

Chapter 7

Financial crime against Indigenous communities

7.1 During the inquiry the committee heard evidence from numerous submitters and witnesses regarding the targeting of Indigenous communities by criminal organisations. For instance the Northern Territory Police (NT Police) submission highlighted these concerns:

The types of financial related crimes that affect the Northern Territory (NT) are consistent with those which occur nationally. The NTP [Northern Territory Police] have identified anecdotal increases in financial crimes exploiting vulnerabilities associated with Indigenous Entities.¹

7.2 Supporting the submission from the NT Police was evidence from legal and education service providers who argued that Indigenous communities were particularly vulnerable to financial crime.² The Northern Australian Aboriginal Justice Agency (NAAJA) for instance submitted that without assistance and education in financial literacy, Indigenous communities were without the resources to fight against financial crime such as phishing scams.³

7.3 Officers of the former ACC National Indigenous Intelligence Task Force (NIITF) told the committee that without adequate governance capabilities of Indigenous organisations, including auditing and accounting practices, the government funding provided to Indigenous communities was at risk.⁴ This view was supported by evidence from Indigenous legal and education service providers who highlighted the lack of investment in auditing, accounting and financial management education in Indigenous organisations and communities.

7.4 This chapter discusses the evidence received in relation to financial related crime targeting Indigenous communities and organisations, beginning with a scam at Nhulunbuy as an example of the issues faced by many Indigenous communities. The chapter then discusses the main concerns raised by submitters:

- education, financial literacy and language barriers; and
- regulatory environment and governance capabilities of Indigenous organisations (auditing, accounting practices).

1 NT Police, *Submission 2*, p. 2.

2 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 2.

3 Ms Pip Martin, Managing Solicitor–Civil, Northern Australian Aboriginal Justice Agency, *Committee Hansard*, 8 September 2014, p. 20.

4 Ms Judy Lind, Executive Director, Strategy and Specialist Capabilities, Australian Crime Commission, *Committee Hansard*, 8 September 2014, p. 14.

Nhulunbuy community scam

7.5 A scam targeting the Indigenous community in Nhulunbuy, in remote north-east Arnhem Land, provides a clear example of the types of scam perpetrated against Indigenous communities, and the substantive regulatory and educational issues facing Indigenous communities and law enforcement agencies.

7.6 The NT Police explained that international crime groups had specifically targeted vulnerable groups in Indigenous communities. The scam was described by the NT Police as a 'traditional advance fee inheritance scam'. In January 2014, the NT Police received information that between 10 and 20 individuals in the community had made payments to the scammers via the Western Union bank.⁵

7.7 The NT Police estimated the total losses from the community at \$70 000, with the funds being paid to locations overseas. The NT Police described the scammers' methodology as including:

...a combination of open source analysis, using internet search engines as well as targeted calls to identify Indigenous groups in regional outstations.⁶

7.8 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, NT Police, told the committee that the Nhulunbuy case had an added layer of complexity because a 'money mule' had been used in the transfers of money through the Western Union bank.⁷

7.9 Commander Richard Bryson, Crime and Specialist Support Command, NT Police, told the committee that the trend towards sophisticated, targeted financial crime against Indigenous communities was very concerning, particularly the speed with which such crimes could be perpetrated:

...around that Nhulunbuy incident, we see that the method of operation was one where it was a very sophisticated scam to the extent that it involved a lot of subjectivity on behalf of the targets and knowledge around the sorts of conversations and approaches that could be made in order to facilitate that scam. You can see how quickly that that was able to be perpetrated.⁸

7.10 Commander Bryson noted that the level of sophistication in the Nhulunbuy scam showed an evolution in criminal methodology:

...the most concerning thing is that traditionally a lot of those types of fraudulent scams are done with no subjective understanding, or a very poor subjective understanding, of the victim. As some of those crime types evolve—as we all know, criminals evolve in their method of operation—

5 NT Police, *Submission 2*, p. 2.

6 NT Police, *Submission 2*, p. 2.

7 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 2.

8 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 2.

what is concerning is that they have had that subjective understanding of the target group and have been able to exploit it.⁹

7.11 Although the NT Police submission states that international crime organisations were responsible for the scams in Nhulunbuy, Assistant Commissioner Payne told the committee that financial crime threats to Indigenous communities could also originate within Australia.¹⁰

7.12 The Nhulunbuy scam is but one example of the threats faced by Indigenous communities from financial crime organisations. Assistant Commissioner Payne advised that with the combination of funding, lack of governance, and poor financial literacy, the threats to Indigenous communities from financial crime are widespread:

Essentially, in the Northern Territory we find we are not immune—and in fact we have certain entities within our community who are more susceptible to financial crime. In many instances, these are people who form part of the community who may be less likely to receive advice because of the areas where they live and in some instances, a lower level of education but higher access to moneys, either through royalties or other payments. We also see some targets in the Northern Territory today and ongoing into the future related to large amounts of government funding and grants that sit in accounts that, with some of the governance arrangements that stand around these entities and these associations, make them very vulnerable to financial fraud.¹¹

Intelligence gathering

7.13 NT Police representatives explained that they had put a lot of faith into the Australian Cybercrime Online Reporting Network (ACORN), arguing that it would result in higher detection and awareness of scams earlier, and facilitate a speedier response to financial related crime.¹²

7.14 Further, NT Police detailed their expectation that ACORN would provide a much better picture of criminality for law enforcement agencies, as well as provide information to victims of crime due to its business rules. This would encourage more accurate capture and retention of information, without giving unrealistic hopes or expectations to victims of fraud:

9 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 3.

10 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 1.

11 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 2.

12 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 4.

The ACORN initiative will automate a large body of that work and be much better for the wider community and the victims of this type of offending.¹³

7.15 NT Police also raised the role of the NIITF in detecting not only child related sex offences, but also the existence of a substantial connection to financial related crime, in that facilitators of either crime were often interchangeable:

...for the facilitators of some crimes against children or, vice versa, the facilitators of some financial fraud, there is a relationship between the two, that is, compromising people, or having people compromised over offences that they may have committed and then making them the subject of fraud activity in terms of duress, basically.¹⁴

National Indigenous Intelligence Task Force

7.16 The committee received evidence relating to the establishment (and eventual completion) of the NIITF. Established as part of the Commonwealth Government's Building Stronger Communities in the Northern Territory initiative, 'the NIITF was announced in July 2006 as part of a whole-of-government response to violence and child abuse in remote, rural and urban Indigenous communities.'¹⁵ The committee understands that the NIITF ceased operation on 30 June 2014.

7.17 Former officers of the NIITF told the committee:

The NIITF's aim was to build a national understanding of the nature and extent of violence and child abuse in Australia's remote, regional and urban Indigenous communities. The ACC was well placed to run the NIITF as it is the only criminal intelligence agency with a national footprint and access to a range of capabilities required to collect, analyse and provide information regarding the extent of child abuse and violence in Indigenous communities.¹⁶

7.18 The NIITF representatives also noted the significant threats to Commonwealth funding of Indigenous programs, largely due to the sophistication of schemes targeting Indigenous Australians:

In terms of the drivers of financial crime and exploitation within Indigenous communities, there are a number of factors at play, including socioeconomic disadvantage, problem gambling, poor governance and

13 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 6.

14 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 5.

15 National Indigenous Intelligence Task Force (NIITF), Factsheet, Australian Crime Commission, p. 1.

16 Ms Judy Lind, Executive Director, Australian Crime Commission, *Committee Hansard*, 8 September 2014, p. 9.

accountability, and the absence of probity check of staff and board members within some Indigenous communities.¹⁷

7.19 The NIITF representatives explained that while financial related crime and exploitation within Indigenous organisations is difficult to detect, investigate and prosecute, its prevalence is largely due to a number of factors, including:

...the significant under-reporting due to fear of retribution, the fear of self-incrimination, shame, unawareness that it has actually taken place, and, where government funding is concerned, a concern that making a complaint might risk future funding into those organisations.¹⁸

7.20 The committee received a confidential copy of the NIITF report to assist with its analysis of the work of the NIITF. The committee has decided not to release this information publicly. The committee notes that aspects of that report were released under FOI by the ACC on 13 March 2015.¹⁹

7.21 While the report focusses mainly on issues associated with violence and child abuse in Indigenous communities, the NIITF developed numerous intelligence products relating to illicit substances and financial crimes.²⁰

7.22 The report notes that, in relation to financial crime, exploitation of Indigenous organisations occurs in every jurisdiction and is likely to increase, with remote communities assessed as being particularly vulnerable.²¹

7.23 The NIITF report notes:

Indigenous program funding is significant and is vulnerable to financial crime and exploitation. When funding is diverted by criminal acts, there can be significant reductions in program delivery, loss of community trust and confidence, normalisation of criminal activity, and community disadvantage.²²

7.24 These issues are examined in greater detail below in the context of financial services awareness (education), financial literacy and governance.

17 Ms Judy Lind, Executive Director, Australian Crime Commission, *Committee Hansard*, 8 September 2014, p. 9.

18 Ms Judy Lind, Executive Director, Australian Crime Commission, *Committee Hansard*, 8 September 2014, p. 10.

19 www.crimecommission.gov.au/publications/freedom-information/disclosure-log

20 ACC, *The Final Report of the National Indigenous Intelligence Task Force*, (released under FOI), 2006–2014, p. 5.

21 ACC, *The Final Report of the National Indigenous Intelligence Task Force*, (released under FOI), 2006–2014, p. 17.

22 ACC, *The Final Report of the National Indigenous Intelligence Task Force*, (released under FOI), 2006–2014, p. 17.

Risk factors and prevention

7.25 The factors which place Indigenous communities and organisations at risk should be, in the opinion of witnesses and submitters, the key targets for preventative action. This section examines each risk factor in turn, noting the current and suggested actions for prevention and safeguarding of Indigenous communities and organisations:

- education (organisations and individuals);
- financial literacy and language barriers; and
- governance capabilities of indigenous organisations (auditing, accounting practices).

Education – organisations and individuals

7.26 Many witnesses, like the NT Police²³ and NAAJA²⁴ agreed that education, and particularly financial literacy, was the best means of protecting individuals and organisations in Indigenous communities from financial crime. Commander Bryson told the committee that while there were good mechanisms in place to deal with crime once reported, education was essential:

...from a law enforcement perspective there are already some fairly robust mechanisms in place so that once there is any vision over that type of scam or offending then the appropriate things take place in relation to the money transfers and in relation to the accounts the moneys are being transferred to in order to basically put a stop to that crime series. But I think the better way to approach things is in relation to the education space I spoke about before, for the target group here in the Northern Territory that does not have access to the normal types of communication strategies that the government would engage in.²⁵

7.27 Assistant Commissioner Payne agreed that educated and aware individuals were those best protected against financial crime. He noted the role of the ACCC in educating the public regarding financial crime and scams:

I would also like to raise just briefly some of the advancements, particularly we think the role of the Australian Competition and Consumer Commission in terms of getting information out to the public and the strategies that are enforced through the Australasian Consumer Fraud Taskforce, which detect, disrupt and disable, are very sound strategies. We tend to feel, as

23 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 3.

24 Ms Pip Martin, Managing Solicitor-Civil, Northern Australian Aboriginal Justice Agency, *Committee Hansard*, 8 September 2014, p. 21.

25 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 4.

law enforcement agencies, that our best attack is the defence that we gain by advising victims and trying to make them more savvy and aware.²⁶

7.28 Commander Bryson argued that the best way to educate those who needed it most was to have 'boots on the ground':

From the educational perspective, the large Indigenous population that we have here in the Northern Territory are extremely disparate in some of the remote communities where they live, and, notwithstanding some of our efforts where we have worked with the other stakeholders in that education space, it is problematic to actually reach that target audience and have them be aware. The traditional way that you might go about that in other parts of Australia will not get the traction that you would expect or hope to get in those circumstances. Unfortunately it involves a lot of face-to-face contact and a lot of actually having relationships with relevant people on the ground. For lack of a better expression, it involves 'boots on the ground' in these remote communities to make sure that people are aware of these things.²⁷

7.29 Commander Bryson also emphasised the need for education and proper management, particularly in an environment such as the Northern Territory, which has a large investment of Commonwealth grant funding going to community-based organisations:

Certainly from the Northern Territory Police perspective, we really feel that a greater investment from some of the Commonwealth bodies in that education space before it gets to the stage of offending and some more robust accounting and auditing processes going forward would be of assistance. Also, we are a small jurisdiction but have a disproportionate amount of Commonwealth grants and Commonwealth funding coming into the jurisdiction. We have done some work in the last 18 to 24 months where, going forward, we would like to think that in the medium term we may be able to move ourselves into a position where we have our own joint task force here in the Territory and we can get some of the Commonwealth bodies to come on board and cohabitate with us here in the Territory so that we can case manage some of these matters in a much better fashion.²⁸

7.30 The committee heard from Mr Richard Trudgen, an advocate on Indigenous matters who appeared in a private capacity, of his experiences providing education to those in communities who had been the victims of scams. Mr Trudgen is a community

26 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 2.

27 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 3.

28 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 3.

educator and author, and has worked with the Yolngu people in north-east Arnhem Land for about 40 years.²⁹

7.31 Mr Trudgen told the committee that 'knowledge gap' research has revealed the true extent of the lack of education and awareness about financial management and financial crime in Indigenous communities.³⁰ Mr Trudgen had the opposite view to the NT Police of the utility of the ACCC's scam awareness work:

It is no good if the [ACCC] or any of those other organisations come along and say, 'We'll put some posters out.' Well, wonderful! They will sit in a corner somewhere. They are all in English and they will just become fire fodder. They do not deal with the real needs that people have.³¹

Financial literacy and language barriers

7.32 Mr Trudgen highlighted two key problems with the financial literacy levels in Indigenous communities, and the consequent vulnerability to financial crime: lack of financial understanding and language barriers.³²

7.33 Understanding the financial system, including modern innovations of electronic banking, is vital for individuals to identify ways to protect themselves from financial crime. Mr Trudgen explained that this basic understanding, and financial literacy was lacking from the communities with which he engaged:

We introduce all these technologies to Indigenous people and we do nothing about preparing them. We have opened up now to electronic banking et cetera. People are basically economically illiterate, which they were not years ago when they were trading with Makassar [a major Indonesian port]. The older people I knew 40 years ago had very good economic literacy and understanding of those things. But today there is little economic literacy, especially since the Northern Territory intervention, with the mystification about government having all this money and government printing all this money.³³

7.34 Mr Trudgen used the example of the concept of banking passwords to explain the point further:

Plus, we introduce all these technologies to people, like bank cards and SIM cards and the things we develop programs around, like passwords and security codes... When we did the work around passwords, people had no understanding of what that word meant, as you would not if English was your second language, as it was for these people—or fifth or sixth language. When you asked them, 'What does that word mean,' they said, 'That's the

29 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 16.

30 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 16.

31 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 18.

32 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 17.

33 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 17.

word you pass on to people,' because they had no history of Europe and where that word came from... So we told that story, and even the Yolngu lady who was helping me said, 'I've been doing credit union training forever, for the last 10, 20 years, and this is the first time I've actually heard the background meaning to the word "password".' I see people give out their security codes like they are nothing. They will give a card to a kid and give them the security code, and off they go to get money out.³⁴

7.35 Language barriers are also considerable obstacles in people's financial understanding, and in the communication of awareness of financial crimes. Mr Trudgen argued passionately for the need for communication materials designed for Indigenous communities to be in the language of those communities:

...we need the Australian government to roll out something, for Aboriginal people right across the country, even where Aboriginal people are speaking Aboriginal English, not through culturally incompetent mainstream services, but through organisations like ours and so on, who have the language skills, who know their people and who know what the gaps are... We could turn this stuff around if we just spent a fraction of the dollars that have been wasted in the Aboriginal industry at the moment.³⁵

7.36 Ms Pip Martin, a managing solicitor of NAAJA, supported Mr Trudgen's evidence, noting that 'at the same time as we have this increase in technology, there is a lack of education and basic knowledge to be able to deal with those technologies.'³⁶

7.37 Both Mr Trudgen and Ms Martin insisted on the need for any education or awareness raising to be done in an individual's first language. Mr Trudgen reported the benefits from the use of radio as opposed to written communication.³⁷ Ms Martin made the point that whenever the community legal education team visits communities they always use interpreters. Ms Martin believed that very few, if any, national campaigns on financial literacy were available in translated form. Further, Ms Martin noted that written information is not as suitable for communication in Indigenous communities. She described the approach taken by the community legal education team as 'not PowerPoint presentations; it is sitting down discussing and role playing – using interactive adult education techniques – to overcome those literacy and language issues.'³⁸

7.38 In contrast to the work being done by Australian Government agencies to raise awareness of financial crimes, Mr Trudgen observed that sadly it was the

34 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 17.

35 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 19.

36 Ms Pip Martin, Managing Solicitor-Civil, Northern Australian Aboriginal Justice Agency, *Committee Hansard*, 8 September 2014, p. 21.

37 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 18.

38 Ms Pip Martin, Managing Solicitor-Civil, Northern Australian Aboriginal Justice Agency, *Committee Hansard*, 8 September 2014, p. 22.

criminals themselves who, by working patiently with individuals, were providing more education:

These crooks are providing better education than what the mainstream system is doing. They actually educate them on how to fill out the forms, to go to the post office. They take them through it step by step. The impact is significant. It is still out there and I think it is right across. The methods and practices are, basically, the same at the moment of mining information as fast as possible.³⁹

7.39 Mr Trudgen warned that the need for appropriate language services in awareness raising was not just an issue in north-east Arnhem Land but was likely to be a problem across Australia:

I am convinced that it is not just East Arnhem Land. Because of my language ability and from being here for a long time, people talk to me and open up to me. I reckon it will be right across North Australia and Central Australia. It is in what we call the 'silent culture zone', which just does not get out into mainstream. It is not heard on the media. It is not there because people are operating in that other language.⁴⁰

7.40 Mr Trudgen's final comments to the committee noted that through empowering Indigenous Australians to have control in safeguarding their own financial assets, many problems may be solved, including the mental health issues related to lack of confidence and falling victim to financial crime.⁴¹

7.41 Education as a means of preventing crime was also supported by Ms Judy Lind, Executive Director, Strategy and Specialist Capability at the ACC, who stated:

It is our belief that any further strategy should be focused on prevention and not just focused on the investigation of referrals alone, including raising awareness of the nature of the threats, educating communities and strengthening the environment for which financial crime and exploitation can occur.⁴²

7.42 Ms Lind proposed that in addition to education, more could be done with structural mechanisms for increasing accountability and transparency in Indigenous organisations:

There are measures in place under the [Public Governance, Performance and Accountability Act 2013]. There are measures in terms of independence and requirements for auditing of agencies. We know that some of the funding agreements being entered into in Indigenous communities require

39 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 19.

40 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 18.

41 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 19.

42 Ms Judy Lind, Executive Director, Australian Crime Commission, *Committee Hansard*, 8 September 2014, p. 10.

quite high levels of checks and balances in relation to those funding agreements.

Some additional preventative measures that could be considered in this environment could include the need for probity checking of directors, secretaries and employees of Indigenous organisations, as well as appointing independent board members to Indigenous organisations; the continued provisioning of targeted governance training to Indigenous organisations, and support to those organisations to try to build governance capabilities and financial literacy; the potential to increase the transparency of royalty payments and land-use agreements so that law enforcement and other regulators can assist communities to attempt to detect and avoid potential areas of exploitation of the huge amounts of money that is flowing into Indigenous communities under those agreements; and the potential need to more systematically identify problem gamblers within those organisations that hold or attempt to hold office, and some mitigating strategies wrapped around those individuals.⁴³

Committee view

7.43 The evidence received by the committee indicates that Indigenous communities would benefit from culturally appropriate and targeted financial literacy programs. As witnesses with significant first-hand experience in Indigenous communities explained, there are two major issues regarding the provision of culturally appropriate financial literacy material. The first is that many Indigenous communities access information verbally as opposed to via written form. Secondly, because English is not the primary language in many remote Indigenous communities, mainstream financial literacy materials are likely to be ineffective. To reduce the risk of these communities being targeted by organised criminal groups and fraudsters, financial literacy materials need to be provided in local Indigenous languages, and targeted in an appropriate medium and format.

7.44 Without appropriately translated materials that are delivered in a culturally accessible manner, Indigenous communities across Australia are likely to remain particularly vulnerable to financial related crimes. This in turn puts at risk the wellbeing of Indigenous Australians, and also the government funding across a range of portfolios which is provided to support these communities and organisations.

7.45 The committee agrees with the evidence presented that Indigenous communities require support to develop financial literacy and education, including in local Indigenous languages. These actions would do much to build financial management skills and confidence, as well as assisting Indigenous communities build resilience against the perpetrators of financial related crime.

43 Ms Judy Lind, Executive Director, Australian Crime Commission, *Committee Hansard*, 8 September 2014, pp 10-11.

Recommendation 13

7.46 The committee recommends the government fund targeted financial literacy education programs for Indigenous communities. These programs must be translated into local Indigenous languages, be specific to the local community circumstances and be delivered in a culturally appropriate manner.

Governance capabilities of Indigenous organisations

7.47 The lack of financial understanding in individuals becomes a larger problem when financial crimes are transferred to a community controlled organisation. Without basic organisational proficiencies, it is difficult to account for funds and maintain accurate records. Without good governance systems in place, an organisation is susceptible to be the target of organised financial crime from external groups as well as being vulnerable to fraud and other financial crimes from within the organisation itself.

7.48 The committee heard that there is a lack of education and awareness in community-based organisations in Indigenous communities. Ms Martin told the committee that:

We have been approached by individual directors from Indigenous corporations for advice. From their perspective when they approach us—and it is only a few people—they are not aware of their responsibilities as a director. They are aware of power plays going on but they are not aware of the fact that they can stand up to it in terms of voting and being involved in the decision making of an organisation. So governance is a very important issue.⁴⁴

7.49 Regarding the effect of financial crime on Indigenous organisations, Ms Lind echoed the sentiments expressed by Mr Trudgen⁴⁵ about the effect of financial crime on individuals:

Our broad conclusion is that the impact of financial crime in Indigenous communities cannot be understated, and in some cases can be linked to a decline in living conditions where those frauds have resulted in the removal of funding destined for particular programs that try to address Indigenous disadvantage. Funding by government to Indigenous organisations is often for programs aimed at tackling child abuse, neglect, violence, substance abuse and improving overall Indigenous health and wellbeing. Misappropriations within those organisations can result in failure to deliver these services and a consequent failure to deal with these problems.⁴⁶

44 Ms Pip Martin, Managing Solicitor-Civil, Northern Australian Aboriginal Justice Agency, *Committee Hansard*, 8 September 2014, p. 22.

45 See also: Paragraph 7.38

46 Ms Judy Lind, Executive Director, Australian Crime Commission, *Committee Hansard*, 8 September 2014, p. 11.

7.50 Lack of governance creates opportunities for fraud, but can also impede a police investigation which may prevent further losses. Commander Bryson told the committee of the difficulties faced by police in making an investigation into fraud in an organisation with poor governance practices:

When we have a report of a financial related crime here in the Territory, time and time again we find that a lot of the entities, whether they be incorporated bodies or associations, have extremely poor governance and poor records. That makes it very problematic to conduct a successful investigation and move the matter into the prosecution phase.

7.51 Assistant Commissioner Payne told the committee that oversight of organisations is made by the Department of Business, Northern Territory, which:

...oversees the [Associations Act] of the Northern Territory. In fact, it has regulatory powers, but, in a general sense, as I understand it, it is a case of ensuring that, on a yearly basis, it provides its end-of-year financials, it is solvent and it is operating as a business.⁴⁷

7.52 Assistant Commissioner Payne went on to explain that it is up to each organisation or association itself to have in place appropriate processes:

The [Associations Act] requires each association to have a constitution, and the constitution has, essentially, the business rules of the organisation. This is one of our problems. Sorry, generally speaking, when we become involved we have discovered that the organisation was incompetent and made very bad decisions, or there has been criminal activity that has caused the organisation to fail financially.⁴⁸

7.53 Although witnesses differed in their perspectives, all agreed that good governance practices are central to efforts to mitigate the threat faced by organisations from financial crime. From a policing perspective, Commander Bryson told the committee that:

...there needs to be early intervention and regular auditing and inquisition. The record keeping is extremely poor. Quite often when we go behind and start to look at large sums of money and how they have been acquitted, it is clear that there has been a lack of governance for an extended period of time and that nobody has been in that space for an extended period of time to see exactly how the funds are being dispersed versus what they were granted for and the objective that is sought to be achieved.

From a policing perspective, as I said, normally there is an extended time line between when the conduct was engaged in and when we actually get the report, which is unhelpful. We really need to be in a space, from a

47 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 7.

48 Mr Mark Payne, Assistant Commissioner, Crime and Specialist Services, Northern Territory Police Force, *Committee Hansard*, 8 September 2014, p. 7.

community perspective, where we are looking at these things much more regularly and much earlier...⁴⁹

7.54 Ms Martin stressed the importance of governance, education, and mentoring being provided to Indigenous communities to help people build capacity to support themselves:

NAAJA is one of the organisations involved in a peak organisation called Aboriginal Peak Organisations of the Northern Territory—that is the medical services, the legal services and the land councils. They were given significant funding to set up a governance program to support Aboriginal organisations and train up the directors and provide mentoring. That is a great approach in terms of building up the capacity of Aboriginal corporations so that they can manage the funds to support their people in the range of services that are required.⁵⁰

7.55 However, Ms Martin expressed concern over the fact that once the current funding concludes, NAAJA would have to reapply:

That funding is finishing, if not in June 2015, in June 2016, and we are, at the moment, having to apply for more funding under the Indigenous Advancement Strategy.⁵¹

7.56 Mr Trudgen too argued for the need for education, and particularly education in the appropriate language, to help individuals and organisations manage better. But Mr Trudgen, like Ms Martin, observed that without funding, there was no way to deliver education in a meaningful way:

Unfortunately nobody does this training for Indigenous people, especially remote Indigenous people, except organisations like us that take it on. We have organisations that apparently should be doing it, but they are all English first language and therefore they cannot do it and they do not do it. Our company struggles to survive because we do not get income and we do all these things for nothing. We have to decide what we are going to do, for the sake of closing it down.⁵²

7.57 The NIITF report released under FOI notes that Indigenous corporations would likely continue to be exploited by individuals, including board members, who wish to advance personal, family or group interests at the expense of the community.

49 Commander Richard Bryson, Northern Territory Police Force, *Committee Hansard*, 8 September 2014 p. 3.

50 Ms Pip Martin, Managing Solicitor-Civil, Northern Australian Aboriginal Justice Agency, *Committee Hansard*, 8 September 2014, p. 21.

51 Ms Pip Martin, Managing Solicitor-Civil, Northern Australian Aboriginal Justice Agency, *Committee Hansard*, 8 September 2014, p. 22.

52 Mr Richard Trudgen, private capacity, *Committee Hansard*, 8 September 2014, p. 17.

The report suggests that members would pressure office holders to approve programs or policies that are not in the best interests of the community.⁵³

Committee view

7.58 The committee is greatly concerned by the evidence that Indigenous communities are likely to continue to be victims of financial related crime. This is due to a combination of factors, including the lack of support for, and oversight of, adequate governance arrangements for Indigenous corporations and organisations.

7.59 The committee agrees that it is problematic that Indigenous communities do not feel empowered, have the requisite skills, or have adequate resources to comply with financial accounting requirements.

7.60 The committee commends the NIITF for its detailed work regarding financial related crimes in Indigenous communities. The committee supports the NIITF's recommended remedial actions regarding financial crime in Indigenous communities including recommendations: for ongoing funding for law enforcement agencies to prevent, detect and investigate suspected financial crimes in Indigenous organisations; and to provide targeted governance training to Indigenous organisations.

7.61 The committee believes that the implementation of the NIITF's recommendations regarding financial related crime would require the ongoing involvement of the ACC in collaboration with state and territory law enforcement agencies.

7.62 The recently announced Serious Financial Crime Taskforce could have an alternative role in continuing the financial crime aspects of the NIITF's work, should it be impractical for the ACC to have an ongoing role in this space.

Recommendation 14

7.63 The committee recommends the government implement the recommendations from the National Indigenous Intelligence Task Force report relating to the prevention of financial crime and improved governance in Indigenous organisations.

Mr Craig Kelly MP

Chair

53 ACC, *The Final Report of the National Indigenous Intelligence Task Force*, (released under FOI), 2006–2014, p. 17.