort to deal with the problem is treated as an inroad upon our civil liberties. Whenever a step is proposed in order to deal with the problem, an intrusion into a so called civil liberty is alleged. This is no doubt noted with some satisfaction by the criminal whose activities would be, to some extent, curtailed by the introduction of the proposed step.

There are a number of areas in which alteration by legislation is advocated and in time may be effected. They involve such matters as the following —

1. A definition of possession in relation to drugs so as to cover a situation where a group of people are in a vehicle or structure and some person or persons may be said to be found in possession of a drug.
2. To determine whether or not the possession of drug paraphernalia analogues and precursors is to be regarded as an offence.
3. Powers of search with and without warrant.
4. The use of wire tapping and listening devices.
5. Compulsory interrogation and the obligation to provide information as to the sources of drugs found in the possession of a person.
6. Encouragement of informers.
7. The granting or refusal of bail in relation to drug offences.
8. Sentencing.
9. Forfeiture of money, goods and other assets.
10. The offence of being found in possession of things reasonably suspected of being illegally obtained, so as to extend the crime to goods obtained with money the proceeds of the sale of drugs.
11. The confidentiality of communications made by drug offenders while undergoing treatment.

At first glance a need may be seen for considerable alteration to the laws relating to drugs. However, the problem must be viewed objectively in its proper context and one must not lose sight of the fact that there is other criminal behaviour which is just as obnoxious as drug-related crime. An example is the use of personal violence.

A number of proposals might be thought to be unique in relation to drugs but, on further consideration, may seem not to be so. Possession of drugs may be seen by some persons to be no different from possession of firearms, explosives and other lethal substances. If possession of drugs, or of chemicals or commodities from which they may be manufactured, is to be prohibited, why should not the same principle be applied to the constituents of explosives or any of them? Should the power to search for drugs be the same as the power to search for stolen goods? Should wire-tapping and the use of listening devices be permitted in the fight against drugs, but not in relation to other crime, particularly organisational crime?

Perhaps there are certain aspects of drug-related crime which make it difficult from other forms of crime.

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