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Our ref: 14/97034

Sophie Dunstone
Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Ms Dunstone

Inquiry into the ability of Australian law enforcement authorities to eliminate gun-related violence in the community

Australian Crime Commission Submission

The Australian Crime Commission (ACC) welcomes the opportunity to make a submission to the Senate Legal and Constitutional Affairs References Committee (the Committee) with regard to its inquiry into the ability of Australian law enforcement authorities to eliminate gun-related violence in the community.

This submission is unclassified and may be published in the public domain. Primarily this submission addresses three terms of reference for this Inquiry:

- a) the estimated number, distribution, and lethality of illegal guns, including both outlawed and stolen guns, in Australia
- b) the operation and consequences of the illicit firearms trade, including both outlawed and stolen guns with Australia, and
- c) the adequacy of current laws and resourcing to enable law enforcement authorities to respond to technological advances in gun technology, including firearms made from parts which have been imported separately or covertly to avoid detection, and firearms made with the use of 3D printers.

On behalf of the ACC, I thank you for this opportunity to make a submission to the Committee with regard to its inquiry into the ability of Australian law enforcement authorities to eliminate gun-related violence in the community. Should you wish to discuss any aspect of this submission further, please contact Ms Judy Lind, Executive Director Strategy and

Yours sincerely

Chris Dawson APM
Chief Executive Officer
22 August 2014

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AUSTRALIAN CRIME COMMISSION

Senate Legal and Constitutional Affairs References
Committee *Inquiry into the ability of Australian law
enforcement authorities to eliminate gun-related violence in
the community*

Australian Crime Commission Submission

Introduction to the Australian Crime Commission

1. The ACC is Australia's national criminal intelligence agency with a specialised investigative remit and capabilities. The ACC is governed by the ACC Board, and works in partnership with Board member agencies, international law enforcement agencies, as well as other Australian Public Service agencies under task force, joint operations and intelligence-sharing arrangements, to gather intelligence and investigate serious criminal activity.
2. The ACC maintains national criminal intelligence holdings, produces strategic intelligence assessments, and coordinates national operational responses to disrupt, deter, and prevent organised crime impacting on Australia.
3. To undertake its work, the ACC employs combinations of coercive powers and traditional law enforcement techniques such as telephone interception, physical and technical surveillance, controlled operations and covert human intelligence sources (informants) as a composite approach to the gathering of criminal intelligence. It uses these capabilities to support partner agencies and to provide government with an independent assessment of the risk, threat and impact of serious and organised crime on the community and national interests.
4. The information contained in this submission primarily reflects the unclassified findings of the 2012 *National Illicit Firearms Assessment* (NIFA) which examined the nature and extent of illicit firearms in Australia. The information outlined below is based on 2012 data and may not reflect the contemporary environment. The ACC is currently undertaking a new classified firearm assessment that will be completed in 2015.

Firearms and Organised Crime

5. There is no single group that dominates the sale and supply of firearms to the illicit market, with activity involving a disparate range of market participants; however, firearms and organised crime are inextricably linked.
6. Firearms will continue to be sought, acquired and used by criminals, including those involved in organised crime, as an enabler used to protect interests and commit acts of violence. Motivating factors and drivers for the use of firearms include:
 - conflicts and territorial disputes over the management and protection of drug turf and appropriation of 'protection' money
 - the promotion of criminal image, reputation and status to support their dominion, and
 - personal factors such as revenge, interpersonal or family based conflicts.
7. In addition to the demand from organised crime, some demand for illicit firearms comes from lower-level criminal individuals, as well as from firearm enthusiasts who may turn to the illicit market in search of rare or specialised items not readily available through legitimate channels.
8. Firearms can be illegally traded, sold and moved around by criminals over a period of years both within and between jurisdictions. This complicates the process of 'tracing' a firearm to its original source or owner in the event that it is seized by law enforcement.

Australian Firearm Market

9. The licit market comprises all firearms that are registered with the relevant Commonwealth, State or Territory authority and held by an owner with the appropriate licence(s). Since the 1996 National Firearms Agreement (NFA), various amnesty and buy-back schemes have resulted in the surrender of over 700,000 firearms.
10. In 2012, it was assessed that there were in excess of 2.75 million registered firearms in Australia, held by over 730,000 individual firearm licence holders. The vast majority of firearms registered in Australia are long-arms (rifles and shotguns), which represent over 90 per cent of registered firearms. The licit firearm market is a source of supply of firearms to the illicit market.
11. The exact size of the illicit firearm market is an enduring intelligence gap. However, it is known that there is a significant pool of firearms that may be accessed by organised crime. In 2012, the ACC assessed that there were over 250,000 long-arms and 10,000 handguns in the illicit market.

The Illicit Market: Black and Grey

The illicit market comprises both the black and 'grey' markets, and incorporates any firearm that has been diverted from the licit market, illegally imported into Australia or illegally manufactured. Methods of diversion from the licit to the illicit (black) market include theft / staged theft; reactivation of deactivated firearms; historical legislative and regulatory loopholes; and interstate transfers.

The black market comprises any firearm illicitly obtained by individuals and criminal entities. A black market firearm will almost certainly be obtained to assist in the commission of a crime.

The grey market comprises only long-arm firearms that, following the 1996 NFA, should have been either registered or surrendered in firearm buybacks but were not. Handguns are not included in this market as they required registration prior to the 1996 NFA.

12. The imperishable nature of firearms ensures that those already available within the illicit market remain a serious threat, as is the ongoing supply of firearms to the illicit market through theft, domestic diversion, illegal importation and illicit domestic manufacture and assembly. The durability of firearms ensures that those diverted to the illicit market can remain in circulation and are available for use by criminals for many decades. The oldest firearm traced by the ACC was a functioning revolver manufactured in 1888.
13. Australia's firearm market is facilitated mostly by trade among criminal groups, along with a small number of corrupt licensed firearm dealers, licensed firearm owners and backyard manufacturers. These entities deal in stolen or lost, illegally diverted, owned or imported, modified and manufactured firearms, as well as grey market firearms.

How Firearms enter the Illicit Market

14. The illicit firearm market was assessed in 2012 to be predominantly comprised of firearms that had been diverted from the licit market through various means, some of which were specific to the type of firearm in question. The main methods of firearm diversion into the illicit market by type are:

Long-arms (shotguns and rifles)

- the grey market
- theft from licensed individuals and firearms dealers
- failure to reconcile the interstate movement of the firearm, and.
- importation of undeclared firearms and firearm parts.

Handguns

- historical deactivation and technical loopholes
- theft from licensed individuals and firearm dealers
- failure to reconcile the interstate movement of the firearm, and
- importation of undeclared firearms and firearm parts.

15. The main methods of diverting firearms into the illicit market are theft, illegal importation and illicit domestic manufacture, the role each of these are briefly described below.

Theft

16. Theft remains a primary method for diverting firearms to the illicit market. An average of 1,545¹ firearms per annum was reported stolen to Australian state and territory police during the period 2004–05 to 2008–09.² The majority of reported stolen firearms are rifles, followed by shotguns. Handguns generally make up less than ten percent of stolen firearms. This broadly reflects firearm ownership patterns in Australia.

Illegal Importation

17. Based on information held by the ACC, there is some evidence that firearms and firearm parts are illegally imported into Australia, although ACC data indicate that these comprise a small proportion of all firearms diverted into the black market.
18. In 2012 ACC Firearm Trace Program data identified illegal importation as the method of diversion for 4 per cent of handguns (with a known diversion method) and 0.1 per cent of long-arms (with a known diversion method)³ noting that illegal importation only made up one percent of total diversions.
19. The 2012 NIFA suggested there may be a variety of individuals involved in the illegal importation of firearms, ranging from firearm enthusiasts, individuals without apparent links to black market supply chains and individuals with links to organised crime.
20. The 2012 NIFA assessed that illegal importation of firearms was likely to increase in the future, although to date this has not yet been observed. Future increases in the illegal importation of firearms are likely to be driven both by the internet, which makes the online purchase of firearms and firearm components more accessible, and demand drivers, including access to 'clean skin' firearms and status issues, where the ownership of certain types of firearms is seen to be more desirable than others.

¹ This figure is likely to underestimate the actual number of firearms stolen as a consequence of non-reporting. Not all stolen firearms are reported to police, particularly if the victim is unlicensed, in possession of an unregistered firearm or has not adhered to prescribed storage requirements.

² Australian Institute of Criminology, 'Firearm Theft In Australia 2008–09', AIC Monitoring Report No. 16, Australian Government.

³ Due to a lack of critical data such as a valid serial number on the firearm, the method of diversion was not able to be assessed for 69 per cent of handguns traced by the ACC. It should also be noted that the majority of firearms submitted for trace are long-arms.

Illicit Domestic Manufacture

21. The licit manufacture of firearms in Australia is now almost non-existent, with only a small industry involved in the manufacture of specialised target firearms.
22. The ACC has assessed that the prevalence of illicit firearm manufacture in Australia is low, with minimal requirement for illicit manufacture as demand can be met from the existing illicit market.
23. There is some demand for illicitly manufactured restricted firearms such as sub machine guns (SMGs), single-shot pen guns and key ring guns. Drivers for domestic illicit manufacture of SMGs include their lethality, compact size and the fact that fully functioning SMGs are not, and have never been, available to licensed firearm owners in Australia. The simplicity of design of single shot pen guns and key rings and the potential for concealment will continue to act as drivers for continued illicit manufacture of these firearms.

Firearms Tracing

24. The ACC's Firearm Trace Program is a valuable program which provides unique insights into and informs an understanding of the illicit firearm market. On behalf of Australian law enforcement agencies, the ACC conducts serial number tracing of both registered and unregistered firearms through the Firearm Trace Program. It provides insights into the points of diversion at which firearms enter the illicit market and the types of firearms used and seized as well as highlighting changes in the illicit firearm market. Firearm trace data and sales information may also assist in the identification and initiation of investigations. This program and the increased understanding it offers relies on the continued provision of trace requests by jurisdictions.
25. Not all firearm trace requests received by the ACC are able to be progressed. There are a number of reasons for this, which include defaced serial numbers, the firearm having no record of being registered in Australia or overseas, or the trace analysis has not been finalised pending further information from industry sources.

New Supply Challenges

26. The rapid development and increasing availability of technology to users throughout the world have significantly increased the dynamics, profile and reach of organised crime. The internet enables global virtual networking and social interaction between individuals and criminals and has enabled the establishment of 'virtual marketplaces' for illegal and illicit commodities such as firearms.

Darknets

27. Online purchasing of illicit firearms remains a global threat. It remains unclear how many illicit firearms are sourced through this method, or how many are sought by organised crime rather than by private individuals; however, it is unlikely that internet purchases are a major source for the Australian firearm trafficking market. The large pool of illegal firearms already in Australia, and traditional sources overseas, such as firearm dealers and organised crime groups, are more likely to be the key sources for illicit firearms in Australia.
28. A growing number of 'hidden' websites are offering Australians access to illicit commodities. These websites are concealed within online networks, sometimes referred to as darknets,

which are encrypted in layers and passed through numerous relays to obscure the location of the users.

29. Globally, law enforcement has been successful in shutting down darknet websites such as Silk Road. Prior to being shut down, Silk Road had closed 'The Armoury' which was a website specifically designed to facilitate the trade of firearms, their parts, components and ammunition.

3D Printers

30. 3D printing (3DP) has successfully produced working firearms, but at the time of this submission presents a low threat to law enforcement.
31. The current limitations of the technology will hamper 3D printing uptake in the criminal market over the next two years due to the cost of the machines and printing material, slow speed, limited size and level of detail of objects that can be printed, limited object strength and requirement to utilise design software.
32. At the time of this submission the ACC has not identified or been informed of law enforcement discoveries of 3D fabricated firearms being used or made by criminal entities in Australia.
33. The ACC has assessed that 3D fabricated firearms will probably pose a low threat for at least the next two years. This is because of the current limitations of technology result in a low quality product, firing capability is unreliable, and development is complex and costly. However, decreased costs and advances in technology associated with machinery and manufacturing programs sourced from the internet will likely increase the quality of illicitly manufactured firearms and components within Australia in the future.
34. Objects currently produced by 3D printers tend to be crude and require additional finishing processes. However, it is probable that if these limitations are resolved, particularly by falling prices and as the technology improves, there will be a growth in 3D printing adoption. According to open source reporting, these fixes are unlikely within the next two years, with technology professionals predicting that it may be another 5–25 years before the 3D printing environment is consumer-friendly.
35. 3D printers and materials are not subject to federal regulations as they have widespread legitimate applications. There is no offence in possessing or using a 3D printer. The ACC notes that firearms produced using new technologies are still subject to the licensing and registration requirements associated with any other firearm.

National Responses

36. The ACC is not the agency responsible for the development or implementation of national policy responses or initiatives, however the 2012 NIFA identified that nationally harmonised data and fusion analysis is required to further develop a better understanding of the scale and trends in the Australian firearm markets.
37. At the release of the 2012 NIFA the ACC suggested that national responses could be built around three pillars:
 - **Regulation** – specifically focused on tightening regulation, compliance and enforcement of the existing firearm regulatory regime where required.

- **Prevention** – focused on preventing the flow of firearms to the illicit market.
- **Intervention** – focused on the use of intelligence to better detect, target and disrupt high risk individuals associated with the use of trafficking of firearms.

These pillars are underpinned by the need for high quality data and intelligence (see Figure 3).

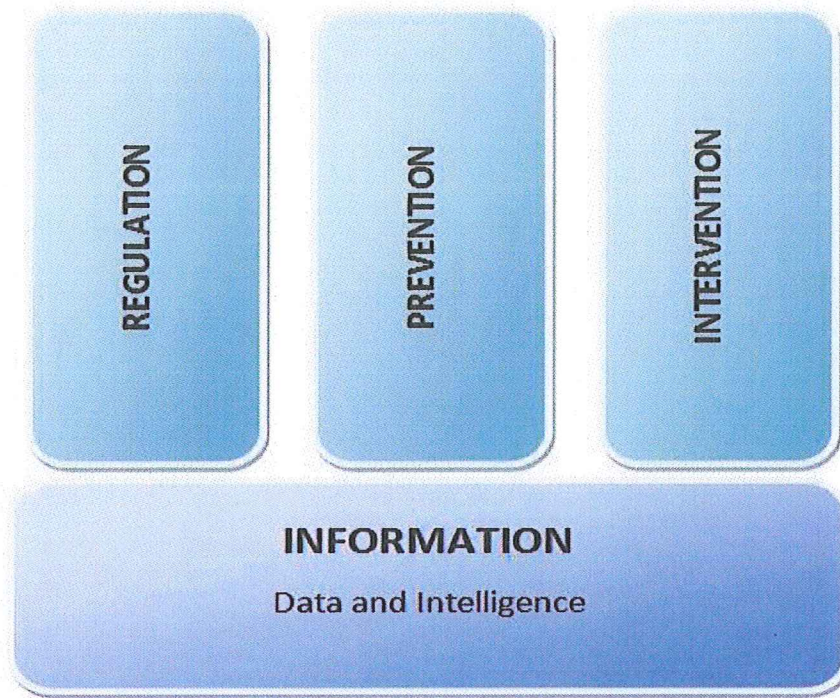


Figure 3: Pillars underpinning a national response