



THE DEPARTMENT OF
THE PRIME MINISTER AND CABINET

CANBERRA, A.C.T. 2600

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29 June 2000

Mr Phillip Tzavellas
14 Phillips Avenue
CANTERBURY NSW 2193

Dear Mr Tzavellas

Thank you for your correspondence of 21 June 2000 to the Prime Minister.

Mr Howard regrets that it is not possible for him to give each letter his personal attention. However, he is kept regularly informed of the views of people who, like yourself, take the time to write to him.

The Prime Minister has asked that letters addressing matters, which are the particular responsibility of another Minister, be referred to that Minister for closer attention. Your comments regarding an Independent Judicial Enquiry into the structure of the Customs Department have been noted and referred to the Minister for Justice and Customs, Senator the Hon Amanda Vanstone who has portfolio responsibility for this matter.

Again, thank you for taking the time to write. Mr Howard appreciates the effort you have made to share your views with him.

Yours sincerely

A handwritten signature in cursive script that reads 'KM Sherston'.

Karen Sherston
Ministerial Officer



- 3 JAN 2001

Mr P Tzavellas
14 Phillips Avenue
CANTERBURY NSW 2193

Dear Mr Tzavellas

I refer to your letter of 28 March 2000 to the Premier regarding Australia's customs service and drug smuggling issues and to my reply of 9 May 2000. I also refer to your telephone request of 15 May 2000 that the Premier write to the Prime Minister and Minister for Justice and Customs supporting your call for a public forums to be arranged for these issues to be aired.

Subsequent to your call a letter was sent to the Prime Minister's chief of staff, Arthur Sinodinos, enclosing a copy of your letter and requesting that consideration be given to your request. I now enclose a copy of the response received from Mr Sinodinos on 15 December 2000 for your information.

Yours sincerely

Rob Whiddon
Chief of Staff

(07) 3406 7111



OFFICE OF THE PRIME MINISTER

CANBERRA

Mr Rob Whiddon
Chief of Staff
Office of the Premier
100 George Street
BRISBANE QLD 4000

- 8 DEC 2000

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Dear Mr Whiddon

Thank you for your letter of 16 May 2000 regarding correspondence the Premier received from Mr Phillip Tzavellas of Canterbury, NSW about the Australian Customs Service (Customs). I apologise for the delay in responding to your letter.

I have been assured that Mr Tzavellas' claim of a "giant cover up" within Customs, and the silencing of Customs officers, is wholly without foundation.

Mr Phillip Tzavellas mentions his colleague, Mr Spanswick, a former Secretary of the Customs Officers Association. I am advised that Mr Spanswick has not been employed by Customs for more than ten years and, as a consequence, he would not be familiar with contemporary management of Customs. During that time, the proportion of Customs staff who work on Border related tasks has increased from 40 per cent to over 60 per cent.

The Government's *Tough on Drugs* strategy provides a clear message to address the drug problem in Australia. The strategy recognises that a balance is needed between law enforcement based supply reduction strategies, and other demand reduction and harm minimisation measures.

The Government has substantially increased its effort and funding in the fight against drugs under the *Tough on Drugs* strategy. An amount of \$515 million has been allocated under this strategy over four years, specifically aimed at combating the drug problem.

The Minister for Justice and Customs, Senator the Hon. Amanda Vanstone, is responsible for the supply reduction side of the *Tough on Drugs* strategy. Under the strategy, the Government is providing Customs with more than \$151 million over a period of four years. The funding covers: interception measures in the Torres Strait, additional intelligence analysts and increased cargo surveillance functions, eight new Customs vessels and enhanced technology.

These measures support the risk management techniques Customs uses to target and interdict illicit drug trafficking. A further \$43 million has been provided to the Australian Federal Police (AFP) for new initiatives including the provision of mobile strike teams to target and investigate major drug syndicates.

Recent drug interdiction successes, which were reported in the media, provide evidence that the significant funding provided to Customs and AFP through the Government's *Tough on Drugs* strategy is paying dividends. These successes include: the two largest ever seizures of heroin – 219 kilograms in October 1999, and 390 kilograms in September 1998; the seizure of approximately 67.4 kilograms of ecstasy tablets (approximately 218,000 tablets); 9 kilograms of ecstasy powder and major seizures of cocaine including 9.1 kilograms in January 2000, 500 kilograms in February and the seizure of 115 kilograms of black cocaine in the same month. Australia is sending a clear message to drug traffickers – the chances of getting caught are increasing all the time.

Mr Tzavellas claims that Mike Jeffries from Radio 2GB has been attempting to arrange a debate with the Minister for Justice and Customs for some six months. However, Senator Vanstone's office has no record of any specific request by 2GB for such a debate and I have been advised that Senator Vanstone has in fact recently been on the program to discuss drug policy.

Mr Tzavellas also has some issues with the New South Wales Government's 1999 Drug Summit and I suggest that he should be advised to address these issues to the New South Wales Premier, the Hon. Bob Carr MP.

You can assure Mr Tzavellas that Customs is fully engaged in the fight against drugs. The improved resources now available to law enforcement agencies through the Government's *Tough on Drugs* strategy, have already yielded record-breaking results.

Yours sincerely



ARTHUR SINODINOS
Chief of Staff

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**Phillip Tzavellas
14 Phillips Avenue
Canterbury NSW 2193
Ph: (02) 9787 2098**

**The Prime Minister
The Hon. John Howard P.M.
Canberra ACT 2600**

Wednesday July 12th 2000

Re: Support for our constitution.

Dear Mr Howard,

Thank-you for your response to my correspondence dated 29th June 2000.

I believe it's time immediate steps were taken to address the ineptness of The Australian Customs department, and more so the Minister for Justice and Customs, Senator A. Vanstone and her bureaucrats.

Prime Minister, you fought hard and spent millions of dollars of taxpayer's dollars in a referendum that retained our constitution.

Premiers Mr. Bob Carr (in NSW) and Mr. Steve Bracks (in VIC) and Ms. Kate Carnell (in the A.C.T.) and their caucus, legislated to allow heroin shooting rooms. These and related activities are illegal under the Customs Act 1901 as amended because of Section 109 of our constitution. Bearing in mind our country's recent referendum and overwhelming support for the constitution, it would be remiss of you and your government if you failed to address these breaches, which go, but are not limited, to;

- 1. The illegal and unconstitutional actions by the New South Wales, Victoria, and Australian Capital Territory governments, their administrations, Ministers and Police Commissioners, concerning heroin use rooms and related activities. These governments**

have legislated against the Commonwealth in respect to what they call heroin shooting gallery trials, which are in fact illegal heroin drug use rooms. These, and related activities, are illegal under The Customs Act 1901 as amended and go, but are not limited, to;

- The assembling of persons for the unlawful purpose of preventing the seizure of a prohibited import (heroin); Sec. 231 Through Sec. 237 where appropriate.
 - Police making agreements not to seize goods liable to forfeiture (heroin) Sec. 232(a) Through Sec. 237 where appropriate.
 - People moving and altering goods subject to Customs control without authority; Sec 33 Through Sec. 236 where appropriate.
 - People unlawfully conveying or having in their possession prohibited imports (heroin) Sec. 233(1)(d) AND / OR Sec. 233B(1)(c), (caa),(ca). Through Sec. 236 where appropriate.
2. The legislation they have passed has been presented to the relevant Governors and although that legislation is invalid under Section 109 of The Australian Constitution, has been given Royal assent.
 3. The illegal inaction by the Federal government's relevant ministers, The Federal Attorney General and Minister for Customs and Justice in relation to the offence matters.
 4. The illegal inaction by the Australian Federal Police Commissioner in the same matter.

Further more, the heroin shooting rooms provide no answer to our nation's drug problem. Blocking primary supply of narcotics can, and the only

way this real answer can be achieved is by establishing an independent judicial inquiry into the failure of the customs department and allow former and present customs officers (the experts) to give their views on how to rectify these failings of Customs.

Of course, this would be a stark about face. Bearing in mind that the President of The Customs Officers' Association had to take action in the High Court against the Customs Chief Executive Officers to stop the misuse of The Public Service Act and The Customs Administration Act against him in an attempt to keep him silent.

Prime Minister, I would like to believe our democratic laws and our constitution pertain equally to politicians, as they do to the rest of us.

Thanking You,

Phil. Tzavellas

**Yours Sincerely
Phillip Tzavellas**

CUSTOMS OFFICERS ASSOCIATION OF AUSTRALIA

FEDERAL OFFICE

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23 August, 2000

Senator Amanda VANSTONE
Minister for Justice and Customs
Parliament House
Canberra ACT 2600

Dear Minister

Australian Customs Service – requirement to execute Customs law.

As you know, the NSW Government has passed law allowing for persons in possession of heroin to use that heroin in a licensed and government sanctioned place variously called “the shooting gallery” or “safe injecting room”.

2. The merits of this law and whether it is likely to provide a safe place for existing users to use heroin or whether it will promote heroin use by persons currently not using the drug at present is not the subject of this communication. That subject will be addressed in future activities of the Association.
3. However the Association is concerned about a number of important issues arising from the introduction of this legislation.
4. Firstly, ‘Heroin’ is a prohibited import under the Customs Prohibited Import Regulations (Item 104 of Schedule 4). In effect, no heroin is manufactured in Australia. With a few rare exceptions in past years, all heroin detected anywhere in Australia has a chemical signature clearly indicating that it was manufactured overseas. Therefore, in effect, all heroin detected in Australia may reasonably be suspected of being imported and is therefore forfeited to the Commonwealth under the Customs Act, s229 (b) and consequently must be seized in favour of the Commonwealth under particular laws in Part XII, Division I and the Crimes Act.

5. The NSW Government law is in conflict with the Federal Customs Act (eg s233, s233B and probably s33 and s232) in that the NSW law ostensibly legitimises possession of federally prohibited goods which are forfeited and whose possession is federally restricted. The NSW law is constitutionally invalid and cannot stand against the federal law.

6. However if a generic or individual permit has been lawfully issued by the Federal Minister for Health or his delegate which has been accepted and implemented by your Customs Service which permits the importation and use of heroin in the "shooting galleries" then there may be a question about the nature of the conflict between the federal and state legislation. Certainly there would be Constitutional issues concerning state's rights as they may then apply to a specific state. Also the administrative issues of any such arrangement would seem to be beyond the capabilities of the Customs Service as it now structured, managed and resourced.

- a) Would you please advise whether the Minister of Health or his delegate have issued a generic or individual or other form of permit permitting persons to import and/or use heroin in a manner consistent with the relevant NSW "shooting gallery" legislation. If a permit has been issued would you please provide me with a copy of that permit(s). If you are unaware of any such permit(s), would you please advise me accordingly.
- b) If such permission has not been granted, have you as the Minister responsible for Customs or your delegate, authorised in any way, the importation of heroin for the purpose of possession and/or use consistent with the NSW "shooting gallery" legislation. If you have issued such a permit(s) would you please provide me with a copy of same.
- c) If neither the Minister for Health or you or your respective delegates have issued permits or otherwise allowed the possession or use of imported heroin for the purposes of the NSW "Shooting gallery" legislation would you please advise me of any other federally issued permit that has been issued for that purpose.
- d) If no lawful federal permission has been issued to import heroin for the purpose of possession and/or use in the NSW "shooting galleries" what instruction if any has been issued by you, your office, the Customs Service or any other agency to Customs Officers, individually or collectively about the action they must take or not take in relation to those heroin imports. Please provide me with a copy of any such directions or instructions should they exist. If no instruction or direction has been issued, please inform me of that fact.
- e) If no legitimate federal permission has been issued to import heroin for the purpose of possession and/or use in the NSW "shooting galleries" what instruction if any has been issued by you, your office, the Customs Service or the Australian Federal Police to officers of other agencies, individually or collectively about the action they must take or not take in relation to those heroin imports. Please provide me with a copy of any such directions or instructions should they exist. If no instruction or direction has been issued, please inform me of that fact.

- f) If no instruction or direction has been issued to Customs Officers, collectively or individually then would you please advise me whether or not it is your intention to instruct or direct Customs Officers either directly or through the Customs Service in relation to the matter of imported heroin, reasonably suspected of being in possession or used by persons in NSW for the purposes of the "Shooting Gallery" legislation. If it is your intention for instructions or directions to be issued officers in this matter would you please provide a copy of that instruction when it is produced
- g) If no instruction or direction has been issued to Customs Officers, collectively or individually then would you please advise me whether or not it is your intention to instruct or direct Australian Federal Police either directly or through the Federal Police Commissioner in relation to the matter of imported heroin, reasonably suspected of being in possession or used by persons in NSW for the purposes of the "Shooting Gallery" legislation. If it is your intention for instructions or directions to be issued officers in this matter would you please provide a copy of that instruction when it is produced
- h) Regardless of the preceding questions (a to g) would you please advise what action if any you intend to take in relation to the NSW "shooting gallery" legislation. In particular what action, if any do you intend to take in relation to the unambiguous conflict between the prohibitions to possess and/or use heroin reasonably suspected of being imported, under the Federal Customs Act and the use and possession provisions provided by NSW "Shooting Gallery" legislation.
- i) If it is the intention of the Government to stop Customs Officers and/or Australian Federal Police Officers from carrying out legitimate duties relating to protecting the community under the Customs Act would you please advise how the Government reconciles that conduct with the obligations under that Act.
- j) If the Government does not intend taking action under the Customs Act to stop breaches against that Act will you please advise when, as the responsible Minister you will be seeking to change the Customs Act to reflect this Government intent.

7. At present I believe Customs Officers generally have insufficient information to know how to carry out their duties in relation to the matter of the NSW "Shooting Galleries". Officers are at risk because of the uncertainty created by the NSW "Shooting Galleries" situation concerning the relevant legislation and officer duties. I believe the Customs Service has failed badly in its duty of care to Officers generally in relation to this matter. Your responses to these questions would be appreciated as soon as possible.

Yours sincerely

P.P. Bennett
Federal President.



Office of the Minister for Justice and Customs

Ministerial Number 203680

- 8 NOV 2000

Mr P Bennett
Federal President
Customs Officers Association of Australia
PO Box 146
KIPPAX ACT 2615

Dear Mr Bennett

Thank you for your letter of 23 August 2000 to the Minister for Justice and Customs, Senator the Hon. Amanda Vanstone, concerning the establishment of injecting rooms in New South Wales. The Minister has requested that I respond to you on her behalf.

I note your concerns about the establishment of injecting rooms. As you would be aware, the Federal Government has expressed strong and consistent reservations about the proposed establishment of injecting rooms in Australia. Despite its opposition to injecting rooms, the Federal Government maintains that the health and other aspects of injecting rooms are essentially matters for State and Territory Governments. The Prime Minister has written to each state and territory government expressing the Federal Government's reservations about the proposed trials.

The Minister for Justice and Customs has not issued any permit to allow the lawful importation or possession of heroin or any other illicit drug for use in injecting rooms. The Australian Customs Service and the Australian Federal Police have not been directed to alter their operations in relation to the interdiction of illicit drugs at the border and within the community. Furthermore, it is not the Federal Government's intention to prevent the Australian Customs Service or the Australian Federal Police from carrying out their legitimate duties in relation to illicit drugs.

Under the Constitution, states and territories have primary responsibility for laws designed to prohibit or control drug use. The states and territories are also responsible for general law enforcement activities. Given that both the

Parliament House, Canberra ACT 2600 • Telephone (02) 6277 7260 • Fax (02) 6273 7098

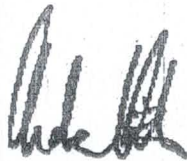
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Commonwealth and the states and territories have responsibility in relation to drug control in Australia, and the broad community interest in the effectiveness of such controls, governments at all levels are developing a coordinated approach to tackling drug problems.

Under the *Tough on Drugs Strategy*, the Government is providing more than \$516 million for a balanced range of measures aimed at law enforcement, education, treatment and research. This Strategy reflects the Government's concern at the increasing harm caused by illicit drugs. It recognises that to address this issue effectively, not only must supply be reduced but so must the demand for drugs and the harm they cause.

I can assure you that since the formation of the Justice and Customs Ministry there has been greatly enhanced cooperation and communication between relevant agencies engaged in investigating, intercepting and prosecuting drug-related matters. Record drug seizures, particularly as a result of joint operations between federal and state/territory law enforcement agencies, is testimony to this success. If Customs staff have any questions about the way they should discharge their duties, it is their responsibility to raise those concerns with their managers.

Yours sincerely



ANDREW KIRK

Principal Adviser