



Parliamentary Joint Committee on Law Enforcement

Inquiry into the gathering and
use of criminal intelligence.

May 2013

© Commonwealth of Australia

ISBN 978-1-74229-803-0

This document was prepared by the Secretariat of the Parliamentary Joint Committee on Law Enforcement

THE COMMITTEE

Members:

Mr Chris Hayes MP	ALP, NSW (Chair)
Senator Fiona Nash	NATS, NSW (Deputy Chair)
Senator Mark Furner	ALP, QLD
Senator Stephen Parry	LP, TAS
Senator Helen Polley	ALP, TAS
Ms Sharon Grierson MP	ALP, NSW
Mr Michael Keenan MP	LP, WA
Mr Russell Matheson MP	LP, NSW
Ms Maria Vamvakinou MP	ALP, VIC

Secretariat

Dr Jane Thomson, Acting Secretary (from 2 April 2013)

Ms Fiona Bowring-Greer, Secretary (to 28 March 2013)

Ms Rosalind McMahon, Administrative Officer

Parliament House
CANBERRA

Telephone: (02) 6277 3419

Facsimile: (02) 6277 5809

Email: le.committee@aph.gov.au

Internet: http://www.aph.gov.au/le_ctte

TABLE OF CONTENTS

THE COMMITTEE	iii
CHAIR'S FOREWORD.....	ix
LIST OF ACRONYMS AND ABBREVIATIONS.....	xi
RECOMMENDATIONS.....	xiii
CHAPTER 1	1
The terms of the inquiry	1
Conduct of the inquiry.....	1
Scope and structure of the report.....	1
Acknowledgement.....	2
CHAPTER 2	3
Conceptualising 'criminal intelligence'.....	3
Definition of 'criminal intelligence'.....	4
Defining 'criminal intelligence' and its purpose	5
Scope of information and complexity of the intelligence landscape	8
Intelligence approaches, models, systems and expectations	9
CHAPTER 3	13
Australian Crime Commission and the national criminal intelligence context 13	
Origins of the Australian Crime Commission.....	13
ACC criminal intelligence gathering methods and powers.....	13
ACC's coercive powers.....	16
ACC's information sharing powers	18
National coordination in relation to organised crime.....	21
Capacity to share information	26
CHAPTER 4	29
Legislative, technological, methodological, resource and cultural challenges.. 29	
Legislative impediments and challenges to sharing intelligence	30
Technological challenges	37
Methodological challenges.....	42

Cultural challenges	47
Resourcing challenges	51
CHAPTER 5	55
The Australian Criminal Intelligence Model	55
Background to the Australian Criminal Intelligence Model	55
Endorsement of the Australian Criminal Intelligence Model	56
Vision for the Australian Criminal Intelligence Model.....	57
Australian Criminal Intelligence Model principles and strategic objectives	57
Intelligence cycle.....	59
Governance arrangements	60
Identified challenges.....	62
Securing the free flow of all criminal intelligence	63
A culture of national intelligence	64
Appropriate technology, policy and legislation	65
Dealing with transnational and borderless contemporary organised crime	71
National Criminal Intelligence Fusion Capability.....	72
Supporting initiatives.....	72
Stakeholder views.....	73
CHAPTER 6	75
Challenges to an Australian Criminal Intelligence Model	75
A definition of criminal intelligence and universal methodology.....	75
A criminal intelligence repository	78
Single national security classification standards	84
Should the provision of information be mandatory or voluntary?	86
Data management and integrity.....	89
Balancing national and state priorities	93
CHAPTER 7	97
Committee view and conclusions	97
Nature of contemporary law enforcement and the role of the ACC	97
Committee endorsement and support	98
Risks of maintaining the status quo.....	98
Risk appetite and partnership approach.....	99

Information dissemination.....	100
APPENDIX 1	101
Submissions, additional information and answers to questions on notice received by the committee.....	101
APPENDIX 2	103
Witnesses who appeared before the committee	103

CHAIR'S FOREWORD

Contemporary law enforcement agencies face considerable challenges brought about by greater mobility of people, goods and services across designated borders, improved communications and information technologies, and the emergence of a globalised economy. The transnational nature of organised crime means that in the commission of their crime, criminal networks forge bonds across geographical borders, transcend linguistic and cultural barriers and operate across markets. In Australia, the operations of organised criminal entities are fluid, adaptive and transcend borders, sectors and crime types.

As serious and organised crime in Australia exploits the legislative, structural and resource gaps in law enforcement, it demands a nationally consistent approach. It also requires strategic investigative methodologies focused on intelligence-led investigations as well as identifying sector vulnerabilities open to exploitation in order to prevent and disrupt serious and organised crime rather than relying on reactive policing.

As the national criminal intelligence body, the central function of the Australian Crime Commission (ACC) is to collect, analysis and disseminate criminal intelligence in relation to nationally significant organised crime. Its modus operandi is to work in partnership with law enforcement, national security agencies, government and industry to deliver advanced criminal intelligence. Recent amendments to the *Australian Crime Commission Act 2002* have allowed for greater dissemination of ACC information to partner agencies, government and the private sector. However, evidence to the committee suggests that the intention behind these new arrangements, which is to provide for a more comprehensive response to organised crime, cannot be fully realised until existing limitations, challenges and hurdles within the current criminal intelligence framework are addressed.

This inquiry has brought to light serious legislative, technological, resource and cultural impediments to the flow of intelligence which produce unequal intelligence holdings, an incomplete picture of criminal threats and undermine stakeholder confidence. Some law enforcement agencies hold reservations about sharing their own information and seem not to recognise the value added to that information when converted into intelligence and returned to them. Such concerns are exacerbated by the absence of a common approach to collecting, collating, analysing and disseminating criminal intelligence underpinning a common ethos. Efforts to establish an interoperable criminal intelligence system capable of producing a comprehensive national picture of organised crime are hindered for these reasons.

In late 2012, a proposal for the establishment of an Australian Criminal Intelligence Model (ACIM) was endorsed by all 15 ACC Board agencies together with CrimTrac

and the Australian New Zealand Policing Advisory Agency. Viewing criminal intelligence as a national asset which can be collected once and used often, the ACIM seeks to establish an interoperable system for the free flow of criminal intelligence based on consistent standards, processes and protocols.

The ACIM brings together for the first time the siloed domains of serious and organised crime, national security, and policing and community safety. By bringing all agencies involved in each of the respective domains under the one model and enabling them to draw on intelligence across all three domains, the initiative seeks to provide for a safer Australia. The efficacy of a centralised multi-sector criminal intelligence system was most recently highlighted in relation to the ongoing investigation into the Boston explosions of 16 April 2013. Investigations into criminal acts of this nature extend beyond any single domain or agency as they encompass matters of national security and counter-terrorism, organised crime as well as policing and community safety. As contemporary crimes can traverse the three domains, contemporary law enforcement must also be able to traverse available intelligence across the respective domains. The ACIM envisages an intelligence partnership whereby law enforcement agencies collect and contribute intelligence to the national holdings. This partnership is complemented by various national strategic frameworks and plans including the Commonwealth Organised Crime Strategic Framework which underscore the importance of an intelligence-led multi-agency response to organised crime.

In this report, the committee considers some of the key challenges to establishing the ACIM. It examines the current criminal intelligence context and stakeholders. It explores the vision and principles that underpin the ACIM and highlights some of the key considerations before the ACC in establishing an interoperable system that all Commonwealth, state and territory law enforcement agencies contribute to and benefit from. Conceptualising intelligence as a national asset raised questions regarding controls on information sharing and access, including overall responsibility for and ownership of the intelligence. In this report, the committee makes a number of recommendations to ensure that all agencies are accountable for information and intelligence contributed to the national holding while ensuring that there are strong accountability and oversight arrangements as well as standards in relation to intelligence gathering and sharing.

LIST OF ACRONYMS AND ABBREVIATIONS

ACBPS	Australian Customs and Border Protection Service
ACC	Australian Crime Commission
ACC Act	<i>Australian Crime Commission Act 2002</i>
ACC Board	Australian Crime Commission Board
ACID	Australian Criminal Intelligence Database
ACIF	Australian Criminal Intelligence Forum
ACIM	Australian Criminal Intelligence Model
ACIMS	Australian Criminal Intelligence Management Strategy
ACLEI	Australian Commission for Law Enforcement Integrity
AFP	Australian Federal Police
AGD	Attorney-General's Department
ALEIN	Australian Law Enforcement Intelligence Network
ANZPAA	Australian New Zealand Policing Advisory Agency
ASIC	Australian Securities and Investments Commission
ASIO	Australian Security Intelligence Organisation
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
CDPP	Commonwealth Director of Public Prosecutions
CEO	Chief Executive Officer
FOI	Freedom of Information
Fusion	Criminal Intelligence Fusion Capability
HOCOLEA	Heads of Commonwealth Operational Law Enforcement Agencies
Law Council	Law Council of Australia
MCPEMP	Ministerial Council for Police and Emergency Management— Police
MOU	Memoranda of Understanding

NCTR	National Criminal Target Report
NIINA	National Information and Intelligence Needs Analysis
NOCRP	National Organised Crime Response Plan
NPRS	National Police Reference System
NSW	New South Wales
NT	Northern Territory
NTS	National Target System
OCSF	Organised Crime Strategic Framework
OCTA	Organised Crime Threat Assessment
PFA	Police Federation of Australia
PJC-ACC	Parliamentary Joint Committee on the Australian Crime Commission
PJC-LE	Parliamentary Joint Committee on Law Enforcement
RFI	Request for Information
SA	South Australia
SCAG	Standing Committee of Attorneys-General
SCPEM	Standing Council on Police and Emergency Management
SOG on OC	Senior Officers' Group on Organised Crime
the committee	Parliamentary Joint Committee on Law Enforcement
TRAM	Threat Risk Assessment Methodology
WA	Western Australia

RECOMMENDATIONS

Recommendation 1

5.44 The committee recommends that the Australian Crime Commission and the Australian Federal Police provide it with a detailed report on the findings and recommendations of the Australian Criminal Intelligence Database (ACID) and Australian Law Enforcement Intelligence Network (ALEIN) scoping study, National Information and Intelligence Needs Analysis, and assessment of the AFP's Project Spectrum. The report should provide details on:

- the recommendations regarding ACID and ALEIN and how they will be implemented including a timeframe;
- the outcome of the National Information and Intelligence Needs Analysis;
- the assessment of the AFP's Spectrum Program; and
- how the recommendations of each respective review and assessment will inform the development of the Australian Criminal Intelligence Model and maximise interoperability between existing databases and systems.

Recommendation 2

5.45 The committee recommends that the Australian Crime Commission (ACC) as the lead agency on criminal intelligence and the Australian Criminal Intelligence Model (ACIM) provide it with a report on how the ACC will ensure that all current information technology systems are fully utilised and accessible under the ACIM.

Recommendation 3

6.10 The committee recommends that the Australian Criminal Intelligence Forum (ACIF) develop for the endorsement of all 17 Australian Criminal Intelligence Model agencies an information management strategy. As a first step in developing the strategy, the ACIF should define key terms including a clear, working definition of criminal intelligence and provide descriptions of relevant concepts and processes.

Recommendation 4

6.20 The committee recommends that the Attorney-General's Department conduct a review of disclosure of information procedures under Freedom of Information (FOI). The review should provide recommendations on any legislative, administrative or policy reforms required to achieve a consistent approach to FOI requests for information under the Australian Criminal Intelligence Model.

Recommendation 5

6.21 The committee recommends that the Attorney-General's Department review law enforcement data security management practices, standards, principles and safeguards. The review should provide recommendations on:

- standards and uniform principles for the security and integrity of information contributed to the Australian Criminal Intelligence Model (ACIM). These standards should detail how ACIM agencies are to hold, protect, secure and manage ACIM intelligence; and
- an accountability and oversight mechanism to monitor compliance with the uniform standards and principles.

Recommendation 6

6.34 The committee recommends the establishment of a national repository for criminal intelligence as part of the Australian Criminal Intelligence Model.

Recommendation 7

6.35 The committee recommends that a cost-benefit analysis be undertaken in relation to the options for a national repository. This analysis should take into consideration:

- the determining factors detailed in Chapter 6 of this report;
- the need to complement existing information technology initiatives such as the AFP's Spectrum Program;
- the need for interoperability and complementarity with current databases including the National Criminal Investigation DNA Database and the National Automated Fingerprint Identification System; and
- the intelligence sharing model used by the Australian intelligence community.

Recommendation 8

6.42 The committee recommends the standardisation of security clearance processes. To this end, the committee strongly encourages all state and territory jurisdictions to align their security clearance processes with that of the Australian Government Security Vetting Agency.

Recommendation 9

6.55 The committee recommends that the Australian Crime Commission in collaboration with the Attorney-General's Department establish as part of a licencing requirement to the national repository or other administrative arrangement, a formal agreement which requires signatory agencies to declare a commitment to contribute information and intelligence to the national holdings.

Recommendation 10

6.56 The committee recommends the establishment of an accountability and oversight regime to ensure that agencies are accountable for their contribution to

the national holdings. As part of this regime, the Senior Officers' Group on Organised Crime (SOG on OC) should provide an annual oversight report to the Ministerial Council for Police and Emergency Management—Police and Standing Committee of Attorneys-General on the contribution of each respective agency for review and remedial action where required.

Recommendation 11

6.71 The committee recommends that the feasibility of extending the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI) to include oversight of the Australian Securities and Investments Commission, the Attorney-General's Department and the Australian Taxation Office be referred to the Parliamentary Joint Committee on ACLEI for inquiry and report.

Recommendation 12

7.15 The committee recommends that the Australian Crime Commission provide a detailed account of progress towards the Australian Criminal Intelligence Model in its annual reports.

CHAPTER 1

The terms of the inquiry

1.1 On 30 May 2012, the Parliamentary Joint Committee on Law Enforcement (the committee) initiated an inquiry into the capacity of the Australian Crime Commission (ACC) and Australian Federal Police (AFP) to gather, use and share criminal intelligence to reduce the threat and impact of serious and organised crime. Under the terms of reference, the committee was required to consider the:

- a. role and objectives of the ACC within the context of the National Security Framework;
- b. ACC's criminal intelligence collection capability, including resourcing, expertise, powers, and criminal intelligence community networks;
- c. adequacy of the ACC's criminal intelligence holdings;
- d. availability and accessibility of ACC's criminal intelligence; and
- e. interoperability of Australian law enforcement agencies in relation to criminal intelligence holdings.

Conduct of the inquiry

1.2 The inquiry was advertised in *The Australian* and through the Internet. The committee invited submissions from Commonwealth, state and territory law enforcement agencies and interested organisations and individuals.

1.3 The committee received 20 public submissions and three confidential submissions. A list of individuals and organisations that made public submissions to the inquiry, together with other information authorised for publication, is provided at Appendix 1. The committee held four public hearings in Canberra on 21 and 27 September 2012, 31 October 2012 and 14 March 2013. Details of the public hearings are referred to in Appendix 2. The public submissions and Hansard transcript of evidence may be accessed through the committee's website at http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=le_ctte/index.htm

Scope and structure of the report

1.4 As a first step in the inquiry, the committee sought to understand the current criminal intelligence landscape in Australia and found that involved agencies apply a range of models, systems and approaches to criminal intelligence. In addition, each state and territory jurisdiction is at a different stage in the evolution towards intelligence-led policing.

1.5 The current fragmented approach is contrasted by the proposed Australian Criminal Intelligence Model and supporting strategy which seeks to provide a framework to harness and share intelligence assets. Moving from the current system to a national model will require effort to address considerable legislative, technological and cultural obstacles. In considering the current context and the proposed model, a

number of key issues of concern to stakeholders came to light. These matters are explored in the report. Reflecting this approach, the report is divided into chapters as follows:

- Chapter 2—conceptualising 'criminal intelligence';
- Chapter 3—the Australian Crime Commission and the national criminal intelligence context;
- Chapter 4—current information and intelligence sharing arrangements and the current technological, legislative, resource and cultural barriers to greater information and intelligence sharing;
- Chapter 5—the Australian Criminal Intelligence Model and supporting strategy;
- Chapter 6—challenges to an Australian Criminal Intelligence Model; and
- Chapter 7—committee view and conclusions.

Acknowledgement

1.6 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings. The committee would like to particularly thank the Chief Executive Officer, Mr John Lawler AM APM, and officers of the ACC for their cooperation during the course of this inquiry.

CHAPTER 2

Conceptualising 'criminal intelligence'

2.1 On 17 May 2012, the Minister for Home Affairs and Minister for Justice, The Hon. Mr Jason Clare MP stated that '96 per cent of drug seizures come from intelligence from law enforcement agencies before the parcel or container even arrives in Australia'.¹ Recognised as an 'integral part of the fight against crime', criminal intelligence leads to seizures of illegal goods and arrests of criminals'.² Furthermore, criminal intelligence can:

...enhance national understanding about what criminal activities and illicit markets are impacting on Australia, who is committing these nationally significant crimes, and the nature of potential future threats.³

2.2 Effective and meaningful sharing of information across agencies and jurisdictions is critical to the production of useful, accurate and timely criminal intelligence which is the 'lifblood of any effective response to serious and organised crime'.⁴ However, challenges in relation to criminal intelligence came to prominence in 2008 when the National Security Statement expanded the concept of national security to include serious and organised crime for the first time. This expansion coincided with a growing body of evidence highlighting the need for greater consistency in information management arrangements across the Commonwealth and state and territory jurisdictions to address organised crime.⁵

2.3 The 2008 Review of Homeland and Border Security (which informed the 2008 National Security Statement) noted the following in relation to serious and organised crime:

The current arrangements for coordinating Commonwealth efforts and priorities are limited. There are some gaps in national efforts, such as limited sharing of police capabilities and case management databases, and more attention could be given to criminal intelligence collection and analysis. A strategic framework for Commonwealth efforts in relation to

-
- 1 The Hon. Mr Jason Clare MP, Minister for Home Affairs and Minister for Justice, 'Better intelligence leads to record seizures', *Media release*, 17 May 2012, <http://www.ministerhomeaffairs.gov.au/Mediareleases/Pages/2012/Second%20Quarter/17-May-2012---Better-intelligence-lead-to-record-seizures.aspx> (accessed 16 August 2012).
 - 2 Mr John Lawler, CEO, ACC, quoted in 'Better intelligence leads to record seizures', *Media release*, 17 May 2012.
 - 3 Australian Crime Commission, *Annual Report 2011–12*, p. 31.
 - 4 Australian Crime Commission, *Submission 10*, p. 1.
 - 5 Mr Ric Smith AO PSM, *Report of the Review of the Homeland and Border*, Summary and Conclusions, 4 December 2008, presented to the Australian Government on 27 June 2008, http://www.dpmc.gov.au/national_security/docs/20081204_review_homeland_security.pdf (accessed 31 July 2012).

serious and organised crime should be developed for consideration by government.⁶

2.4 The 2008 National Security Statement echoed these concerns and identified the need for a national security framework which would provide for enhanced coordination across Commonwealth agencies.⁷ Fragmentation across intelligence communities and siloing of intelligence into 'policing', 'national security' or 'private sector' intelligence were some of the challenges identified.⁸ Following the security statement, Mr John Lawler, Chief Executive Officer (CEO) of the ACC, the 'national criminal intelligence agency', noted that 'we are aligning the ACC Board approved national criminal intelligence priorities with the broader national intelligence priorities'.⁹

2.5 In 2009 and 2010, a series of policy documents were developed to enable a comprehensive response to serious and organised crime of which the November 2009 Commonwealth Organised Crime Strategic Framework (OCSF) is the primary document. The OCSF outlines the key threats from organised crime and provides a framework for a whole of government response to address them. The ACC was involved in the development of the framework. According to the Attorney-General's Department (AGD), sharing intelligence is the 'central plank of the OCSF' and a vital part of the fight against organised crime.¹⁰

2.6 While much has been achieved in developing cooperative relationships, governance frameworks and information sharing arrangements between Commonwealth, state and territory agencies involved in the fight against serious and organised crime since the establishment of the ACC, serious issues and challenges remain. Evidence to the committee has highlighted a series of legislative, technological, conceptual, methodological and cultural impediments to achieving an integrated intelligence sharing system underpinned by a common agenda.

Definition of 'criminal intelligence'

2.7 The committee found that there is no commonly agreed definition of 'criminal intelligence'. The *Australian Crime Commission Act 2002* (ACC Act) includes no definition of 'criminal intelligence'. While a 'healthy discussion persists' amongst

6 Mr Ric Smith AO PSM, *Homeland and Border Security Review*, Summary and Conclusions, 4 December 2008, presented to the Australian Government on 27 June 2008, http://www.dpmc.gov.au/national_security/docs/20081204_review_homeland_security.pdf (accessed 31 July 2012).

7 The Hon. Mr Kevin Rudd MP, Prime Minister, *House of Representatives Hansard*, 4 December 2008, p. 12555, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22chamber%2Fhansard%2F2008-12-04%2F0045%22> (accessed 15 August 2012).

8 Mr Patrick F. Walsh, *Intelligence and Intelligence Analysis*, Routledge, 2011, p. 1.

9 Australian Crime Commission, *Annual Report 2011–12*, p. 1; Australian Crime Commission, *Annual Report 2008–09*, p. 6.

10 Mr Iain Anderson, AGD, *Committee Hansard*, 21 September 2012, p. 18.

practitioners and others about the role of intelligence and intelligence analysis, 'we seem no closer to identifying what intelligence means more broadly now, a decade on from 9/11'.¹¹

2.8 Divergence in agreement and lack of clarity regarding a definition of criminal intelligence and what it entails has contributed to varying expectations about the purpose of criminal intelligence. This is reflected in the range of approaches to the gathering, use and sharing of information and intelligence across Commonwealth, state and territory jurisdictions. The committee set out to understand and compare information management systems and the processes applied by all involved agencies and the methodologies and approaches underpinning them. In pursuing this approach, the committee raised key questions about what distinguishes intelligence sharing from information sharing and the unique legislative, technological, resource or cultural challenges to sharing intelligence as opposed to sharing information.

2.9 In seeking to establish clarity about how information and intelligence is gathered, used and shared across Australian jurisdictions and the challenges and shortcomings in doing so, the committee found that many witnesses did not differentiate the challenges in sharing intelligence and sharing information.¹² Others highlighted the importance of a two-way flow of information and intelligence as explained by Mr Mark Burgess of the Police Federation of Australia (PFA):¹³

It works both ways. I use the example of a police officer who goes to what might generally be a minor incident but makes an intelligence report about that incident, perhaps relating to cars or individuals who were there. That little bit of information could perhaps link to a major investigation that is taking place—for example, a motor car outside a house that has not previously been linked to that location. That could help someone who is working on a major organised crime investigation at the level of the ACC, AFP or senior levels of police. So it does work both ways. The police and the agencies at the higher level will rely very heavily on information that will come in at the bottom level of police agencies and find its way up.¹⁴

Defining 'criminal intelligence' and its purpose

2.10 The committee established that there is broad agreement that criminal intelligence is information that is 'collected about crime and criminals and evaluated, analysed and disseminated'.¹⁵ In practice, therefore, intelligence-led investigations are distinct from traditional policing to the extent that the former considers the wider pattern of criminal behaviour in order to pre-empt criminal activity, rather than react to it. Traditional policing has the latter focus on solving specific crimes.

11 Mr Patrick F. Walsh, *Intelligence and Intelligence Analysis*, Routledge, 2011, p. 1.

12 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 8.

13 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 8.

14 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 2.

15 Law Council of Australia, *Submission 6*, p. 3.

2.11 The committee received evidence which asserted that intelligence is:

- information that has been validated and value-added;¹⁶
- information that has been analysed;¹⁷ and
- not evidence.¹⁸

2.12 Mr Ben McDevitt, the ACC's State Manager for Queensland explained that intelligence is usually an assessment rather than fact. As it is both unproven and often more complex than information or raw data, it requires more stringent protective security arrangements. The recently released Australian Criminal Intelligence Management Strategy which details the Australian Criminal Intelligence Model (ACIM) offers the following insight. It recognises 'criminal intelligence' as:

...insights and understanding obtained through analysis of available information and data on complex offending patterns, serious organised crime groups or syndicates and individuals involved in various types of criminal activity.¹⁹

2.13 While the process of intelligence gathering is different to that of information gathering, what distinguishes intelligence from information is the process of evaluation and analysis as articulated by the United Nations Office on Drugs and Crime:

INFORMATION + EVALUATION = INTELLIGENCE.²⁰

2.14 As many stakeholders did not distinguish information from intelligence, the committee asked the ACC to provide a definition of intelligence as distinct from information. The ACC provided the following definition of information:

Information may be described as discrete pieces of data that may take the form of individual or collective numbers or text. When different types of allied information are synthesised they act as important building blocks in the intelligence process and are a critical precursor to an intelligence output (or product).²¹

2.15 In contrast with information, intelligence is defined by the ACC as both a process and an output (product):

16 Detective Superintendent John Pointing, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 36; Mr Patrick Walsh, *Committee Hansard*, 31 October 2012, p. 2; Mr Doug Smith, CrimTrac, *Committee Hansard*, 21 September 2012, p. 22.

17 Mr Johann Visser, AUSTRAC, *Committee Hansard*, 21 September 2012, p. 30.

18 Mr Johann Visser, AUSTRAC, *Committee Hansard*, 21 September 2012, p. 30. Mr John Lawler, ACC, Senate Legal and Constitutional Affairs Legislation Committee, *Estimates Hansard*, 12 February 2013, p. 81.

19 Australian Criminal Intelligence Management Strategy 2012–15, tabled by the Australian Crime Commission at a public hearing on 14 March 2013, p. 3.

20 United Nations Office on Drugs and Crime, *Criminal Intelligence: Manual for Analysts*, 2011, p. 1.

21 Australian Crime Commission, Answer to question on notice, No. 1, received 28 March 2013.

- As a process, intelligence involves the collection, processing, integration, evaluation, interpretation and analysis of available information. This process—typically referred to as the intelligence cycle—transforms information into insight or understanding using analysis, critical thinking and problem solving skills.
- As an output, intelligence is obtained through the observation, investigation, analysis and understanding which is then developed into a product and disseminated to support different levels of decision-making, which can be strategic, operational or tactical.²²

2.16 The ACC concluded that information is generally unprocessed, static and unique whereas intelligence is evaluated, dynamic, client focused and appropriately classified. In terms of an intelligence cycle and the interplay between information and intelligence, the ACC noted that:

Information comes from a breadth of sources that are unclassified and classified as the starting point from which intelligence advice is generated. Creating and delivering intelligence involves the application of the intelligence cycle and analytic techniques which value-add to the information. Intelligence must answer a key intelligence question and provide decision makers with an advantage.²³

2.17 Intelligence is a complex concept because it can be described as advantage, insight or understanding on a current or future criminal threat, methodology, vulnerability or opportunity which is developed through the analysis of available information and provides direction for action. For this reason, its purpose can vary. It can target 'highest risk criminal targets and markets' as well as 'market and sector vulnerabilities open to exploitation by organised crime'.²⁴ More broadly, it can improve the 'quality of tactical, operational and strategic decisions involving infinite resources'.²⁵ In the realm of serious and organised crime, criminal intelligence is the 'edge by which law enforcement collectively seeks to maintain the upper hand in countering criminal enterprise'.²⁶ According to the ACC, all intelligence products 'must have a client driven intelligence question, or gap on an unknown emerging threat, that is being answered, and a purpose'.²⁷ At the same time, the extent to which criminal intelligence is used effectively is a reflection of various elements including how well the intelligence functional process is integrated into an agency's operations.²⁸

22 Australian Crime Commission, Answer to question on notice, No. 1, received 28 March 2013.

23 Australian Crime Commission, Answer to question on notice, No. 1, received 28 March 2013.

24 Australian Crime Commission, *Submission 10*, p. 11.

25 Australian Graduate School of Policing Criminal Intelligence, <http://www.csu.edu.au/faculty/arts/agsp/crimintell/index.html> (accessed 27 July 2012).

26 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 31.

27 Australian Crime Commission, Answer to written question on notice, No. 1, received 28 March 2013.

28 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 38.

Scope of information and complexity of the intelligence landscape

2.18 The scope, volume and breadth of information generated and shared across law enforcement and Commonwealth agencies is reflected in the following evidence to the committee:

- 1382 requests for disclosures from law enforcement agencies were received by the Australian Taxation Office (ATO) in 2011 which also provided 100 self-initiated disclosures to other agencies. The ATO is currently experiencing a 22 per cent increase in the number of requests from law enforcement agencies.²⁹
- 451 039 information and intelligence products were uploaded onto the ACC managed national Australian Criminal Intelligence Database (ACID) during 2010–11. During the same period, there were 2775 active users of ACID who conducted nearly 560 000 searches for information.³⁰
- 1.7 million individual searches of companies and corporate activity were conducted on the Australian Securities and Investments Commission (ASIC) database in 2010 by agencies including the Australian Prudential Regulation Authority (APRA), Australian Transaction Reports and Analysis Centre (AUSTRAC), ACC, Australian Customs and Border Protection Service (ACBPS), ATO, Commonwealth Director of Public Prosecutions (CDPP) and AFP.³¹
- Over 200 million transactions were carried out on the AUSTRAC database by 40 agencies legislated to access AUSTRAC's holdings of financial information and intelligence through its online system. AUSTRAC also disseminates 1400 value-added intelligence products annually and manages approximately 46 agreements with international jurisdictions to exchange information.³²
- Approximately 74 per cent of AFP information reports were provided to the ACC.³³
- An average of 16 000 requests for information are received by the Queensland Police Service annually.³⁴

29 Mr Greg Williams, ATO, *Committee Hansard*, 27 September 2012, pp 19–20.

30 Australian Crime Commission, *Submission 10*, p. 21.

31 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 31.

32 Mr Johann Visser, AUSTRAC, *Committee Hansard*, 21 September 2012, pp 30–31.

33 The remaining 26 per cent of information is either operationally sensitive or third-party caveat reports whereby information was provided by a third party with certain release restrictions (Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, pp 36 & 40).

34 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

- 200 000 information reports were transferred by the NSW Police Force to the ACC in 2010 creating over one million new entities on ACID.³⁵
- 50 000 items of information and intelligence were provided to ACID by the Tasmania Police over eight months in 2012.³⁶

2.19 These impressive statistics support the view that the level of cooperation and interoperability across the various jurisdictions and Commonwealth agencies is the 'best it has ever been in the history of law enforcement in this country'.³⁷ The volume of information alone demonstrates that Commonwealth, state and territory law enforcement agencies recognise the value of information sharing.³⁸ Further, recent initiatives to establish coordinating bodies, committees and groups to identify and work through challenges to information and intelligence sharing is testimony to a genuine willingness to improve intelligence sharing practices.³⁹

Intelligence approaches, models, systems and expectations

2.20 The committee noted the substantial contribution of the ACC to the criminal intelligence context and growing commitment of Commonwealth, state and territory law enforcement agencies to gather and share intelligence. However, evidence to the committee also highlighted the extent to which the national criminal intelligence landscape remains a patchwork of models and systems. This has contributed to a context in which, as Mr Lawler explained:

...we are not always as well informed as the criminals we confront. It is true that we need to be smarter about how we share intelligence and more systematic and fulsome in that sharing process.⁴⁰

2.21 The challenges for involved agencies in establishing an interoperable national criminal intelligence system are exemplified by the fact that criminal intelligence is currently stored in more than 30 systems operated by Australian law enforcement, policing, national security and other government agencies. These systems have limited interoperability.⁴¹ Other challenges include the difficulties of working across different jurisdictions and legislative frameworks. Rather than have no meaning to organised

35 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 27.

36 Deputy Commissioner Scott Tilyard, Tasmania Police, *Committee Hansard*, 27 September 2012, p. 47.

37 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 27.

38 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

39 These include the Senior Officers' Group on Organised Crime which reports to ministers through the Standing Council of Police and Emergency Management (Mr Iain Anderson, AGD, *Committee Hansard*, 21 September 2012, p. 19).

40 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 42.

41 Police Federation of Australia, *Submission 7*, p. 4.

criminal groups, geographical borders and state boundaries and differences in their respective legislation are exploited as loopholes.⁴² At the same time, the wider population is becoming more transient, as evidenced in the Northern Territory where 50 per cent of the registered population do not reside permanently within the territory.⁴³ These issues demonstrate the need for a consistent criminal intelligence model, system and approach that can be applied and used across the country.

2.22 At the same time, greater sophistication of significant criminal activity has driven agencies such as ASIC and the ATO into playing an increasingly central role in the investigation and disruption of serious and organised crime. The primary customer of AUSTRAC intelligence, for example, is the ATO.⁴⁴ However, given the fluidity and rapidly changing intelligence landscape, ASIC argued that its ability to give and receive intelligence has 'overtaken our legislated ability to a certain extent'.⁴⁵

2.23 The committee was informed that while a range of initiatives and measures have improved the ability of involved agencies to collaborate, information sharing between the ACC and other agencies has been a problem for a significant period of time.⁴⁶ It was argued that the current criminal intelligence model is 'largely based around goodwill, with agencies contributing where they feel it appropriate, based on their own decision-making'.⁴⁷ Even where concepts are universally agreed, such as with the establishment of a national DNA database, application across jurisdictions differs.⁴⁸ At the same time, the technology underpinning Australia's national criminal intelligence holdings or ACID and the Australian Law Enforcement Intelligence Network (or ALEIN) is out-of-date and may require, according to the ACC's CEO, 'potentially complete replacement'.⁴⁹

2.24 The lack of a consistent, nationally recognised definition of 'criminal intelligence' has contributed to varying expectations, standards and approaches across jurisdictions which has resulted at times in the duplication of effort.⁵⁰ This situation coupled with limited interoperability across intelligence databases and systems, has created a patchwork of intelligence systems, approaches and models.

42 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 33.

43 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, pp 23–24.

44 Mr Johann Visser, AUSTRAC, *Committee Hansard*, 21 September 2012, p. 31.

45 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 32.

46 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 27.

47 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 45.

48 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 27.

49 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 43.

50 Detective Chief Inspector Colin Cunningham, South Australia Police, *Committee Hansard*, 27 September 2012, p. 38.

2.25 In order to meet the expectations of governments and communities regarding policing and community safety, better methods and interoperable systems to exchange information in a timely manner across all jurisdictions are needed.⁵¹ Many stakeholders also recognise the need to address the siloing of intelligence brought about by the separation of policing from the national security, and serious and organised crime domains.

2.26 Mr Patrick Walsh emphasised the importance of a national intelligence model supported by national interoperable repositories of criminal intelligence:

If you do not have a system that can adapt as the criminal environment adapts so that we are able to collect this intelligence at the state, local and federal regulatory agencies, if you do not have that baseline of some of these emerging threats—wherever it is—then how do you know what the environment is going to look like tomorrow...how do you know whether that is the door we should be bashing down tomorrow. Or, we should not be bashing that door down; we should be looking over at this area of the criminal environment to see that something is coming over our heads, and we are not aware of it because we do not have the storage capacity to have that information and we do not have a way to easily retrieve and analyse that information in real-time. So, it is critical that we develop a national intelligence model, which is underpinned by good systems products, by good information products. We have never quite got there in Australia, with that.⁵²

2.27 The extent to which the ability, desire and means to share criminal information, let alone intelligence are hamstrung by legislative restrictions, cultures, resource challenges and technological impediments is the subject of Chapter 4 of this report.

51 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

52 Mr Patrick Walsh, *Committee Hansard*, 31 October 2012, pp 1–2.

CHAPTER 3

Australian Crime Commission and the national criminal intelligence context

3.1 The ACC is the 'national criminal intelligence agency'. Its approach is to 'work with partners to develop criminal intelligence' and to investigate, disrupt and prevent 'serious and organised crime threats of most harm to the community'.¹

3.2 This chapter provides an overview of the role of the ACC in relation to criminal intelligence and the ACC's intelligence gathering methods, powers and partners. The committee also considers the role of the ACC within the national security context and the ACC's role in providing national coordination in relation to criminal intelligence in the fight against serious and organised crime.

Origins of the Australian Crime Commission

3.3 A series of royal commissions in the late 1970s and early 1980s, including the Moffit, Woodward, Costigan, Stewart and Williams Royal Commissions, recognised the need for a standing royal commission to investigate serious organised crime. The National Crime Authority (NCA) was established in response to identified weaknesses in the capacity of traditional policing to combat sophisticated organised crime effectively.

3.4 The NCA operated for 18 years before the introduction of the *Australian Crime Commission Act 2002* (ACC Act) which established the ACC in 2003. During the parliamentary debate on the ACC bill, then Attorney General, The Hon. Daryl Williams, AM QC MP noted that the establishment of a national crime commission would improve criminal intelligence collection and analysis, set national criminal intelligence priorities and conduct intelligence-led investigations. In relation to this intelligence role, he explained that the ACC would:

- provide a coordinated national criminal intelligence framework;
- set national intelligence priorities to avoid duplication;
- allow areas of new and emerging criminality to be identified and investigated; and
- provide for investigations to be intelligence driven.²

ACC criminal intelligence gathering methods and powers

3.5 The ACC itself serves as the nexus between Australia's law enforcement, policing and national security agencies by facilitating the flow of criminal intelligence

1 Australian Crime Commission, *Annual Report 2011–12*, p. 1.

2 The Hon. Mr Daryl Williams AM QC MP, Attorney-General, *House Hansard*, 26 September 2002, p. 7328.

across these domains.³ As criminal intelligence is the 'core business' of the ACC, it uses a range of methods to collect, use and share criminal intelligence drawing on a variety of sources including law enforcement, policing, national security, government and private sector bodies and its own investigations of organised criminal activity.⁴ It coordinates national information sharing and, while emphasising the importance of working in partnership to derive intelligence, the ACC also has the power to conduct its own operations and investigations.

3.6 ACC intelligence is derived from information obtained through activities including the seizure of computer files, surveillance, telephone interceptions and covert human sources (informants) as well as answers received through the ACC's coercive examinations.⁵ The ACC 2011–12 Annual Report identified some of the information gathering methods utilised by the ACC during the year including:

...through witnesses appearing at our coercive examinations, through surveillance, covert human sources (informants), documents, phone calls, computer forensics and financial analysis. We combine and analyse this source material to produce insightful intelligence about the nature, extent, impact and trends of serious and organised crime.⁶

3.7 The ACC's criminal intelligence services are designed to provide relevant Commonwealth, state and territory stakeholders with the intelligence 'necessary to effectively and efficiently disrupt serious and organised criminal activity and reduce the vulnerabilities to the Australian community'.⁷

3.8 The ACC was also recognised as providing a 'politically and jurisdictionally neutral focal point for the creation of joint task forces in areas that are not necessarily of interest or relevance to the AFP'.⁸ The ACC seeks to complement the respective roles of the AFP, state and territory police forces and provide an over-the-horizon view of organised crime. As both receiver and producer of criminal intelligence, the ACC noted the following in relation to its role:

Criminal intelligence received by the ACC is analysed and considered in the context of other intelligence received from national sources, and is then transformed into value-added criminal intelligence products designed to provide ACC partners, including the private sector, with insight and

3 Australian Crime Commission, *Submission 10*, p. 10. The ACC distinguishes 'law enforcement' from 'policing'. The former refers to Commonwealth law enforcement agencies and the later to state/territory police agencies.

4 Australian Crime Commission, *Submission 10*, p. 3.

5 Australian Crime Commission, *Annual Report 2011–12*, p. 60.

6 Australian Crime Commission, *Annual Report 2011–12*, p. 30.

7 Australian Crime Commission, *Annual Report 2011–12*, p. 32.

8 Parliamentary Joint Committee on the Australian Crime Commission, *Review of the Australian Crime Commission Act 2002*, November 2005, p. 12, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=acc_ctte/completed_inquiries/2004-07/acc_act02/report/report.pdf (accessed 14 August 2012).

actionable advice to support decision making. This includes advice on organised crime trends and methodologies, identified vulnerabilities, nationally significant criminal entities and emerging issues facing Australia.⁹

3.9 The ACC provides specialist advice on the National Criminal Intelligence Priorities and the criminal threats and issues that the ACC Board considers to be a high priority. The priorities are informed by ongoing intelligence collection, assessment and harms monitoring, as well as consultation with the board and partner agencies. The priorities are also then used to inform the strategic direction and work priorities of the ACC.¹⁰

3.10 Under the ACC Act, the ACC has a 'primary role in gathering, using and sharing criminal intelligence'. Section 7A of the Act specifies that the ACC will:

- (a) collect, correlate, analyse and disseminate criminal information and intelligence and to maintain a national database of that information and intelligence;
- (b) undertake, when authorised by the ACC Board, intelligence operations;
- (c) investigate, when authorised by the ACC Board, matters relating to federally relevant criminal activity;
- (d) provide reports to the ACC Board on the outcomes of those operations or investigations;
- (e) provide strategic criminal intelligence assessments, and any other criminal information and intelligence, to the ACC Board;
- (f) provide advice to the ACC Board on national criminal intelligence priorities; and
- (g) such other functions as are conferred on the ACC by other provisions of the ACC Act or by any other Act.

3.11 Collaboration with partner agencies most commonly takes the form of multi-agency task forces or joint investigations. Intelligence products produced by the ACC include the classified Organised Crime Threat Assessment (OCTA) documents which make up the ACC's 'Picture of Criminality in Australia' product suite that informs the ACC Board's decisions in relation to priority setting and allocation of resources.¹¹ The 'Picture of Criminality in Australia' assessments also informed the development of the Commonwealth Organised Crime Strategic Framework, law enforcement priorities and activities through the Organised Crime Response Plan. Other intelligence products include current and emerging issues reports and operational analysis to support ACC and partner decision-making as well as the National Criminal

9 Australian Crime Commission, *Submission 10*, p. 15.

10 Australian Crime Commission, *Annual Report 2010–11*, p. 43.

11 Australian Crime Commission, *Organised Crime in Australia 2011*, p. 94.

Intelligence Fusion Capability (Fusion) reports, intelligence briefs and information reports.¹²

Australian Crime Commission Board

3.12 The ACC Board comprises 15 members, including the Chief Executive Officer (CEO) of the ACC, who is a non-voting member.¹³ The committee sought and received evidence from all agencies represented on the ACC Board for the purposes of this inquiry.

Commissioner of the AFP – Chair of ACC Board	
Secretary, Attorney-General's Department (AGD)	Commissioner, South Australia Police
CEO, Australian Customs and Border Protection Service (ACBPS)	Commissioner, Western Australian Police
Chairman, Australian Securities and Investments Commission (ASIC)	Commissioner, Tasmania Police
Director-General of Security, Australian Security Intelligence Organisation (ASIO)	Commissioner, Northern Territory Police
Commissioner, NSW Police Force	Assistant Commissioner, ACT Policing
Chief Commissioner, Victoria Police	Commissioner of Taxation, Australian Taxation Office (ATO)
Commissioner, Queensland Police Service	CEO, Australian Crime Commission

ACC's coercive powers

3.13 The ACC has special coercive powers to assist in the performance of its functions. These powers, which can only be exercised by an ACC examiner in the context of a special operation or special investigation approved by the ACC Board, include the capacity to compel a person to produce documents, to attend an examination and to answer questions. The ACC's coercive powers are reinforced by a number of offence provisions. Under the ACC Act, it is a criminal offence to fail to comply with a document production notice, to fail to appear at an ACC examination or to fail to answer questions. It is also an offence to provide false or misleading evidence or to obstruct or hinder the work of the ACC.

3.14 When deciding whether coercive powers should be used, section 7C of the ACC Act states that the ACC Board must consider the effectiveness of investigative methods that do not involve the use of coercive powers before authorising their use.

12 Australian Crime Commission, *Annual Report 2011–12*, p. 34.

13 Australian Crime Commission, *Board of the Australian Crime Commission Chair Annual Report 2010–11*, p. 16, http://www.crimecommission.gov.au/sites/default/files/files/annual_reports/chair1011/ACC_Chair_Annual_Report_2010_11.pdf (accessed 14 August 2012).

The ACC noted in its submission that coercive powers 'form a critical element of the ACC's intelligence collection capability, and provide a valuable source of intelligence'.¹⁴

3.15 The use of coercive powers by the ACC was criticised in evidence to the committee. The Law Council of Australia raised a number of concerns in relation to the ACC's use of coercive powers noting that coercive powers 'enable the ACC to compel persons to provide information and they limit the application of common law rights such as the privilege against self-incrimination'.¹⁵ The council had concerns with sections 34A and 34D of the Act whereby a person refusing to answer questions, cooperate or produce documents or things at examination can also be referred to a proscribed court to be dealt with for contempt. Since contempt provisions were introduced into the ACC Act in February 2010, three proceedings have been undertaken whereby ACC examiners referred witnesses for contempt of the ACC. In all three instances, respondents pleaded guilty and were imprisoned for contempt.¹⁶

3.16 During 2011–12, the ACC reported that 328 coercive examinations were conducted.¹⁷ Speed and Stracey Lawyers noted that while the ACC's 2010–11 Annual Report refers to its coercive powers 60 times, it is 'difficult to find any reference on the checks and balances that ACC deploys to ensure that it uses its powers in a lawful manner'.¹⁸ However, in its submission, the ACC acknowledged the importance of additional safeguards which exist in relation to coercive powers:

Additional safeguards include the right to legal representation and the Examiner's power to direct that evidence not be disclosed in a way that could risk anyone's safety, reputation or fair trial.¹⁹

3.17 The ACC commented that coercive examinations allow it to 'break the code' while providing witnesses with a level of protection against self-incrimination. The 2011–12 Annual Report provides an insight into the impact of the ACC's use of its coercive powers:

Through our special investigations and special operations we helped disrupt a total of 26 criminal targets, stop \$67.71 million worth of drugs from hitting the streets, restrain \$103.59 million of proceeds of crime, seize \$5.47 million in cash, charge 97 people and convict 45 people. We conducted 328 coercive examinations and shared a total of 1884 intelligence products with our partner agencies.²⁰

14 Australian Crime Commission, *Submission 10*, p. 12.

15 Law Council of Australia, *Submission 6*, p. 8.

16 Law Council of Australia, *Submission 6*, p. 8. See further Australian Crime Commission, *Chair Annual Report 2010–11*, p. 50.

17 Australian Crime Commission, *Annual Report 2011–12*, p. 58.

18 Speed and Stracey Lawyers, *Submission 17A*, p. 6.

19 Australian Crime Commission, *Submission 10*, p. 12.

20 Australian Crime Commission, *Annual Report 2011–12*, p. 58.

3.18 When asked by the committee about recent legal challenges to the ACC's coercive powers, Mr Lawler made the following observation:

We find that criminals, often in concert, represented by singular counsel—multiple organised criminal groups, particularly outlaw motorcycle gangs—are challenging the commission's coercive powers.

The truth is that they do not like the coercive powers. The coercive powers are a way of breaking their business model, and they do whatever they can to try to thwart that. Part of that is through challenges through the court.²¹

3.19 In its 2011–12 Annual Report, the ACC stated that its coercive powers were used in relation to special intelligence operations which entail gathering intelligence around particular criminal activity to determine whether a special investigation is warranted. In 2011–12, five special operations were undertaken in relation to the following matters:

High Risk and Emerging Drugs; National Security Impacts from Serious and Organised Crime; Making Australia Hostile to Serious and Organised Crime; National Indigenous Intelligence Task Force (Indigenous Violence or Child Abuse No. 2); and Child Sex Offences.²²

3.20 During this period, the ACC's coercive powers were used in combination with investigative tools (such as telephone intercepts, surveillance and controlled operations) during special investigations. Over the same review period, four special investigations were undertaken and designed to disrupt and deter criminal groups in areas including: High Risk Criminal Targets; Targeting Criminal Wealth; Established Criminal Networks—Victoria; and High Risk Crime Groups—South Australia.²³

3.21 The ACC Board also has the power to establish task forces and to determine whether their activities can or cannot involve the use of coercive powers. The ACC 2011–12 Annual Report noted that the ACC supported four multi-agency task forces during the year including the Criminal Assets Confiscation Taskforce, Financial Intelligence Assessment Team (to combat financial crime committed by organised crime groups), Project Wickenby and Task Force Galilee (fraudulent offshore investment schemes).²⁴

ACC's information sharing powers

3.22 The 2005 Parliamentary Joint Committee on the Australian Crime Commission Review of the ACC recommended that the ACC and Attorney-General's Department (AGD) identify barriers to information sharing and where necessary, develop and implement regulatory or legislative remedies. The Commonwealth responded by prescribing a list of government agencies and amending the ACC

21 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 49.

22 Australian Crime Commission, *Annual Report 2011–12*, p. 15.

23 Australian Crime Commission, *Annual Report 2011–12*, p. 15.

24 Australian Crime Commission, *Annual Report 2011–12*, p. 74.

Regulations 2002.²⁵ According to the ACC, the *Review of Information and Intelligence in the Aviation Sector* conducted by Peter Ford in June 2006 also recommended that the ACC Act be amended to allow the ACC to communicate information to prescribed private sector organisations for the purposes of aviation security.²⁶ In April and June 2012, the scope for information sharing by the ACC was widened under amendments to the ACC Act.²⁷

3.23 Section 59AA of the ACC Act allows the ACC to share information with a wide range of ministers and members of parliament, government bodies, foreign agencies and international bodies, as well as private sector stakeholders. The ACC recognised that the amendments and specifically the inclusion of private sector bodies as an opportunity to enable it and its partners to 'develop more effective and inclusive response strategies to break the business of organised crime'.²⁸

3.24 The Law Council of Australia raised concerns regarding the amendments to the ACC Act and specifically whether there are adequate protections in relation to sharing intelligence and whether they are adequately applied.²⁹ The Law Council was particularly concerned with section 59AB which contains specific requirements in relation to the disclosure of personal information (within the meaning of the *Privacy Act 1988*) to a body corporate. The Law Council argued that while the ACC voluntarily complies with the Information Privacy Principles under the Privacy Act as far as possible, the 'Government should develop information-handling guidelines for the ACC as recommended by the Australian Law Reform Commission'.³⁰ The Law Council argued that such guidelines would complement the requirements in section 59AB.³¹

3.25 The Law Council also raised concern with the way in which information collected by the ACC with the use of its coercive powers is shared:

There is no derivative use immunity in relation to the further use of the information obtained through the use of coercive powers. The lack of derivative use immunity allows this information to be used to gather further

25 Government Response to Parliamentary Joint Committee on the Australian Crime Commission Report, *Review of the Australian Crime Commission Act 2002*, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=acc_ctte/completed_inquiries/2004-07/acc_act02/index.htm (accessed 12 September 2012).

26 Australian Crime Commission, *Submission 10*, p. 8.

27 The *Crimes Legislation Amendment (Powers and Offences) Act 2012* which amends the *Australian Crime Commission Act 2002* is based on a PJC-ACC recommendation in its 2005 Review of the Australian Crime Commission Act. See also AGD, *Submission 3*, p. 2.

28 Australian Crime Commission, *Submission 10*, p. 19.

29 Law Council of Australia, *Submission 6*, p. 3.

30 Australian Law Reform Commission, *For Your Information: Australian Privacy Law and Practice (ALRC Report 108)*, modified 19 July 2012, <http://www.alrc.gov.au/publications/report-108> (accessed 12 September 2012).

31 Law Council of Australia, *Submission 6*, p. 15.

information or evidence which can be used in criminal proceedings against the person who provided the information as a result of the use of the coercive powers.³²

3.26 The Law Council also reiterated its long standing concern that there has been 'leakage' of the coercive powers to 'supplement ordinary police investigations and proceedings'.³³ The Law Council expressed the view that evidence or information obtained pursuant to the coercive powers should be 'subject to more stringent sharing restrictions than evidence or information obtained through other means'. However, it also acknowledged that recent amendments to the ACC Act have 'clarified particular protections for the sharing of information and evidence obtained through the use of coercive powers'. Nevertheless, the Law Council was concerned that:

...these protections are reliant on relevant assessments by the ACC's Chair or CEO and on relevant directions being given by examiners.³⁴

3.27 The Law Council also noted its concern with provisions in section 59AB which determine that the ACC CEO may disclose information to a private sector body corporate that is prescribed by, or included in, a class of bodies corporate prescribed by regulations. The Law Council referred to the Organised Crime in Australia report which underscored the importance of collaboration with the private sector in addressing particular areas of organised crime, such as money laundering. While recognising the need for such collaboration, the Law Council underscored the need for appropriate protections to be applied to information sharing with the private sector.³⁵

3.28 Similarly, subsection 59AA(2) allows the CEO to disclose ACC information to ASIO 'if the CEO considers it appropriate to do so', the information is relevant to security as defined in the *Australian Security Intelligence Organisation Act 1979* and disclosure would not be contrary to a law of the Commonwealth, state or territory that would otherwise apply.³⁶ The Law Council raised the issue of whether there are adequate protections in relation to such sharing and whether they are adequately applied.³⁷

3.29 In response to the concerns raised regarding information sharing powers, the AGD noted that the ACC has the power to share on the condition that a range of safeguards provided for in the legislation are met. Mr Iain Anderson, Acting Deputy Secretary of the AGD, emphasised that the ACC can share with corporate bodies that are prescribed. He further noted that implementation of practices to realise these powers was a matter for the ACC in terms of ensuring the safeguards are adhered to,

32 Law Council of Australia, *Submission 6*, p. 3.

33 Law Council of Australia, *Submission 6*, p. 8.

34 Law Council of Australia, *Submission 6*, p. 8.

35 Law Council of Australia, *Submission 6*, p. 15.

36 Law Council of Australia, *Submission 6*, p. 15.

37 Law Council of Australia, *Submission 6*, p. 3.

the nature of intelligence that the ACC may choose to share and the bodies they will share it with in any given situation.³⁸

3.30 In relation to the use of coercive powers by the ACC, the committee is mindful that the Administrative Review Council's 2008 report on coercive powers provides best-practice principles to ensure that agencies use their coercive powers effectively, efficiently and with due regard to individual rights.³⁹ The 20 best-practice principles seek to balance agency objectives in using their coercive powers with the rights of those in relation to whom the powers are exercised. Taking into account these principles, the committee will continue to monitor the ACC's use of its coercive powers as part of its oversight role.

3.31 The committee also appreciates that the concerns of the Law Council of Australia go to the challenges of appropriate handling and protection of intelligence that is shared. Notwithstanding this point, evidence to the committee also highlighted that frustrations expressed by involved agencies with delays in the production and sharing of intelligence are likely to 'worsen as the need for intelligence sharing with the private sector increases'.⁴⁰ These are questions of central importance to the development of an Australian Criminal Intelligence Model (ACIM) which are discussed throughout this report.

National coordination in relation to organised crime

Commonwealth Organised Crime Strategic Framework

3.32 The Organised Crime Strategic Framework (OCSF) establishes a whole-of-government comprehensive and coordinated response to target the most significant threats from organised crime. Focused on Commonwealth responsibilities, the OCSF implementation is coordinated by the AGD which leads the development of the Commonwealth's organised crime policy. Oversight is provided by the Heads of Commonwealth Operational Law Enforcement Agencies.⁴¹ Complementary processes to provide for strong collaborative partnerships with state and territories include forums such as the Standing Committee of Attorneys-General (SCAG) and Ministerial Council for Police and Emergency Management—Police (MCPEMP) whose roles and contributions are affirmed in a National Organised Crime Response Plan (NOCRPP).

38 Mr Iain Anderson, AGD, *Committee Hansard*, 21 September 2012, p. 21.

39 Administrative Review Council, *The Coercive Information-Gathering Powers of Government Agencies*, Report no. 48, May 2008, <http://www.arc.ag.gov.au/searching/Pages/Results.aspx?k=coercive%20powers> (accessed 26 March 2013).

40 Australian Crime Commission, *Submission 10*, p. 22.

41 The membership of 12 includes AGD, ACC, ACBPS, AFP, ASIC, ATO, AUSTRAC, DIAC, CrimTrac, and CDPP. See further Attorney-General's Department, *Submission 3*, p. 8. HOCOLEA has developed its own 'overarching principles for selecting cases for investigation and administration, civil and criminal sanctions'. See further, [http://www.ag.gov.au/Fraudcontrol/Pages/HeadsofCommonwealthOperationalLawEnforcementAgencies\(HOCOLEA\).aspx](http://www.ag.gov.au/Fraudcontrol/Pages/HeadsofCommonwealthOperationalLawEnforcementAgencies(HOCOLEA).aspx) (accessed 15 August 2012).

3.33 The OCSF articulates the critical role of ACC intelligence in supporting the Commonwealth's approach to serious and organised crime, recognising that the effectiveness with which the ACC can gather intelligence is central to the success and efficacy of the framework. A key element of the OCSF is the ACC's biannual OCTA as articulated by the AGD:

The OCTA details the highest priority risks from serious and organised crime to inform better targeting of policy and operational response. The effectiveness of the OCTA rests on the ability of the ACC to effectively gather and synthesise criminal intelligence from a range of domestic and international sources.⁴²

3.34 The ACC's specific role in relation to the framework includes provision of leadership on criminal intelligence matters through production of the OCTA, as well as in developing and managing capabilities and structures, namely the Criminal Intelligence Fusion Capability (Fusion) and Organised Crime Intelligence Model otherwise referred to as the Australian Criminal Intelligence Model (ACIM).⁴³

3.35 There are five capabilities that underpin the OCSF and its objective of providing for a coordinated and targeted whole-of-government response to serious and organised crime. Capability 1—Intelligence, Information Sharing and Interoperability—which encompasses activities directed to improve information sharing between and amongst state, territory and Commonwealth agencies as well as industry and the private sector—is of immediate relevance to the committee's terms of reference. Capability 1.3 is to 'provide clarity and consistency of standards, processes and protocols for intelligence-led policing and law enforcement work to enhance the national picture of organised crime'. The ACIM which is discussed in Chapter 5 of this report is being developed in response to this capability.

National Organised Crime Response Plan

3.36 In 2009, Australian attorneys-general, through SCAG, agreed to a national response to combat serious and organised crime. In December 2010, the federal Attorney-General and Minister for Home Affairs and Justice, in conjunction with state and territory attorneys-general, released the NOCRP which brings together 'both justice and law enforcement aspects of a national response to organised crime in a single resource'.⁴⁴ Developed to provide strategic principles and measures to better target the national organised crime environment, the national plan was designed to

42 Attorney-General's Department, *Submission 3*, p. 1.

43 Australian Government, *Commonwealth Organised Crime Strategic Framework Overview*, 2009, Commonwealth of Australia, p. 16, <http://www.ag.gov.au/Documents/Organised%20Crime%20Strategic%20Framework%20Overview.PDF> (accessed 20 July 2012).

44 Australian Government, *National Organised Crime Response Plan: Overview 2010-13*, Commonwealth of Australia, p. 4, [http://www.ag.gov.au/Documents/National%20Organised%20Crime%20Response%20Plan%20-%20Final%20Outline\(3\).PDF](http://www.ag.gov.au/Documents/National%20Organised%20Crime%20Response%20Plan%20-%20Final%20Outline(3).PDF) (accessed 20 June 2012).

complement the Commonwealth Organised Crime Response Plan 2010–11 and existing state and territory crime strategies.

3.37 The NOCRP facilitates a new level of multi-jurisdictional collaboration around a set of strategic principles, protocols and actions to provide a national response to organised crime including:

- improving consistency of policies and legislation across borders to fight organised crime;
- removing impediments to effective sharing of information and intelligence; and
- targeting the priority organised crime risks identified in Organised Crime Threat Assessments.

3.38 The purpose of the NOCRP in relation to criminal intelligence is to provide a national strategy for 'removing both capability gaps and impediments to inter-jurisdictional collaboration and sharing of information and intelligence'.⁴⁵ Led by the states and territories in partnership with the Commonwealth, the NOCRP recognises that the 'profile of organised crime and the threat levels of different crime types vary from one jurisdiction to another'.⁴⁶

3.39 Five strategies underpin the NOCRP including 'Strategy 2: Enhancing intelligence and information sharing' which provides measures to:

- improve the prioritisation and coordination of organised crime intelligence and operational matters;
- support interoperability of resources and capabilities between jurisdictions; and
- support, at a national level, the ACC's Criminal Intelligence Fusion Centre.⁴⁷

Governance arrangements

3.40 The NOCRP establishes a Senior Officers' Group on Organised Crime (SOG on OC) to undertake work on legislative interoperability and information sharing measures. Responsibilities of the SOG on OC include identifying opportunities to enhance information and intelligence sharing across and between Australian governments and internationally, including with regulatory agencies, the private sector and communities.⁴⁸

45 Australian Government, *National Organised Crime Response Plan: Overview 2010–13*, Commonwealth of Australia, p. 3.

46 Australian Government, *National Organised Crime Response Plan: Overview 2010–13*, Commonwealth of Australia, p. 4.

47 Australian Government, *National Organised Crime Response Plan: Overview 2010–13*, Commonwealth of Australia, p. 10.

48 Australian Government, *National Organised Crime Response Plan: Overview 2010–13*, Commonwealth of Australia, p. 8.

3.41 The SOG on OC reports to SCAG and the Australian police ministers on organised crime through the Ministerial Council for Police and Emergency Management—Police (MCPEMP) on implementation of the National Response Plan.

Figure 1: Reporting and governance structure: SOG on OC and the National Response Plan



Source: Australian Government, *National Organised Crime Response Plan: Overview 2010–2013*, Commonwealth of Australia, p. 8.

3.42 As the overarching OCSF recognised organised crime as a national security issue, it provided a lead role for the ACC in the national criminal intelligence effort against organised crime. At the same time, the 2008 National Security Statement and 2009 OCSF gave the ACC 'a seat at the table with other traditional players in the national security intelligence space'.⁴⁹ The ACC became a member of senior decision making forums including the National Security Policy Coordination Group (NSPCG) and National Intelligence Coordination Committee (NICC).⁵⁰ The ACC currently leads the Criminal Intelligence Working Group which is developing a national Criminal Intelligence Strategy. According to the AGD, the strategy will:

...harness the collective intelligence capabilities available to law enforcement agencies to better target serious and organised crime. The

49 Mr Patrick Walsh, *Submission 2*, p. 3.

50 Australian Crime Commission, Presentation to the 10th Anniversary National Security Australia Conference 2012 by Executive Director Fusion, Target Development and Performance, 13 March 2012, <http://www.crimecommission.gov.au/media/presentation-to-10th-anniversary-national-security-australia-conference-2012> (accessed 16 July 2012). See also, Attorney General's Department, *Submission 3*, p. 2.

Strategy will support the development of a richer intelligence picture by ensuring our law enforcement, intelligence, national security, policy and regulatory agencies are collaborating and sharing intelligence more effectively.⁵¹

3.43 The National Criminal Intelligence Strategy includes the ACIM which is currently under development as a response to OCSF capability 1. The model details the intelligence cycle to guide the development of strategy initiatives, plans and capabilities. According to the AGD, the strategy will enable an alignment of concepts under the intelligence cycle, promote interoperability of intelligence resources across jurisdictions and advance the capacity to share intelligence outputs.⁵² In 2010–11, ACC and partner agencies began planning the model.

ACC within national security governance

3.44 In his submission, Mr Patrick Walsh, a Senior Lecturer at the Australian Graduate School of Policing and Security at Charles Sturt University, noted that the changes brought about by the inclusion of the ACC within national security governance raised questions regarding the role and objectives that the ACC should have within the national security framework.⁵³ He noted in this regard that:

It is clear that since 2008 that the ACC has become increasingly involved in issues that are high priorities for the broader Australian national security community. It has revealed publicly in its annual reporting to government that it has played a support role in the collection and analysis of criminal intelligence on the extent of financing of terrorism and people smuggling through criminal activity. Additionally, in its last Annual Report it indicated that it was going to establish a border determination called: *national security impacts from serious and organised crime* rather than the previous narrower intelligence operations on specific issues such as terrorism or people smuggling.⁵⁴

3.45 According to Mr Walsh, while there is scope for this broader approach which will enable examination of the links between organised crime and other national security issues beyond people smuggling or terrorism, the most significant role the ACC can play in the national security space is to 'use its fusion centre to link any proceeds of crime to entities that are also of national security concern'. However, in Mr Walsh's view, such an initiative would require greater sharing and collaboration between the ACC and the Australian Security Intelligence Organisation (ASIO) and more broadly, better governance on the part of the ACC and national security

51 Attorney-General's Department, *Submission 3*, p. 2.

52 Attorney-General's Department, *Submission 3*, p. 2.

53 Prior to his appointment at Charles Sturt University, Mr Walsh was a senior strategic analyst at the ACC and former National Crime Authority. See further, his profile at: http://www.csu.edu.au/faculty/arts/agsp/staff/profiles/academic-staff/patrick_walsh (accessed 10 September 2012).

54 Mr Patrick Walsh, *Submission 2*, p. 3.

community around intelligence and operational activities.⁵⁵ Such concerns also go to the question of whether the ACC's criminal intelligence methodology, or 'Sentinel Strategy', will require modification to operate effectively within the national security space.⁵⁶ They also go to the question of how the ACIM will address the current siloing and fragmentation of intelligence into domains including that of national security.

Capacity to share information

3.46 Many submitters raised concerns about the ability of current systems and processes to effectively manage the extension of the range of law enforcement and other government agencies, as well as prescribed private sector bodies with which intelligence can be shared. Questions and concerns regarding capacity to share information and intelligence go to matters of governance, coordination, legislative limitations and interoperability. They relate to:

- ACC governance arrangements and establishment of boundaries between the ACC, AFP and ASIO to avoid duplication and enable clear distinctions in responsibilities when organised crime targets become national security matters. The issue of duplication and overlap is also relevant to the intelligence functions of the ACC in relation to CrimTrac and AUSTRAC;⁵⁷
- harmonisation of intelligence requirements across the national security intelligence priorities and national criminal intelligence priorities coordinated in the ACC;
- safeguards and protections which apply to the sharing of information with a wider range of agencies and entities;⁵⁸
- the extent to which the national framework, and particularly its NOCRP, is the most effective model for gathering criminal intelligence and information from the states and territories, given that they have general responsibility for criminal law in Australia;⁵⁹ and
- the role of the ACC Board and extent to which board agencies are consistently collecting intelligence against the priorities set by it.⁶⁰

3.47 Underpinning these matters and concerns is the question of how to provide for greater interoperability and information sharing in relation to criminal intelligence.

55 Mr Patrick Walsh, *Submission 2*, p. 3.

56 Sentinel is defined by the ACC as a 'target-oriented approach to: intelligence collection and analysis; target development and assessment; and prevention and intervention'. Australian Crime Commission, *Annual Report 2010–11*, p. 51.

57 Police Federation of Australia, *Submission 7*, p. 9.

58 Law Council of Australia, *Submission 6*, p. 3.

59 Mr Patrick Walsh, *Submission 2*, p. 6. Commonwealth criminal laws and law enforcement activities are directed at particular crime types which fall under Commonwealth power including corporate and financial crime, drug offences, and illicit goods.

60 Mr Patrick Walsh, *Submission 2*, p. 4.

Establishing an interoperable criminal intelligence system sets technological, legislative, methodological, resource and cultural challenges across the criminal intelligence community. These are matters considered in detail in the following chapters of this report.

CHAPTER 4

Legislative, technological, methodological, resource and cultural challenges

4.1 Commonwealth, state and territory criminal intelligence stakeholders who gave evidence to this inquiry recognised the need for criminal intelligence to fight serious and organised crime and to support mechanisms to improve timely intelligence sharing. Recent amendments to the ACC Act widened the range of entities that the ACC can share intelligence with. However, evidence to the committee supported the view that the intention behind these new arrangements, which is to provide for a more comprehensive response to organised crime, cannot be fully realised until existing limitations, challenges, perceptions and hurdles within the current criminal intelligence framework are addressed. This chapter considers those challenges.

4.2 Many submitters argued that the various arrangements in place for gathering, storing and sharing criminal intelligence are out-dated, impractical and not fit for purpose. Legislative, structural and resource impediments to the flow of intelligence were highlighted as well as a range of unintended consequences including unequal intelligence holdings, an incomplete picture of criminal threats and declining stakeholder confidence. Some stakeholders held reservations about sharing their own information and did not recognise the value added to that information when converted into intelligence and returned to them. Mr Mark Burgess, CEO of the Police Federation of Australia (PFA), stated that intelligence was, for many years, considered a 'big black hole where information went in but no-one received anything out'.¹ Such concerns are exacerbated by the absence of a common approach to collecting, collating, analysing and disseminating criminal intelligence. Efforts to establish an interoperable criminal intelligence system capable of producing a comprehensive national picture of organised crime are hindered for these reasons. This chapter considers the current challenges towards a national criminal intelligence system.

4.3 One of the primary aims of the National Organised Crime Response Plan (NOCRCP) is to remove capability gaps in and impediments to inter-jurisdictional collaboration and sharing of information and intelligence.² However, the ACC submitted that producing a national picture of serious and organised crime was complicated by various factors relating to the collection, use and sharing of criminal intelligence including:

- limited availability and accessibility of current and complete criminal intelligence and other information used in the production of criminal intelligence; and
- the absence of agreement on a consistent way in which Australian agencies collect, collate, analyse, produce, store and disseminate criminal intelligence,

1 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 2.

2 Australian Federal Police, *Submission 12*, p. 12.

which has led to inconsistent intelligence collection plans and priorities as well as duplication of effort by such agencies.³

4.4 The ACC asserted that these challenges cause 'much duplication of effort and inefficiency' amongst the law enforcement agencies, policing, national security and other government and private sector bodies in 'understanding the most effective response to the threat and impact of serious and organised crime'.⁴ Another area of potential duplication of effort is in relation to the crossover between volume crime and serious and organised crime. This was explained by Commander Alf Fordham of the Western Australia Police:

The problems are that quite often you find that people that operate in one zone simultaneously operate in the other zone. What I am talking about here is the fact that there are a number of case studies where a national target might actually be arrested for domestic violence or for assaulting somebody at their local pub on a Friday night, because they actually engage in volume crime. But a lot of the people that operate within the serious and organised crime sphere have graduated to that sphere from the nursery of crime, which is volume crime, and the business model does not necessarily accommodate the fact that these people quite easily move from within one zone to another zone on a regular basis.⁵

4.5 Other submitters raised a number of concerns regarding legislative, resource, methodological, technological and cultural obstacles and challenges which limited the effective flow of information and interoperability. Interoperability concerns systems and tools, methodologies, content and data. It is a key capability within the Organised Crime Strategic Framework and the ultimate objective for criminal intelligence stakeholders. The NOCRP also places emphasis on the importance of interoperability:

Essential elements of an integrated national approach are enhancing interoperability, the sharing of information and intelligence in an effective and timely manner and coordinating responses to organised crime across jurisdictions.⁶

4.6 The following section considers the various challenges identified in evidence before the committee while drawing on key initiatives and operations to highlight concerns.

Legislative impediments and challenges to sharing intelligence

4.7 Submitters argued that privacy and security legislation inhibit greater flows of timely intelligence and limit the ACC's access to information and intelligence. Security and privacy legislation dictate who intelligence can be shared with and for

3 Australian Crime Commission, *Submission 10*, pp 3 & 14.

4 Australian Crime Commission, *Submission 10*, p. 3.

5 Commander Alf Fordham, Western Australia Police, *Committee Hansard*, 27 September 2012, p. 42.

6 Australian Government, *National Organised Crime Response Plan: Overview 2010–13*, Commonwealth of Australia, p. 9.

what purpose.⁷ Telecommunications intercept material collected by the ACC, for example, may only be shared with a small number of agencies with many of the ACC's partners excluded from current sharing provisions.⁸

4.8 The Northern Territory (NT) Police identified challenges including complexity of the 'various ACC legislation which restricts some of the dissemination rules' and the limited technological capability of the ACID and ALEIN database.⁹ Queensland Police's Acting Assistant Commissioner Gayle Hogan also noted that legislation impacts 'what information can be shared, how it can be shared and how it can then be disseminated'.¹⁰

4.9 The ACC's CEO, John Lawler recognised that:

...whilst there has been some very good work done by the department over a number of years in looking at these legislative impediments and working to eliminate them where it was possible to do so, the reality is that some still remain, and it does inhibit the sharing of information.¹¹

4.10 Intelligence sharing currently takes place through a range of Memoranda of Understanding (MOUs), sharing agreements or requests for information between agencies. As these are primarily individual arrangements, they can create silos of information. The PFA commented that such arrangements create an 'ad hoc system of information sharing that lacks consistency' and can hamper the speed of intelligence sharing.¹² CrimTrac also noted that while different rules will always apply in different jurisdictions, law enforcement and intelligence agencies have also taken different approaches in relation to data collection.¹³

Multi-agency task forces

4.11 Multi-agency task forces serve as an example of interoperability of law enforcement agencies and operate under MOUs. They are increasingly utilised as a means of combining resources and providing for the flow of intelligence between taskforce members. The AFP listed a number of taskforces currently in operation including the Polaris Taskforce, Criminal Assets Confiscation Taskforce, Joint Organised Crime Taskforce (Victoria), Joint Organised Crime Group (Sydney office), Taskforce Galilee, Yelverton Taskforce (Perth), and the new waterfront taskforces.¹⁴

7 Australian Crime Commission, *Submission 10*, p. 22.

8 Australian Crime Commission, *Submission 10*, p. 22.

9 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 22.

10 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

11 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 48.

12 Police Federation of Australia, *Submission 7*, p. 4.

13 Mr Doug Smith, CrimTrac, *Committee Hansard*, 21 September 2012, p. 27.

14 Australian Federal Police, *Submission 12*, pp 10-11.

4.12 The ACC Board has the power to establish multi-agency task forces in response to concerns about a particular serious and organised crime matter. Evidence to the committee suggested that prescribed task forces have become the primary means of circumventing legislative and other impediments to the sharing of information and intelligence. Mr Greg Williams, Deputy Commissioner of the ATO explained that during the course of an operation, when a matter arises, agencies might not be able to respond because appropriate mechanisms are not in place. Whereas:

The creation of the prescribed task force model has been an attempt to circumvent that or actually provide the opportunity for interoperability around the sharing of information. But sitting behind that [task force model] are still the business-as-usual requirements...Where it is prescribed, those problems then go away.¹⁵

4.13 Drawing on the example of Project Wickenby, Mr Williams explained how information can be shared more freely between task force agencies under the prescribed arrangements:

In the context of Project Wickenby, the information-sharing exception has underpinned the broader outcomes achieved by the Wickenby agencies. However, the same broad ability does not currently exist for other exceptions to secrecy laws in relation to the risk area of serious and organised crime. Under the serious offences exception, information cannot be shared as freely between law enforcement agencies as occurs with the task force disclosure provisions.¹⁶

4.14 The prescribed task force provision has, according to Mr Williams and others, been a significant initiative in cross-agency cooperation. The ATO alone is involved in 29 separate task forces relating to serious and organised crime. According to Mr Williams, that number is expected to grow.¹⁷ Assistant Commissioner Morris of the AFP identified joint task forces as the 'order of the day in terms of delivering the business'.¹⁸ He emphasised the importance of joint task forces and the AFP's contribution to them:

Some of the joint task forces we see working today—whether they are on the waterfront or the joint organised crime task force in Victoria or the standing joint task force with the New South Wales police and ACC—involve very significant intelligence inputs. Those inputs come from a wide variety of sources.

They will be from our own intelligence holdings and investigations right through to our international interface with either law enforcement agencies in the region or more traditional...partners like New Zealand, the United Kingdom, the United States and Canada.

15 Mr Greg Williams, ATO, *Committee Hansard*, 27 September 2012, p. 18.

16 Mr Greg Williams, ATO, *Committee Hansard*, 27 September 2012, p. 16.

17 Mr Greg Williams, ATO, *Committee Hansard*, 27 September 2012, p. 16.

18 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 34.

The AFP draws in that information internationally as well as our own holdings. We use our covert services to proactively fill information gaps that will assist task forces and combine that with the intelligence from our partner agencies, whether they be at the federal level such as Customs and the ACC or at the state level with the various law enforcement organisations.¹⁹

4.15 The AFP's Assistant Commissioner Morris explained that task forces must start with a solid intelligence foundation before commencing operations and highlighted the fundamental importance of intelligence to a task force:

It is commonly known that when you are creating a task force to address a crime issue the analysts are usually the first people you pick in order to get the continuity of the intelligence picture before you started and also to take the continuity of the new information right through the whole task force information. What we have found is that when those task forces begin they generate their own intelligence that perpetuates new investigations and new outcomes. We are also able to deliver that into proposals for legislative reform, policy reform and so on. It is not just about a law enforcement outcome; it is about trying, in the case of organised crime, to target-harden the environment to prevent future offences.²⁰

4.16 Agencies have also used task forces in innovative ways to better meet their needs. The ATO's Mr Williams informed the committee that his agency had developed a secure information exchange system to support the transfer of electronic data between agencies involved in Project Wickenby. He noted that the system will allow agencies to transfer and share information in a timely and secure manner and ultimately to collaborate on documents.²¹

4.17 While also recognising the importance of task forces, Mr Mark Geddes, Agency Intelligence Coordinator of ASIC drew attention to a lack of continuity from one task force to the next. Reflecting on ASIC's involvement in task forces Galilee and Attero, Mr Geddes explained that:

There is no doubt that these special-purpose groups—the task forces that are set up—achieve a common language and an ability to rapidly share information. But that is not necessarily transferable to new task forces, depending on the membership. So there is a gap in that capability: once we get together for a specific purpose, can we transfer that to the next reason that we get together? Often it is a reinvention of the wheel each time that happens.²²

4.18 Mr Burgess of the PFA noted that while joint task forces had conducted successful operations such as Operation Wickenby, 'even these effective

19 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 34.

20 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, pp 34–35.

21 Mr Greg Williams, ATO, *Committee Hansard*, 27 September 2012, p. 16.

22 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 31.

collaborations are hampered by burdensome sharing procedures'.²³ The ATO also noted that even in the context of a task force, it may not be at liberty to disclose information to participating law enforcement partners. It supported greater freedom of exchange in relation to information within the task force context in order that it can be used to pursue criminal conduct.²⁴

Limitations on intelligence gathering and sharing

4.19 Where specific intelligence sharing arrangements such as task forces are not in place, agencies raised concerns that they are unable to fully access ACC intelligence holdings. Witnesses also pointed to other legislative challenges and impacts. For example, the ATO explained that there was an inconsistency in its ability to obtain information from Commonwealth agencies relating to the application or administration of the indirect tax law. This may limit the ATO's 'ability to use information disseminated from the ACC for a civil function even where it is essential in addressing the indirect tax crime risk'. The ATO identified four areas for legislative reform to improve its own access to ACC's criminal intelligence and in turn, its own capacity to address the tax crime risk.²⁵ These include:

- enabling the ATO to use its compulsory information gathering powers in relation to indirect tax to obtain information from Commonwealth agencies such as the ACC;
- amending the *Telecommunications (Interception and Access) Act 1979* to allow the ATO to use information gained through telecommunications interception in the course of joint investigations by taskforces;²⁶
- enabling the ATO to make derivative use of information that the ACC has obtained under the *Surveillance Devices Act 2002* where the ACC determines it appropriate to do so; and
- enabling the ATO to access real time content pursuant to the *Telecommunications (Interception and Access) Act 1979*.²⁷

4.20 Restrictions on information such as telephone interception material was raised as a specific concern by the ATO and ASIC as explained by Mr Geddes:

We can access telecommunications metadata et cetera, or stored communications, but we cannot actually intercept telecommunications or use the interception material that has been gained. We have to be careful

23 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 1.

24 Mr Greg Williams, ATO, *Committee Hansard*, 27 September 2012, p. 21.

25 Australian Taxation Office, *Submission 15*, p. 4.

26 This recommendation was made by the Parliamentary Joint Committee on Law Enforcement as recommendation 7 in its *Inquiry into Commonwealth unexplained wealth legislation and arrangements*, March 2012, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=le_ctte/completed_inquiries/2010-13/unexplained_wealth/report/index.htm (accessed 8 April 2013).

27 Australian Taxation Office, *Submission 15*, pp 4–5.

when we are engaging with the organised crime environment, a lot of which uses telephone intercept material, that we do not allow that to be used in our operational environment.²⁸

4.21 Detective Chief Inspector Colin Cunningham of the South Australia Police identified interaction of Commonwealth legislation with state legislation as the key issue that needs to be addressed in order to establish a national criminal intelligence model. He provided the following example about telecommunications companies (telcos) to highlight the point:

Telcos and most of the law enforcement agencies around the country do many telephone checks. We know that our serious crime cartels or groups use mobile telephones quite frequently. In fact, it is not unusual for criminals to use one phone per day and then discard it. So, as law enforcement agencies, we do a lot of telephone subscriber checks. We get statements from the telcos. In South Australia, for example, we may be doing the same intelligence checks as the ACC is doing, but, because of certain dissemination requirements through the legislation, we would not know. So we could be doubling up on that.

... In these days of budget restraints and so forth, if we are going to have a true global exchange of intelligence then there needs to be some examination of the cost of telco checks and how we exchange that information. Law enforcement as a whole could well be spending millions on this. If we could examine at your level or at a higher level how the Commonwealth legislation interacts with the state legislation in terms of that exchange of information, that would be very valuable to us.²⁹

4.22 The ATO expressed frustration with the secrecy provisions which limited their ability to share information. Mr Williams noted that the ATO could only provide generic information when it might be holding valuable detailed information which law enforcement agencies are unable to access. This, in turn, creates difficulties in the relationship with criminal intelligence stakeholders as:

...people are desperately trying to deal with something, they know that there is information that would be of value to them to do it, but we are required by our secrecy provisions not to provide that at the present point in time.³⁰

4.23 As a whole, the current system creates 'unequal data holdings, which risks some agencies being unaware of certain intelligence, misinformation about certain situations, or duplication of intelligence gathering operations'.³¹ The PFA argued that the recent establishment of a Firearms Intelligence and Targeting Team and in-principle agreement to establish a national firearms identification database had the

28 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 32.

29 Detective Chief Inspector Colin Cunningham, SA Police, *Committee Hansard*, 27 September 2012, p. 38.

30 Mr Greg Williams, ATO, *Committee Hansard*, 27 September 2012, p. 19.

31 Police Federation of Australia, *Submission 7*, p. 4.

potential to provide an extensive national intelligence picture on firearms. In contrast, the current arrangements under an MOU between the AFP and ACBPS are such that the ACBPS is required to notify the AFP of all dangerous weapon detections 'as soon as practicable'.³² Drawing from this experience, the PFA noted that a uniform information scheme would provide for greater accountability given that:

With the current method of information requests or MOUs between the myriad of individual agencies, it is very difficult to keep track of what is being shared, between whom, and under what circumstances.³³

4.24 Another matter of concern raised by witnesses was that of managing Freedom of Information (FOI) legislation. Acting Deputy Commissioner Pope of the Victoria Police identified FOI legislation around the country as one of the legislative challenges to a national criminal intelligence mechanism. He noted that:

We may get an FOI request in Victoria for our intelligence, for instance, and we may well refuse that request. But if it is sitting in a national system, then that same FOI request may well be made to another agency that has access to the data or who hosts the system. So the idea is trying to get some consistency around that, and I understand that CrimTrac and the government are currently working their way through some draft legislation, and these sorts of issues are coming to the surface.³⁴

4.25 However, the AGD warned that legal impediments are 'often raised but when you explore them they are not necessarily impediments' and that sometimes, the impediments are in fact, cultural. Furthermore, Mr Anderson of the AGD also noted that there are always going to be tensions between the need to disclose which itself carries risks and the need to withhold intelligence.³⁵

Balancing a need to share with a need to protect

4.26 The PFA argued that the free flow of intelligence would assist police officers in the performance of their daily duties and that they should be provided 'with direct real time access to intelligence holdings on operational grounds' for this reason. The PFA commented that police officers, and those they interact with, are 'most at risk when an officer is forced to operate in a situation without proper intelligence regarding the circumstances of the situation'. He explained that:

Examples of such situations include; interacting with a person whose criminal history or mental illnesses are unknown to the officer, pulling over a car without knowing that it may have been involved in the commission of a criminal offence, or entering premises unaware of the possible presence of drug-manufacturing chemicals. These dangerous situations that police officers could face have endless permutations. The free flow of information

32 Police Federation of Australia, *Submission 7*, p. 7.

33 Police Federation of Australia, *Submission 7*, p. 4.

34 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 3.

35 Mr Iain Anderson, AGD, *Committee Hansard*, 21 September 2012, p. 18.

between agencies ensures that police officers have ease of access to real time intelligence, and can access any known intelligence on any situation.³⁶

4.27 In contrast to current arrangements, the PFA further argued that a uniform sharing process would provide a 'platform for regulating how information is used, and also to monitor and prevent the misuse of information'. Privacy and integrity concerns emanating from police accessing real time intelligence holdings for operational purposes could, according to the PFA, be addressed by way of 'electronic data tracking' capabilities which could be provided under a uniform electronic system.³⁷

4.28 The Australian Commission for Law Enforcement Integrity (ACLEI) acknowledged that the ACC, the AFP and to a lesser extent, the ACBPS, had established 'electronic auditing of staff access to information databases' which is a key feature in ensuring the integrity and security of sensitive information.³⁸ ACLEI stated that integrity testing pursuant to legislation introduced in March 2012 was an 'effective deterrence measure concerning unauthorised access and disclosure of official information'. ACLEI commented that this will serve as a significant enhancement to the integrity regime that protects sensitive information.³⁹ Nevertheless, ACLEI also raised concerns in relation to the 'need to share' intelligence by highlighting the importance of appropriate arrangements to protect intelligence from unauthorised disclosure. In this regard, ACLEI noted that allegations relating to breaches of operational security through inappropriate disclosure of information were amongst the corruption issues 'most frequently' raised with the Integrity Commissioner.⁴⁰

Technological challenges

4.29 As previously noted, criminal intelligence is currently stored in more than 30 systems operated by Australian law enforcement, policing, national security and other government agencies, with limited interoperability across them.⁴¹ With the widening of the range of agencies and stakeholders involved in gathering, using, providing and analysing criminal intelligence, there are greater technological challenges to achieving an interoperable system.

4.30 CrimTrac seeks to enhance policing and law enforcement through the provision of high quality information services to law enforcement agencies. It operates three systems—National Automated Fingerprint Identification System, National Criminal Investigation DNA Database and National Police Reference System.⁴² AUSTRAC, Australia's anti-money laundering and counter-terrorism financing

36 Police Federation of Australia, *Submission 7*, p. 3.

37 Police Federation of Australia, *Submission 7*, p. 4.

38 Australian Commission on Law Enforcement Integrity, *Submission 9*, p. 6.

39 Australian Commission on Law Enforcement Integrity, *Submission 9*, p. 5.

40 Australian Commission on Law Enforcement Integrity, *Submission 9*, p. 5.

41 Australian Crime Commission, *Submission 10*, p. 14.

42 CrimTrac, *Submission 4*, p. [2].

regulator and specialist financial intelligence unit, draws on the intelligence holdings of the ACC, AFP and the ACBPS to add value to AUSTRAC intelligence.⁴³

4.31 While there are numerous agencies involved in criminal intelligence, there is no single and complete 'point-of-truth' for Australian criminal intelligence holdings nor an automated process for searching across all such systems simultaneously.⁴⁴ The ACBPS noted that its analysts often do not have access, or have only limited access, to other law enforcement databases 'unless they are either part of a joint taskforce or out posted with the partner agency'. Consequently:

Siload access to agency databases has resulted in duplication of analytical effort and operational activity. A consolidated IT domain, where intelligence can be shared and accessed across agencies would be a significant step in improving the interoperability of Australian law enforcement agencies in relation to criminal intelligence holdings.⁴⁵

4.32 Mr Lawler, CEO of ACC, emphasised the need for real time intelligence and that to fight organised crime, intelligence needs to be available within 48 hours of it occurring.⁴⁶ However, according to the PFA, many police forces still rely on central and even manual processes for intelligence sharing. They argue this not only slows down the intelligence flow to operational frontline police but is 'ineffective, time consuming, and potentially dangerous for operational police and those they interact with'.⁴⁷

4.33 CrimTrac draws a parallel between greater interoperability and improving information for criminal intelligence purposes:

The information provisioned to CrimTrac to deliver the 'reference data' is sourced from the separate and independent systems of policing of the eight federal, state and territory police agencies...There are impediments in gathering consistent data from disparate systems from a range of sources, and whilst the information is made available to agencies such as the ACC and AFP, the value of this interoperability may be enhanced if we could achieve efficiencies in 'making the connections'.⁴⁸

4.34 Mr Geddes from ASIC argued that while the ability to share information rapidly was a commonly held aspiration, it was tempered by two factors, namely logistics and legislative impediments. In relation to logistical challenges, he commented that each agency that is a board member of the ACC has its 'own information and communications technology, and they are always operating on different cycles'. As a consequence, each state jurisdiction and Commonwealth agency

43 AUSTRAC, *Submission 14*, p. 4.

44 Australian Crime Commission, *Submission 10*, p. 14.

45 Australian Customs and Border Protection Service, *Submission 18*, p. 5.

46 Mr John Lawler cited in Police Federation of Australia, *Submission 7*, p. 4.

47 Police Federation of Australia, *Submission 7*, p. 4.

48 CrimTrac, *Submission 4*, p. [5].

is at a different phase in terms of developing their information and communications technology. This makes it 'unlikely that two—let alone dozens—of those agencies will have full compatible and interoperable systems'. Therefore, any new platform that might be considered that allows for real-time communication of information 'has to potentially be built from scratch, and there is likely a cost there'.⁴⁹ Mr Geddes concluded:

So I guess no individual agency has the current resourcing or the current budget to build a separate, stand-alone system, and I think that has to be factored into the considerations.⁵⁰

4.35 Another challenge in relation to interoperability is the variability and differences in the technological capabilities across agencies. Some agencies have undergone a process of modernisation. AUSTRAC is midway through modernising and enhancing its analytical systems and recently updated its IT infrastructure.⁵¹ For others, such as the Victoria Police, overhaul of its intelligence processes, standards, practices and competencies are planned.⁵²

4.36 NT Police information and communications technology are at their life's end. Assistant Commissioner Kershaw recognised that their systems are 'not fast enough' at being able to capture real time information and feed it into systems such as the Fusion Taskforce. He explained that:

We are constantly looking at ways of how we can get the right information reports, for example, into those central repositories and then extract what we need out of them. So a lot of it has come down to the different systems, and we are looking at some different systems up here at the moment because we are finding that we are at the end of the life of our systems. In particular, when you have a large number of police on the street who are collecting intelligence for you every day, it is very critical that you have a central repository in-house. It is important from a serious-and-organised-crime point of view, and I think it is important from a national point of view as well.⁵³

4.37 The PFA highlighted the 'burdensome process of sharing and accessing intelligence' which has 'frustrated police for a long time'. As a case in point, the Queensland Police Service has been calling for a centralised database of at-risk children given that without such a database, 'police are flying blind'.⁵⁴

49 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 31.

50 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 32.

51 Mr Johann Visser, AUSTRAC, *Committee Hansard*, 21 September 2012, p. 32.

52 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 1.

53 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 23.

54 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 1.

ACID and ALEIN

4.38 Section 7 of the ACC Act provides the ACC with the legal authority to collect, correlate, analyse and disseminate criminal information and intelligence and to maintain a national database of that information and intelligence.⁵⁵ ALEIN is a secure extranet which provides a gateway to the ACID and two other databases managed by the ACC.⁵⁶ ACID provides a 'secure, centralised, national repository for criminal intelligence'.⁵⁷ It serves as the 'major system for sharing intelligence between Commonwealth, state and territory law enforcement agencies'.⁵⁸ ACID enables ACC staff to share highly protected information with client law enforcement agencies through the ALEIN network. It is accessible to more than 25 Commonwealth, state and territory law enforcement agencies and regulatory authorities. However, evidence to the committee upheld the view that ACID and ALEIN were no longer capable of meeting the needs of its users. Assistant Commissioner Kershaw of the NT Police said that ACID and ALEIN were 'probably at their use-by date' and that a new system was required.⁵⁹

4.39 The ACC acknowledged that ACID and ALEIN are 'based on outdated technology and [are] no longer fit for purpose'.⁶⁰ CEO, Mr Lawler, recognised that frustration with the system as expressed by some state and territory jurisdictions emanated from the fact that it is 'not able to deliver the sort of performance that one expects now in a personal context from the sort of computer power that is more broadly available'. Mr Lawler continued:

It is quite clunky, and the sorts of tools that are available are not where they need to be. That has had the effect of a drop in user numbers, which I would expect to continue until such time as that is remediated.⁶¹

4.40 Similarly, the PFA stated that while there had been successes in relation to multi-agency operations such as Project Wickenby and Project Hoffman,⁶² the technology that underpins much of the intelligence sharing capabilities is out-dated as:

55 Australian Crime Commission, *Submission 10*, p. 13.

56 The other two are the National Clandestine Laboratory Database and the Violent and Sexual Crime Database.

57 Australian Crime Commission, *Annual Report 2005–06*, p. 28.

58 Attorney-General's Department cited in Australian Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into the future impact of serious and organised crime on Australian society*, September 2007, p. 101.

59 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 22.

60 Australian Crime Commission, *Submission 10*, p. 22.

61 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, pp 45–46.

...the ACC intelligence sharing systems, ACID and ALEIN, are based on technology from the 1980s. Meanwhile, criminals utilise advanced technology developed in 2012, and are continually updating. The technological capabilities that facilitate the sharing, collating and analysis of criminal intelligence needs to be updated to modern technology standards, and the necessary resources should be made available to do so.⁶³

4.41 Mr Patrick Walsh described ACID as a 'poor' intelligence database and explained the ramifications for constructing a national picture of serious and organised crime:

...this is not a user-friendly system and while the ACC regularly posts its intelligence products on it ACID is not used extensively by all law enforcement agencies. This reduces national knowledge about certain criminal threats and degrades law enforcement's ability to do effective strategic intelligence which can provide warning to government about the potential development of future organised crime threats.⁶⁴

4.42 Similarly, Detective Superintendent Pointing of the Queensland Police Service observed that closed-circuit television (CCTV) data, telephone intercept data and social media data were 'too complex for ACID'.⁶⁵ However, the PFA highlighted the fact that ACID and the development of the National Firearms Identification Database had provided opportunities to 'build truly national intelligence holdings and to serve as models for more complete intelligence sharing capabilities'. One of the lessons emanating from these experiences according to Mr Burgess of the PFA is that these repositories do not solve the problem of siloed intelligence holdings:

The multitude of variables and factors faced by front-line police and the highly complex nature of organised crime mean that all intelligence is potentially valuable and potentially linked to other intelligence. Therefore, separate holdings on issues such as firearms and drug intelligence is not providing a complete picture.⁶⁶

4.43 The Queensland Police Service also made the point that there were new approaches that may be a better solution than ACID given the rapidly growing technology and advances made since the 1980s. Acting Assistant Commissioner Hogan noted that the limitations of ACID had led many agencies to develop other ways to share information which has driven up the number of direct requests to

62 Project Wickenby, a joint taskforce of the AFP, ATO, ACC, ASIC, AUSTRAC and CDPD is noted as a successful example of such an initiative. It recently seized over \$40 million worth of assets. The PFA also noted the successes of Project Hoffman, a joint operation between the NSW Police, AFP and ACC which resulted in the seizure of more than 28 kg of heroin with an estimated value of \$32 million (Police Federation of Australia, *Submission 7*, p. 6).

63 Police Federation of Australia, *Submission 7*, p. 6.

64 Mr Patrick Walsh, *Submission 2*, pp 5-6.

65 Detective Superintendent John Pointing, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 36.

66 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 1.

specific jurisdictions. The Queensland Police Service alone receives an average of 16 000 requests for information a year which places considerable strain on its resources.⁶⁷

4.44 The ATO also noted that availability and access to criminal intelligence could be enhanced via technology solutions. The ATO explained that the Criminal Intelligence Working Group which contributes to the National Information and Intelligence Needs Analysis coordinated by the ACC, is working on enhanced technology.⁶⁸ Addressing these technological challenges are key considerations before the agencies engaged in the development of the ACIM which is discussed in Chapter 5.

4.45 The ACC explained that the ACID is a tool predominantly used for the second phase of collecting and collating as well as the third phase of analysis and production of intelligence. The ACID will not be incorporated into the ACIM because the former serves as a searchable database containing criminal intelligence data while the ACIM is a set of strategies, processes and guidelines for managing criminal intelligence nationally. A Proceeds of Crime funded scoping study was initiated in 2010 to examine further options for the provision of ACID and ALEIN, however, neither is currently under redevelopment.⁶⁹

Methodological challenges

4.46 Rather than the implementation of a single, consistent methodology in relation to criminal intelligence across jurisdictions, different agencies are applying different approaches and methods. Assistant Commissioner Kershaw of the NT Police observed that the various jurisdictions 'are not on the same page as far as what sort of model we are using in relation to criminal intelligence'.⁷⁰

4.47 While the value of criminal intelligence is without question, agencies are at different stages of developing and strengthening their criminal intelligence capabilities:

- Victoria Police overhauled its state intelligence division and reformed its intelligence processes in July 2012 to produce a Victoria Police Intelligence Doctrine after applying the UK National Criminal Intelligence Model for some years;⁷¹

67 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

68 Australian Taxation Office, *Submission 16*, p. 3.

69 Australian Crime Commission, Answer to written question on notice, No. 17, received 28 March 2013.

70 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 23.

71 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 1.

-
- Queensland Police Service is currently undertaking a review of its structure including its intelligence to 'make sure we are looking at all of the best practice there is';⁷²
 - South Australia Police have undertaken a major structural change in relation to intelligence-policing since 2000;⁷³ and
 - Northern Territory Police is currently restructuring its intelligence division and examining different domestic and international models and approaches in relation to its intelligence doctrine.⁷⁴

4.48 Of concern to the committee is the extent to which these new models and approaches will be consistent with the proposed ACIM as it develops. Having invested resources, time and energy into establishing these new models, the question remains as to what extent jurisdictions will be willing to adapt their systems to ensure interoperability and complementarity with the ACIM. This problem was recognised by Mr Patrick Walsh who observed that policing agencies across the country have their own intelligence frameworks and doctrines. He explained that as long as every agency has its own doctrine, connectivity between them at the national level would remain a challenge. He recognised that solutions to this challenge include the establishment of common values around training:

If an analyst is trained and they work in Victoria Police, that person should be able to go to the Federal Police and the Federal Police should be thinking, 'I do not need to retrain this person because I know their common standards of training'. There certainly needs to be career progression for analysts so that they do not just get stuck in these support roles. That is a funding issue. There needs to be better governance across our law enforcement intelligence community. I think the ACC has done some things in that area, some good things in the training space, and also in trying to develop greater coordination and sharing at the ACC board level.⁷⁵

4.49 Differences in approach are further demonstrated by the extent to which jurisdictions share available information with the ACC. Some share all information while others are more discerning. Tasmania Police, contributed over 50 000 items of information and intelligence to ACID over eight months in 2012. It had taken a decision years ago to 'push absolutely everything up' to the ACC.⁷⁶ Similarly, the WA

72 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

73 Detective Chief Inspector Colin Cunningham, South Australia Police, *Committee Hansard*, 27 September 2012, p. 40.

74 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 25.

75 Mr Patrick Walsh, *Committee Hansard*, 31 October 2012, p. 5.

76 Deputy Commissioner Scott Tilyard, Tasmania Police, *Committee Hansard*, 27 September 2012, p. 47.

Police committed to giving almost all of its data to the ACC.⁷⁷ However, Commander Fordham noted that despite this approach, and extended offers to the ACC to place analysts on the floor within WA Police intelligence, concerns remained that intelligence given to the police was not provided in a timely manner. He also noted that the ACC may be accused of 'borrowing our watch to tell us the time' as its own intelligence was often returned to it without any added analysis.⁷⁸ Similarly, the NT Police submitted that jurisdictions were often provided information that they already had.⁷⁹

4.50 The ACC underscored the importance of a consistent approach to the management of intelligence assets. Noting the challenges of a limited understanding of the value and utility of criminal intelligence, the ACC argued for a nationally consistent approach to managing such assets through the establishment of common standards, protocols and processes.⁸⁰

Standardisation of intelligence information

4.51 According to the ACC, in 2010–11, there were 2775 active users of ACID with nearly 560 000 searches for information and intelligence while a total of 451 039 information and intelligence documents were uploaded onto the system.⁸¹ The following year, the number of searchers fell to 331 664 reflecting a continued decline across all agencies for three years in a row.⁸²

4.52 While it is widely accepted that ACID/ALEIN cannot meet the standards of sharing capabilities, law enforcement and other agencies are 'bombarding each other with requests for information'.⁸³ Yet, the ACC highlighted that the quality, quantity and format of intelligence uploaded onto these systems are 'significantly varied'.⁸⁴ The ACBPS alone uploads approximately 19 000 intelligence reports to ACID every year and made the point that agencies contributing to the criminal intelligence holdings 'apply different business rules to the process, which can result in marked differences in information quality, timeliness and consistency'.⁸⁵

4.53 Furthermore, there is no consistent request for information (RFI) process. This amplifies the challenges in relation to intelligence sharing and analysis. While

77 Commander Alf Fordham, Western Australia Police, *Committee Hansard*, 27 September 2012, p. 43.

78 Commander Alf Fordham, Western Australia Police, *Committee Hansard*, 27 September 2012, p. 45.

79 Northern Territory Police, *Submission 16*, p. [1].

80 Australian Crime Commission, *Submission 10*, p. 18.

81 Australian Crime Commission, *Submission 10*, p. 21.

82 Australian Crime Commission, *Annual Report 2011–12*, p. 105.

83 Police Federation of Australia, *Submission 7*, p. 6.

84 Australian Crime Commission, *Submission 10*, p. 22.

85 Australian Customs and Border Protection Service, *Submission 18*, pp 3–4.

acknowledging the requirement to balance a 'need to know' with a 'responsibility to share', the ACC held that a single and complete point-of-truth for Australian criminal intelligence and a consistent approach to RFIs would resolve these challenges.⁸⁶

4.54 CrimTrac pointed out that without applying due diligence when entering the information and having robust checks for user data entry errors (including the resolution of subject identity issues), the value of the information can be limited. In this regard, CrimTrac argued for a system that would provide for accurate data:

Accurate information has flow on benefits to the user as they do not have to check and potentially amend the material down the track. The greater the accuracy and validity of the identifying and reference information, the higher user confidence will be that the information can be trusted and effectively used for multiple purposes.⁸⁷

4.55 The PFA also held that a uniform standard of information sharing would ensure that 'all law enforcement and other relevant agencies contribute to the same extent, and have the same intelligence, solving these inefficiency risks'.⁸⁸ The PFA argued that either all such agencies move towards a single database or establish a link between their respective intelligence holdings in order that any intelligence held by one agency is accessible by another. However:

Whatever form it takes, only this free flow of criminal intelligence will provide law enforcement agencies with the complete intelligence picture. Without it, Australia's police and other agencies are forced to combat crime with one eye closed.⁸⁹

4.56 The PFA maintained that there was scope to extend the standardised national approach for recording drugs intelligence collected at seizures. Currently, the ACID and ALEIN include a centralised clandestine laboratory information repository. A mandatory requirement to provide drugs intelligence combined with widening the variety of data types could assist law enforcement agencies to track the movement and distribution of illicit drugs, identify crime groups involved in manufacturing and distribution, and analyse trends and common methodologies of drug importing, manufacturing and distribution. The PFA noted that:

With the beginnings of a national drug database already present, this component of ACID and ALEIN provides an opportunity to implement the extensive intelligence sharing processes Australian law enforcement needs.⁹⁰

4.57 The PFA noted in support of the free flow of all criminal intelligence between law enforcement and other relevant agencies that in an 'ideal world', all such agencies

86 Australian Crime Commission, *Submission 10*, p. 14.

87 CrimTrac, *Submission 4*, p. [5].

88 Police Federation of Australia, *Submission 7*, p. 4.

89 Police Federation of Australia, *Submission 7*, p. 3.

90 Police Federation of Australia, *Submission 7*, p. 7.

would be connected to a single criminal intelligence database. While the ACC has a legislative mandate to maintain such a database under section 7A of the ACC Act, the PFA recognised two obstacles which hinder the establishment of a truly national criminal intelligence holding underpinned by the free flow of intelligence:

...outdated technology which hampers the capability to facilitate intelligence sharing, and a lack of mandatory intelligence sharing requirements.⁹¹

4.58 However, the PFA also recognised other challenges including the need for coverage of a large variety of data types in the sharing arrangements. Without this being addressed by agencies, particularly the ACC, a comprehensive picture of organised crime would not be able to be formed.⁹² To address these obstacles, the PFA recommended the development of the 'technical capacity to facilitate the free flow of criminal intelligence between law enforcement and relevant agencies, and for legislative obligations for agencies to share all their criminal intelligence'.⁹³

National Criminal Target Report

4.59 The National Criminal Target Report: Serious and Organised Crime Targets (NCTR) and accompanying target list is one of the ACC's leading strategic intelligence products. While the OCTA provides a picture of the 'what' of organised crime, the NCTR provides a picture of the 'who', including entities who represent the highest levels of risk to Australia. Covering both Australian and off-shore entities, the NCTR is produced through analysis of data provided by law enforcement, state and territory police and crime commissions.⁹⁴ Three concerns were raised in relation to the target list:

- that there is not a free flow of information in relation to persons named on the list;
- a lack of analytical information provided on the list; and
- duplication of data.

4.60 The PFA argued that there are two reasons that the target list provides an opportunity to utilise the potential of linking multiple agencies. First, it noted that the flow of criminal intelligence information relating to persons on the list should be a consequence of appearing on the list, and, second, this initiative should be a first step towards the free flow of all criminal intelligence. Sharing information across agencies in relation to such targets could result in a significant disruption of criminal activities and attempts on the part of those on the list to avoid law enforcement agencies. Flow-on consequences of appearing on the list might include 'automatic flagging of the

91 Police Federation of Australia, *Submission 7*, p. 2.

92 Police Federation of Australia, *Submission 7*, p. 4.

93 Police Federation of Australia, *Submission 7*, p. 2.

94 Australian Crime Commission, *Submission 10*, p. 16.

person's passport, the freezing of their financial accounts, and notification and tracking of their vehicles' number plates'.⁹⁵

Lack of analytical information and data duplication

4.61 The NT Police commented that the NCTR provides a dearth of analytical information 'which makes the process of decision-making as an agency problematic, in terms of targeting nominal offenders'.⁹⁶

4.62 The AFP noted in its submission that it is currently redesigning its Target Evaluation Priority Index (TEPI) following the introduction of the NCTR to align to the input requirements of the NCTR, specifically the Target Risk Assessment Methodology, with the aim of reducing data duplication between the agencies.⁹⁷

4.63 Commander Fordham of the WA Police detailed the risks involved in the duplication of criminal intelligence:

It is also a serious risk because you can have a piece of information that gets turned into intelligence in one location. The same piece of information gets turned into intelligence at another location which validates the first piece of intelligence, because they have not necessarily been linked, and in comes a third piece of intelligence which is exactly the same source as on all three occasions and suddenly you have proof that something is occurring. Because it is not linked and you do not recognise that those pieces of information are all coming from the same source, you run the risk of validating intelligence using the same information you started with. It is essential that we share. I think it is essential that we have a central clearing house. How it actually works from a technological perspective is a bit of a challenge, but I know WA Police would be very keen to support that particular function.⁹⁸

4.64 As the proposed ACIM will emphasise collecting intelligence once, and using it many times, addressing data duplication will take on a heightened importance.

Cultural challenges

4.65 Some submitters argued that intelligence had not always been a high priority for some agencies. However, following 9/11, greater focus and resources were directed to intelligence. Acting Deputy Commissioner Pope explained that in the experience of the Victoria Police, intelligence was for a long time the 'poor cousin of investigations and other disciplines within the policing context' and that a significant cultural shift had to take place to elevate the importance of intelligence.⁹⁹ The NT Police took the view that the ACC appears to be 'almost entirely reliant' on Australian

95 Police Federation Australia, *Submission 7*, p. 8.

96 Northern Territory Police, *Submission 16*, p. [4].

97 Australian Federal Police, *Submission 12*, p. 9.

98 Commander Alf Fordham, WA Police, *Committee Hansard*, 27 September 2012, p. 44.

99 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 5.

law enforcement agencies to provide information used in collection plans (such as the Identity Crime Intelligence Collection Plan aimed at identifying current intelligence gaps and defining collection strategies) and to generate products such as the National Criminal Target Report.¹⁰⁰ According to the NT Police, this reliance has created a situation in which the ACC provides jurisdictions with information that is 'at least on a local basis, already known to those agencies'.¹⁰¹ Similarly, the Queensland Police Service informed the committee that it takes 'exception' if it has provided information only to receive a document from the ACC with 'our information almost word for word'.¹⁰²

4.66 Cultural challenges are often underpinned by reluctance on the part of the police or underlying traditional police culture whereby tactical and operational analysts, detectives and investigators may view strategic intelligence work as lacking day-to-day relevance.¹⁰³ Reasons for this include the fact that tactical and operational outcomes can easily be measured, resulting in new operations and leading to more arrests. In contrast, the identification of emerging trends or preventive strategies does not translate directly as success as measured by law enforcement indicators. James Cheptycki and Jerry Ratcliffe argue that this reality can create two challenges in relation to strategic assessment. First, 'there is a resultant lack of rank-and-file support within law enforcement for a process seen as having little relevance'. Secondly, complexities in defining measurable outcomes for strategic intelligence products can make it difficult to justify the maintenance of a strategic intelligence staff.¹⁰⁴ In 2003, Ratcliffe highlighted the predominance of a performance culture in many police services whereby emphasis is placed on measuring everything possible. He warned that within such a culture, the 'benefits of intelligence-led policing will be lost in the quagmire of operational statistics and micro-management'.¹⁰⁵

4.67 While raising concerns with the manner in which intelligence is currently shared and the culture underpinning a reluctance to share, all law enforcement stakeholders who gave evidence to the committee supported the development of a timely, interoperable information sharing mechanism. The AFP, for example, noted that:

100 The ACC noted that as part of the development of a national all-agency Identity Crime Intelligence Collection Plan, it has produced scoping papers aimed at identifying links between identity crime groups, new methodologies and prevention strategies (Australian Crime Commission, *Annual Report 2010–11*, p. 28).

101 Northern Territory Police, *Submission 15*, p. [2].

102 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

103 James Cheptycki and Jerry Ratcliffe, in J. Ratcliffe (ed.) *Strategic Thinking in Criminal Intelligence*, Federation Press, 2004, p. 195.

104 James Cheptycki and Jerry Ratcliffe, in J. Ratcliffe (ed.) *Strategic Thinking in Criminal Intelligence*, Federation Press, 2004, pp 195–196.

105 Jerry Ratcliffe, *Intelligence-led Policing*, Australian Institute of Criminology, *Trends and Issues in Crime and Criminal Justice*, No. 248, April 2003, p. 5.

I think culturally we need to work far more with each other about those issues, trying to dispel the issues so that you know that your data will not be compromised and your operations will not be compromised. That is a little bit of a leap of faith. I think you have to do it first and show that there are no ill effects to really get the trust.¹⁰⁶

4.68 Deputy Commissioner Tilyard of the Tasmania Police noted the reluctance, particularly from investigators, to share information and explained the underpinning culture:

They are very committed to their investigations and operations. It is confined to a need-to-know situation to the extent that they would not dream of mentioning it to their colleagues in the next room that they have worked with for 30 years until the operation or investigation is finalised.¹⁰⁷

4.69 The AFP acknowledged that any improvements in criminal intelligence such as replacing the ACID/ALEIN database should be accompanied by a 'reform of processes whereby a dual responsibility exists not only for users to access, but also to supply intelligence in furtherance of the national interest'.¹⁰⁸ The AFP's Assistant Commissioner Morris also noted that:

I think the trust factor is a genuine one. Culturally, too, on occasions agencies have championed, including my own—we were self-critical here and were a bit too hard on our successes, perhaps at the exclusion of others. Others think they are going to miss out on being accredited with the attribution to success down the track. I do not underestimate how much that retards people from sharing on some occasions. For me, it does not really matter who executes the success. We have got to get the intelligence together upstream to give our investigators and our frontline police officers all the best possible information before they go forward.¹⁰⁹

4.70 The PFA argued that the current sharing capabilities fail to offer adequate incentives and security to convince law enforcement and other agencies to commit their 'hard-earned intelligence to the middle of the law enforcement table'.¹¹⁰ During its 2007 inquiry, the PJC-ACC also heard evidence that ACID, as the centralised national repository for criminal intelligence, was not functioning at its optimum potential because contribution by individual law enforcement agencies was inconsistent.¹¹¹ During that inquiry, the PJC-ACC was informed about a silo mentality to criminal intelligence and the reluctance on the part of some agencies to contribute

106 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 39.

107 Deputy Commissioner Scott Tilyard, Tasmania Police, *Committee Hansard*, 27 September 2012, p. 49.

108 Australian Federal Police, *Submission 12*, p. 10.

109 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 39.

110 Police Federation of Australia, *Submission 7*, p. 6.

111 Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into the future impact of serious and organised crime on Australian society*, September 2007, para. 8.40, p. 101.

information because they were concerned about how the information they exchanged would be used.¹¹²

4.71 The PJC-LE report on the 2010–11 annual reports of the ACC and AFP noted that historically, competition and lack of communication between law enforcement agencies has, on occasion undermined the necessity for close cooperation to combat crime.¹¹³ The committee, however, recognised that initiatives including the establishment of ACC offices in each state and territory, which enabled the ACC to keep state police briefed on the ACC's capability and intelligence, had improved the flow of information.¹¹⁴

4.72 Assistant Commissioner Kershaw of the NT Police commented that the extent to which remnants of a non-sharing culture exists comes down to the individual case officer or the individual holder of that intelligence:

For us it is about educating and about understanding that that is driven by a fear of that information being compromised or being acted on when they do not want any action taken. It is having the confidence and understanding that it is fine to share the information. We have had some demonstrated recent sharing of actionable intelligence with Queensland, for example, that was outstanding. They were even able to come back and say, 'Some of the products that you guys are doing we're going to adopt.' We did the same, so it was a positive experience. I think when you do have those positive experiences it breaks down all the barriers in relation to sharing intelligence.¹¹⁵

4.73 Assistant Commissioner Kershaw emphasised the importance of relationship building given that much of the contact between agencies was initiated over the phone and that sharing of contacts and networks occurred thereafter.¹¹⁶ On the same subject, the NSW Police noted that over the last three to four years, the level of cooperation between the jurisdictions had been enhanced by initiatives which enabled officers to interact more regularly. Identifying forums including the crime forum at assistant commissioner level and serious and organised crime coordinating committee, Acting Deputy Commissioner Hudson observed that:

112 Attorney-General's Department cited in Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into the future impact of serious and organised crime on Australian society*, September 2007, p. 102.

113 Parliamentary Joint Committee on Law Enforcement, *Examination of the 2010–11 Annual Reports of the Australian Crime Commission and the Australian Federal Police*, May 2012, p. 37.

114 Parliamentary Joint Committee on Law Enforcement, *Examination of the 2010–11 Annual Reports of the Australian Crime Commission and the Australian Federal Police*, May 2012, p. 38.

115 Associate Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 25.

116 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 25.

...everyone has come to the table with an intent basically to mitigate the threat of serious and organised crime rather than to protect their jurisdictions which was historically what people walked into a room having at the back of their mind.¹¹⁷

4.74 However, the process of cultural change takes time. Acting Deputy Commissioner Hudson described the process of change within his jurisdiction:

Change within New South Wales sometimes feels like trying to turn the *Titanic* around, because of the number of police officers, the number of databases, the number of users and the education process we need to go through to change things.¹¹⁸

Resourcing challenges

4.75 The ACC raised concerns regarding the level of resources available to it to facilitate intelligence sharing. ACC staff must be trained on processes and procedures for intelligence sharing before they can engage in this work to ensure compliance with the ACC's and its legal dissemination's frameworks. However, the ACC stated that its 'resource levels are stretched by the volume of intelligence to be collected, analysed and shared' which:

...can adversely affect the timeliness with which intelligence is produced and shared. Delays in the production and sharing of intelligence can cause frustration amongst stakeholders who require timely advice in support of decision-making. This situation is likely to worsen as the need for intelligence sharing with the private sector increases. There is currently limited flexibility within the ACC's resource base to provide extra staff to support the intelligence sharing function without removing officers from frontline intelligence and investigative roles.¹¹⁹

4.76 The AFP also raised the matter of ACC resource constraints. The AFP pointed to arrangements under the Special Intelligence Operation Authorisation and Determination (Child Sex Offences) 2010 whereby 'resource constraints of the ACC' resulted in the ACC only providing the coercive hearing capability to glean intelligence from identified persons for targeted AFP investigations. The AFP added:

The ACC is consequentially limited in its ability to value add to the analysis and strategic picture development of this crime type due to resource commitments. Given more focused resources the ACC may be better placed to contribute to better effect and 'value add' to a greater degree in development of derived strategic and tactical intelligence.¹²⁰

117 Acting Deputy Commissioner David Hudson, NSW Police, *Committee Hansard*, 27 September 2012, p. 29.

118 Acting Deputy Commissioner David Hudson, NSW Police, *Committee Hansard*, 27 September 2012, p. 29.

119 Australian Crime Commission, *Submission 10*, p. 22.

120 Australian Federal Police, *Submission 12*, p. 9.

4.77 The NT Police expressed the view that the ACC appears to be heavily reliant on Australian law enforcement agencies to provide personnel for managerial positions as well as to establish units within the ACC including the National Organised Crime Task Force. In general terms, the NT Police argued that these arrangements impede tasks forces 'through no deficiency of involved agencies'.¹²¹

Funding challenges—Criminal Intelligence Fusion Capability

4.78 In May 2010, the Commonwealth announced an investment of \$38.5 million to combat organised crime and implement the OCSF. Of the total, the ACC was provided \$14.5 million over five years to establish a Criminal Intelligence Fusion Centre (Fusion).¹²² Fusion focuses on identifying risk and threat in relation to organised crime. Mrs Karen Harfield, Executive Director, Fusion explained that Fusion draws on criminal intelligence and information from other agencies to understand what that threat and risk look like:

In increasing the scope of what is already known—and that might be about the who, the what and the how; also the types of methodologies used by serious and organised crime networks as well as the vulnerabilities they are exploiting—we then specifically understand the requirements for the collection part of the intelligence cycle. So we then specifically go out and search for information through a variety of methods to fill that intelligence gap. The third element is about discovery. So, knowing what you do know, and going out and collecting what you do not know, then shows you what the new areas for discovery might need to be to pinpoint new and emerging risks and threats. So we do this type of work with many partner agencies, some of which are actually with us at the ACC working in the Fusion capability.¹²³

4.79 The role of Fusion is defined in the ACC's Annual Report 2010–11 as follows:

Fusion enhances monitoring of the highest serious and organised crime threats, proactively detects previously unknown but significant serious and organised crime threats, enhances links between serious and organised crime intelligence and national security, and provides better assessments and intelligence to Government and program delivery agencies on the risks posed by serious and organised crime for predictive analysis.¹²⁴

121 Northern Territory Police, *Submission 16*, p. [3].

122 AUSTRAC received the remaining \$24 million for new analytical technologies to improve its ability to target serious and organised crime, revenue evasion and financial fraud. Attorney-General's Department, 'Additional \$38.5 Million to Combat Organised Crime', *Media Release*, 11 May 2010, [http://www.ag.gov.au/Publications/Budgets/Budget2010/Mediareleases/Pages/Additional\\$385MilliontoCombatOrganisedCrime.aspx](http://www.ag.gov.au/Publications/Budgets/Budget2010/Mediareleases/Pages/Additional$385MilliontoCombatOrganisedCrime.aspx) (accessed 25 July 2012).

123 Mrs Karen Harfield, ACC, *Committee Hansard*, 21 September 2012, p. 46.

124 Australian Crime Commission, *Annual Report 2010–11*, p. 46.

4.80 Fusion co-locates investigators, analysts and technical experts to maximise the use of public and private sector data and facilitate real-time intelligence sharing and analysis. Fusion brings together capabilities from Commonwealth agencies including the AFP, Department of Immigration and Citizenship, ASIC, AUSTRAC, ATO, Department of Human Services, ACBPS, the national intelligence community and state and territory law enforcement authorities. It collects and receives intelligence from the Australian Intelligence Community (AIC) and other stakeholders including Commonwealth law enforcement, regulatory and policy agencies, state/territory police agencies and crime commissions, foreign law enforcement agencies supported by the AFP and private sector organisations.¹²⁵

4.81 In the ACC's 2010–11 Annual Report, Mr John Lawler, CEO, stated that:

Fusion is dramatically increasing capacity to maximise the value of intelligence and public and private data holdings. Within months, Fusion had generated valuable breakthrough intelligence including identifying new targets previously unknown to law enforcement, providing new leads on serious and organised crime activity, and identifying significant fraud against government programs.¹²⁶

4.82 Mr Patrick Walsh raised concerns in his submission about funding for Fusion. He noted that it was not clear whether the funding for Fusion will be ongoing or subject to the extent to which federal and state agencies that participate 'feel they can continue to support staff participating in the centre'. In this regard, Mr Walsh argued that:

The government should consider (pending an internal independent review of fusion centre) giving the ACC core funding in an ongoing capacity for the maintenance and future information technology procurement of the centre. It should also consider funding at least partially agencies who participate in the centre.¹²⁷

4.83 Acting Deputy Commissioner Hudson of the NSW Police Force added that the ACC's Fusion capability is 'probably unparalleled in other law enforcement agencies'.¹²⁸

125 Australian Crime Commission, *Submission 10*, p. 13.

126 Australian Crime Commission, *Annual Report 2010–11*, p. 14, <http://www.crimecommission.gov.au/publications/annual-report/2010-11-annual-report> (accessed 17 July 2012).

127 Mr Patrick Walsh, *Submission 2*, p. 4.

128 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 27.

CHAPTER 5

The Australian Criminal Intelligence Model

5.1 This chapter considers the proposed Australian Criminal Intelligence Model (ACIM), its strategy, principles and approach.

Background to the Australian Criminal Intelligence Model

5.2 The Organised Crime Strategic Framework Overview (OCSF) identifies a need to establish an organised crime intelligence model.¹ The ACC was tasked by the Heads of Commonwealth Operational Law Enforcement Agencies (HOCOLEA) to lead the development of the model. The aim of the model is to provide clarity and consistency of standards, processes and protocols for intelligence-led policing and law enforcement work to enhance the national picture of organised crime. The ACIM is expected to enable the ACC and its partners to align activities more effectively while providing guidance and understanding of shared methodologies, ideas and goals.² The vision is that of an intelligence partnership for a safer Australia with the ACIM expected to secure the free flow of criminal intelligence across the domains of national security, serious and organised crime, and policing and community safety.³

5.3 In 2010–11, the ACC began planning the ACIM to meet the demands of all stakeholders from national security to community policing.⁴ An Australian Criminal Intelligence Forum (ACIF) comprising representatives of the 17 involved agencies was established with responsibility to oversee development and implementation of the model.⁵ The ACC stated that:

[The ACIF] for the first time in Australian history, holds the mechanism for eight states and territories and many Commonwealth agencies to agree to principles of intelligence practice and to communicate their sometimes unique or divergent goals of achieving excellence in the criminal intelligence function nationally.⁶

5.4 The development of the model is closely linked to the ACID/ALEIN scoping study which is assessing opportunities to harness technological advances to better enable management of ACC criminal intelligence holdings. As part of this study, the ACC has benchmarked criminal intelligence models, frameworks, practices and

1 Australian Government, *Commonwealth Organised Crime Strategic Framework Overview*, 2009, Commonwealth of Australia, p. 13.

2 Australian Crime Commission, *Annual Report 2010–11*, pp 51-52.

3 Australian Crime Commission, *Annual Report 2011–12*, p. 35.

4 Australian Crime Commission, *Annual Report 2010–11*, p. 16.

5 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 2; Australian Crime Commission, Answer to written question on notice, No. 4, received 28 March 2013.

6 Australian Crime Commission, Answer to written question on notice, No. 4, received 28 March 2013.

procedures in Europe and North America to identify ground-breaking intelligence standards and capabilities.⁷

Endorsement of the Australian Criminal Intelligence Model

5.5 The ACC Board and the Standing Council on Police and Emergency Management endorsed the proposed ACIM in September 2012 and November 2012 respectively.⁸ Formal endorsement represented the culmination of nearly 'two years of developmental work, negotiation and agreement by intelligence professionals representing seventeen Commonwealth, State and Territory agencies'.⁹ Endorsement was reached by 15 agencies represented on the ACC Board together with CrimTrac and the Australian New Zealand Policing Advisory Agency (ANZPAA).

5.6 The ACC's State Manager, Mr Ben McDevitt, informed the committee that by endorsing the proposal, the board 'signed off on several elements which lead to an intent, an underlying philosophy and a desired end state for the management of criminal intelligence'.¹⁰ The significance of the endorsement by all 17 agencies was highlighted by Mr McDevitt who noted that:

The key feature of it is that those 17 agencies are drawn from three different operating environments, so we have the policing and community safety regime or domain, the serious and organised crime domain and the national security domain. What we found prior to this model is that there is significant difficulty even within those domains to get information and intelligence flowing freely—for example, from police service to police service.¹¹

5.7 Mr McDevitt explained that having signed off on the concept of the model, the focus of the ACC Board would now shift to developing processes, protocols, technologies, agreements and the legislative realities of sharing information and intelligence.¹²

5.8 The ACC identified four key milestones in relation to the ACIM's implementation with endorsement the first. The others include the establishment of the ACIF to oversight the implementation of the ACIM and a reporting and accountability regime by way of ACIF reporting twice yearly to the ACC Board.¹³

7 Australian Crime Commission, *Annual Report 2009–10*, p. 25, <http://www.crimecommission.gov.au/publications/annual-report/2009-10-annual-report> (accessed 19 July 2012).

8 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 45; Australian Crime Commission, Answer to written question on notice, No. 4, received 28 March 2013.

9 Australian Crime Commission, Answer to written question on notice, No. 5, received 28 March 2013.

10 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 43.

11 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 2.

12 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 45.

13 Australian Crime Commission, Answer to written question on notice, No. 5, received 28 March 2013.

Vision for the Australian Criminal Intelligence Model

5.9 The model is recognised by the ACC CEO, Mr John Lawler, as the means by which Commonwealth, state and territory law enforcement agencies can see intelligence and intelligence processes through the same lens in order that:

...when we are talking about intelligence concepts, intelligence processes, intelligence training and intelligence systems we have commonality in the way that that is constructed and indeed agreed standards and processes.¹⁴

5.10 Mr Lawler explained that the optimum criminal intelligence environment which the model seeks to establish is one in which:

...technology is available to facilitate information sharing through more-complementary systems, where there is a commitment by agencies to quickly and effectively collect, analyse and share relevant intelligence and a collaborative culture of intelligence sharing to support decision-making across agencies and across operating domains.¹⁵

5.11 The optimal state in relation to criminal intelligence is described by the ACC as a context in which:

- criminal intelligence will be treated as a national asset and agencies share a responsibility to provide information and intelligence;
- criminal intelligence technology will be fit for purpose and exist across agencies and jurisdictions providing efficiencies and cost savings;
- legislation frameworks will enable the free flow of intelligence across agencies and jurisdictions; and
- an organisational culture will ensure a correct balance between the principles of 'need to know' with 'responsibility to provide'.¹⁶

5.12 Such an optimal state will lead to:

Improved understanding of, and more effective responses to, the threat and impact of serious and organised crime.¹⁷

Australian Criminal Intelligence Model principles and strategic objectives

5.13 Mr McDevitt explained that there are three underlying principles which 'help us to get a philosophy' for the model:

14 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, p. 1.

15 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 42.

16 Australian Crime Commission, 'ACC has a legislative mandate to maintain the national picture of serious and organised crime', Additional information tabled at public hearing on 21 September 2012, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=le_ctte/criminal_intelligence/submissions.htm (accessed 25 January 2013).

17 Australian Crime Commission, 'ACC has a legislative mandate to maintain the national picture of serious and organised crime', Additional information tabled at public hearing on 21 September 2012.

- intelligence must be customer focused and requirements driven;
- information and intelligence should be collected once and used often; and
- information security requirements should be balanced to enable the right people to access the right information quickly, securely and from the right sources.¹⁸

5.14 The model has as its guiding principles, seven strategic objectives:

1. Ensuring quality intelligence supports tactical, operational and strategic decision-making to ensure more effective responses.
2. Inculcating a culture where security requirements are balanced and information generated and held by individual jurisdictions and the Commonwealth is valued as a national asset for all.
3. Establishing common standards, processes and protocols for managing intelligence assets, enabling more effective sharing across domains.
4. Professionalising the intelligence discipline through development of national standards for intelligence practitioners and analysts, leading to improved quality of intelligence outputs.
5. Embedding an agreed national threat, harm and risk assessment methodology to ensure a consistent approach across jurisdictions.
6. Pursuing common technical and security architectures for information and intelligence holdings to improve intelligence collection, analysis and sharing.
7. Maximising the value of fusion and technical analysis capabilities.¹⁹

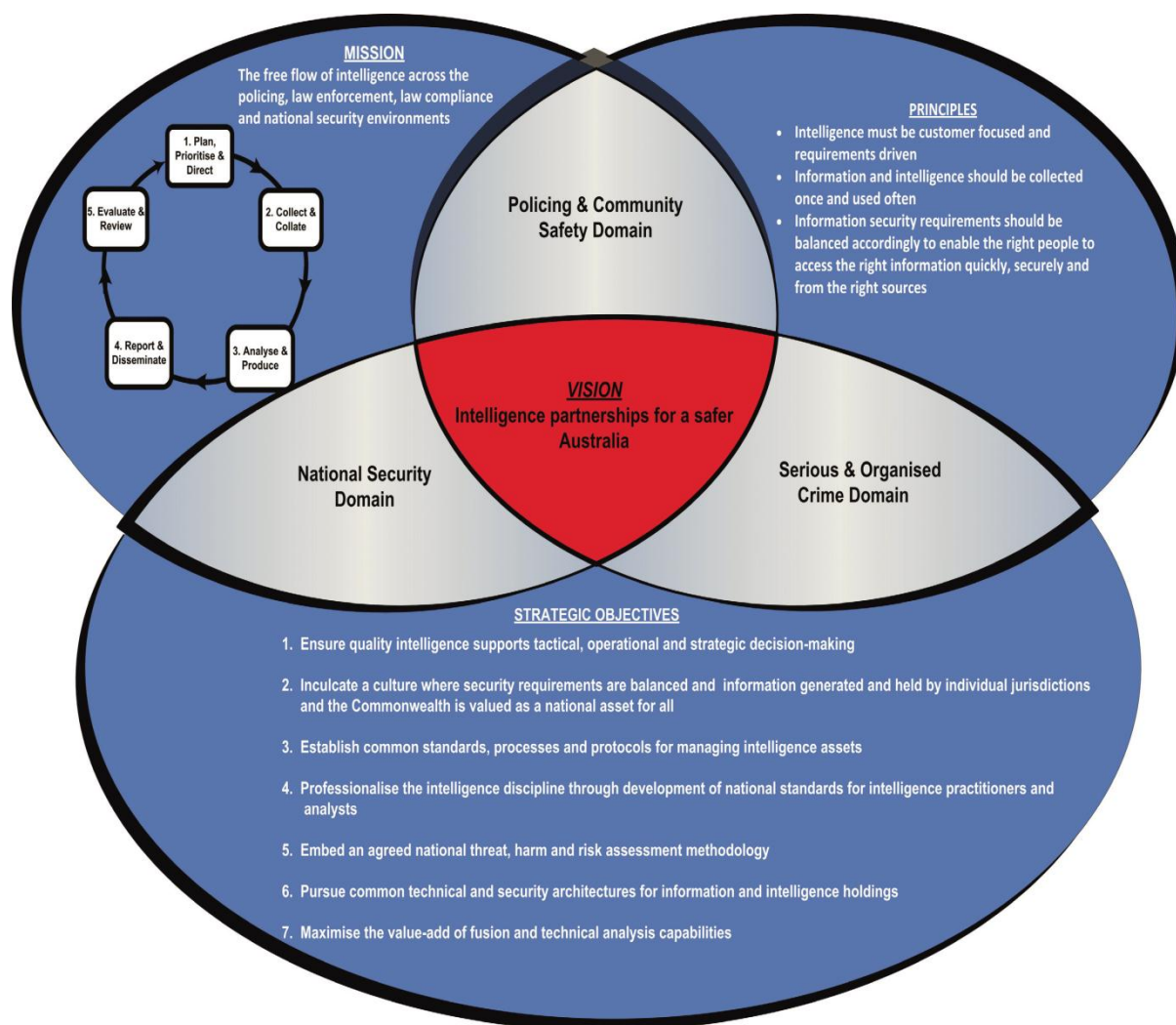
5.15 Each of the strategic objectives is underpinned by a series of action items which are collectively directed at embedding the model. The ACIF, as the body responsible for managing the development and implementation of the model, is currently drafting an implementation plan which will include the action items required to achieve the strategic objectives.²⁰

18 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 44.

19 Australian Crime Commission, *Submission 10*, p. 24.

20 Australian Crime Commission, Answer to written question on notice, No. 4, received 28 March 2013.

Figure 2: Australian Criminal Intelligence Model



Source: Australian Crime Commission, Submission 10, p. 25.

Intelligence cycle

5.16 The intelligence cycle under the ACIM is a process which 'describes the standard steps used to transform raw data and information into value-added intelligence'.²¹ The ACC noted that the ACIF focused its first five meetings around the issue of the intelligence cycle, identifying best practices and issues that required resolution at each phase of the cycle.²²

5.17 The ACIM intelligence cycle is a five step process:

1. plan, prioritise and direct—discussions are held to identify the issue or theme that requires further investigation;

21 Australian Crime Commission, Answer to written question on notice, No. 3, received 28 March 2013.

22 Australian Crime Commission, Answer to written question on notice, No. 4, received 28 March 2013. The ACC noted that the ACIF now meets on a quarterly basis.

2. collect and collate—searching for data and information which is grouped to identify intelligence gaps and convergences for further analysis;
3. analyse and produce—assessing, validating, adding value to and judging information to transform it into intelligence for reporting purposes;
4. report and disseminate—sharing intelligence to support and advance the decision making process vis-à-vis the formal dissemination of reports and products; and
5. evaluate and review—re-examination of activities and the value of intelligence outcomes with a view to identifying opportunities for improvement.²³

5.18 These five steps were endorsed by all involved agencies. The ACC stated that this 'common approach improves understanding of the phases of the intelligence cycle, ensures consistency, facilitates sharing and improves the flow of intelligence across and between agencies'.²⁴ The ACC provided details of each of the five steps using a previous illicit drug project. The planning phase will consider information already gathered through other relevant inquiries and the collection phase may entail physical surveillance, coercive hearings, financial investigations and the use of covert sources. Collation involves evaluation of the material gathered to establish its accuracy and reliability and the organisation of that material in a way to reveal the links and associations across individuals, organisations and methodologies. The third phase requires agencies to analyse the material and produce briefings and information reports. The fourth phase, reporting and dissemination, involves provision of material to involved stakeholders while the final phase entails feedback on quality, value to decision-makers and outcomes for intelligence clients.²⁵

Governance arrangements

5.19 A number of ACIF subgroups have been established to manage implementation of the action items and initiatives identified within the Australian Criminal Intelligence Strategy and the implementation plan (which is currently under development). Each subgroup is responsible for a phase of the intelligence cycle.

23 Australian Crime Commission, Answer to written question on notice, No. 3, received 28 March 2013.

24 Australian Crime Commission, Answer to written question on notice, No. 3, received 28 March 2013.

25 Australian Crime Commission, Answer to written question on notice, No. 2, received 28 March 2013.

Australian Criminal Intelligence Forum subgroups and activities

Subgroup	Strategic objective focus and initiatives (ongoing & implemented)
Plan, prioritise and direct	<ul style="list-style-type: none"> • Strategic objectives 1 and 5. • National Criminal Intelligence Priorities and 'setting the framework through negotiation across agencies'. • Introduction of a National Target System (NTS) for assessment of individuals and groups.²⁶ Realising strategic objective 5, processes and protocols for national threat, harm and risk assessment have been agreed to and implemented through the NTS.
Collect and collate	<ul style="list-style-type: none"> • Strategic objectives 6 and 7. • Development of the Request for Information (RFI) capability including a standard definition of RFIs, priority rating scale, set of key words, naming conventions, metadata standard fields and business rules. • Development of a National Criminal Intelligence Product Directory including a standard product definition, set of key words, naming conventions, metadata standard fields and business rules.
Analyse and produce	<ul style="list-style-type: none"> • Strategic objective 3. • Training standards, competencies, common product definitions, common terminology and key words, liaison with ANZPAA which is developing Education and Training Guidelines for Police Intelligence. Establishment of national training standards and competencies which are expected to guarantee that analysts have the skill sets required to provide accurate and justifiable intelligence.²⁷
Report and disseminate	<ul style="list-style-type: none"> • Strategic objective 2. • Legislative issues for information sharing.
Evaluate and review	All strategic objectives to examine lessons learned and methodologies to measure the value of intelligence. This will

26 Australian Crime Commission, Answer to written question on notice, No. 5, received 28 March 2013.

27 Australian Crime Commission, Answer to written question on notice, No. 21, received 28 March 2013.

	provide additional checks and balances for the accuracy of data, information and intelligence on the system. ²⁸
--	--

Source: Australian Crime Commission, Answers to written questions on notice, No. 4 and No. 6, received 28 March 2013.

Identified challenges

5.20 Noting that the model's basic strategy and structure are in place, Mr Lawler informed the committee that the model as it currently stands is a concept agreed on paper which needs practical implementation.²⁹

5.21 The previous chapter provided some insight into the numerous challenges before the ACC and stakeholder partners in developing the model. Mr Lawler explained that the model would have to address matters at the highest level to ensure that 'the infrastructure underpinning intelligence processes is recognised and agreed to by everybody' to the lowest and most basic level of establishing a universal understanding of 'how you describe the intelligence cycle'.³⁰ Given the complexities involved, development of the model is expected to take several years. Mr McDevitt commented that this is a considerable task and he recalled the difficulties in establishing a national DNA database which is, by comparison, 'simply a very small slice of intelligence'.³¹

5.22 The ACC identified a number of key challenges in relation to criminal intelligence which the proposed model could address. While promoting recognition of criminal intelligence as a national asset—something that is collected once and used often for the benefit of many and therefore adds value to the decision-making process—the challenges to establishing a national holding identified by the ACC include:

- (a) securing national agreement and commitment to secure the free flow of all criminal intelligence as identified in the ACIM;
- (b) establishing a culture whereby security requirements are balanced and information generated and held by individual jurisdictions and the Commonwealth is shared as a national asset;
- (c) providing the appropriate technology, policy and legislation to support the sharing of intelligence between agencies across the three domains of national security, serious and organised crime, and policing and community safety; and
- (d) greater recognition of the transnational and borderless nature of contemporary organised crime.

28 Australian Crime Commission, Answer to written question on notice, No. 21, received 28 March 2013.

29 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, p. 1.

30 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, p. 1.

31 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 2.

5.23 The three critical success factors which will determine whether these challenges are met include:

- a policy and legislative framework to facilitate information sharing;
- improved technical capabilities; and
- a culture of national intelligence sharing.³²

5.24 This chapter considers each of these challenges and their components, current discussions in relation to them and progress made towards addressing them.

Securing the free flow of all criminal intelligence

5.25 The ACC argued that addressing the various challenges to the collection, use and sharing of intelligence will require changes to the way in which stakeholders view criminal intelligence and how they go about collecting, collating, analysing, producing, disseminating and sharing it. According to the ACC, the proposed solution to these varied challenges is the ACIM and supporting strategy. The ACC argued that the model meets the requirements of OCSF capability 1.3 to provide clarity and consistency of standards, processes and protocols for intelligence-led policing and law enforcement work to enhance the national picture of organised crime. Further:

The Model and Strategy support management of criminal intelligence more holistically through collaborative use of best practices, standards and competencies, technology, committees and forums (culture), and policy and legislation initiatives to empower information sharing and enhance criminal intelligence capabilities at all levels of law enforcement (including policy and regulatory agencies) in Australia.³³

5.26 In relation to the evolution of the model and supporting strategy, the ATO noted that as the strategy is still under development, 'the full identification of impediments and opportunities to maximise the usefulness of criminal intelligence are, at this time, yet to be fully realised'.³⁴ However, some important steps have already been taken. The 17 involved agencies have agreed that all their intelligence products be subject to a universal classification system and put into broad categories of strategic, operational and tactical products. To underpin this agreement, common templates and common language will be used to describe the products. As part of this important step towards establishing common arrangements, the agencies have agreed to:

...create a place where we can actually put those products, or at least put metadata relating to those products, so that we can each search on the collective repository of intelligence that actually resides there.³⁵

32 Australian Criminal Intelligence Management Strategy 2012–15, tabled by the Australian Crime Commission at a public hearing on 14 March 2013, p. 7.

33 Australian Crime Commission, *Submission 10*, p. 23.

34 Australian Taxation Office, *Submission 16*, p. 3.

35 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 2.

Request for Information capability

5.27 Efforts are also underway to establish a national Request for Information (RFI) capability which was identified by witnesses to the inquiry as a fundamental requirement. Under the current system, information regarding criminal histories and warnings regarding persons of interests for operational police are delivered through the CrimTrac National Police Reference System (NPRS). The ACC argued that while the NPRS provides 'accurate and timely information to operational police which greatly assists in ensuring officer safety', the RFI capability is a 'more complex capability aimed at streamlining the sharing of value-added intelligence products'.³⁶ Furthermore, currently, agencies develop their own questions and then send them to the relevant agency for a response. Under the proposed RFI arrangements, an agency will be able to send their questions to multiple agencies and the information generated through the question and answer process will be accessible to all agencies. Mr McDevitt explained:

The problem for us as a collective is that the questions asked are not retained, and neither are the answers that are given. So what we are doing is creating a lot of movement and activity, and intelligence and information is moving between agencies, which is a good thing, but it is happening in a very inefficient way. We do not have the re-usability factor that we are after. We want intelligence and information to be collected once and then utilised often for multiple purposes.³⁷

A culture of national intelligence

5.28 Culture is one of the key areas of focus under the model. The ACC argue that the agreement of 17 agencies to develop a national criminal model to achieve a freer flow of intelligence across and between agencies and domains is a 'big step forwards in terms of culture'.³⁸

5.29 The strategy is directed at producing an accurate picture of criminality in Australia through 'cultural norms to instil a collaborative attitude which ensures sharing is business as usual'.³⁹ One of the primary cultural shifts required to achieve this strategy will be for agencies to view intelligence as a national asset rather than belonging to a single agency. Mr McDevitt noted that the model would not get far if, despite potentially having the 'best automated technologies around', agencies made a decision not to contribute.⁴⁰

5.30 Mr McDevitt also emphasised that a culture currently exists whereby the principle of the 'need-to-know' overrides any sort of principle of a 'responsibility to

36 Australian Crime Commission, Answer to written question on notice, No. 16, received 28 March 2013.

37 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 2.

38 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 7.

39 Australian Criminal Intelligence Management Strategy 2012–15, tabled by the Australian Crime Commission at a public hearing on 14 March 2013, p. 4.

40 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 7.

provide' intelligence. This culture has contributed to a situation in which the bulk of what is currently shared is transactional-type data and information. He explained that:

It might be information on things like criminal history, missing persons or people who are wanted on warrants, which is very transactional data that moves around.⁴¹

5.31 Notwithstanding this reality, Mr McDevitt recognised that the cultural trends in relation to intelligence sharing are fluid:

We are seeing a shift on that scale now and an acknowledgement of the fact that we actually do need to move more closely towards a responsibility to provide criminal intelligence so that the right agencies and the right individuals have the right intelligence in front of them at a particular point in time. We saw this as an issue that has come out inquiry after inquiry, including the 9/11 Commission of Inquiry. You see that snippets or pieces of intelligence, if brought together, would have given decision makers an advantage that they did not otherwise possess because the intelligence tended to be siloed.⁴²

Appropriate technology, policy and legislation

5.32 The model's management strategy recognises the need for policy and legislation to 'underpin effective powers and processes for agencies to quickly and effectively collect, analyse and share relevant intelligence'.⁴³

Technology

5.33 Technology is recognised as one of the key elements underpinning the model. A number of initiatives have been undertaken to understand existing and required technologies.

ACID and ALEIN Scoping Study

5.34 A Proceeds of Crime funded scoping study was initiated in 2010 to examine further options for the provision of ACID and ALEIN capabilities. As part of the scoping study, the ACC is exploring the technology requirements for a criminal intelligence database which will inform the model's development. Matters including interoperability with existing capabilities, connectivity between agencies' databases and the technologies required to exploit data on current systems are some of the issues under consideration. Mr McDevitt noted that there were three requirements in relation to technology:

...we want to be able to enrich the data that we have and exploit it, we want to be able to add value to it, and we want to be able to generate new leads and opportunities out of the data. We also want to be able to have some sort of monitoring and alerting capability.⁴⁴

41 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 3.

42 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, pp 2–3.

43 Australian Criminal Intelligence Management Strategy 2012–15, p. 4.

44 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 6.

5.35 Mr McDevitt recognised the diversity of approaches on the part of participating agencies which apply different technology and use different databases for intelligence purposes. He went on to comment that the Tasmania Police made a policy decision to use ACID as its primary database for collecting and analysing criminal intelligence rather than establish a separate intelligence database. As noted in the previous chapter, other states and territories have different approaches to criminal intelligence and different systems for capturing, storing and sharing it which is reflected in the volume of information and intelligence passed on to ACID. Mr McDevitt explained:

So they [Tasmania] would contribute everything, nationally, whereas other jurisdictions and other agencies have already established databases of their own that they tend to utilise, and they make their own decisions about what they might choose to upload from their own databases into the national holdings.⁴⁵

5.36 Similarly, at the time the national DNA database was established, a number of police jurisdictions maintained their own DNA databases. However, Mr McDevitt informed the committee that the stage has been reached now where:

...almost all police services have recognised that the best benefit—the best bang for the buck financially and otherwise—is to have a single national repository that they all contribute to.⁴⁶

5.37 A report on the final scoping study is expected by the end of June 2013 with the implementation of any recommendations subject to funding availability.⁴⁷

National Information and Intelligence Needs Analysis

5.38 Alongside the ACID and ALEIN scoping study, a National Information and Intelligence Needs Analysis (NIINA) was undertaken by the ACC, National Counter-Terrorism Committee's Intelligence and Information Management System Working Group and CrimTrac. The NIINA agencies consulted over 200 practitioners about their needs and examined the intelligence systems used by each agency.

5.39 In addition to these initiatives, the AFP's Spectrum Program is under assessment in light of ACIM user requirements.⁴⁸ As part of the Spectrum Program, the AFP is reviewing the information technology requirements and business processes to enhance its intelligence and case management capability. Through the program, the

45 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 3.

46 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 3.

47 Australian Crime Commission, Answer to written question on notice, No. 6, received 28 March 2013.

48 Australian Crime Commission, Answer to written question on notice, No.7, received 28 March 2013.

AFP is developing interoperable systems to facilitate secure information sharing with partner agencies.⁴⁹

5.40 Mr McDevitt noted that while the phases of the model have already been agreed upon, 'we require smart technologies to be able to collect and collate the masses of information and data that we are actually dealing with'. In addition, smart technical tools are also required to ensure that the intelligence captured can be fully exploited.⁵⁰

5.41 In relation to the storage of information and intelligence under the model, Mr McDevitt informed the committee that:

What is being proposed under this model is not so much to look specifically at any existing database or system but more to design, develop and implement the technologies that are required at each stage of the model. So, for collection and collation, for example: what automated collation abilities do we need, what connectivity to what existing systems and databases do we need to actually be able to collect automatically where possible that intelligence and information? You then go on to the analysis and production, and that is about smart analytical tools.⁵¹

5.42 The system should enable the police officer on the street to access a database to upload information onto it as well as withdraw information from it without having to enter data into multiple databases. The challenge is to draw on emerging technology as well as technology currently in use. One example of technology currently in use is a default on intelligence databases. The NSW Police, for example, have set up such a default on their systems in order that data uploaded on their system will automatically upload onto ACID.⁵²

5.43 The committee understands that there are a number of initiatives underway to consider the information technology requirements of the ACIM including the ACID/ALEIN scoping study and review of the AFP's Spectrum Program. The committee recommends that the ACC provide it with a detailed report on the findings and recommendations of these respective studies and how they will inform the development of a national criminal intelligence repository.

Recommendation 1

5.44 The committee recommends that the Australian Crime Commission and the Australian Federal Police provide it with a detailed report on the findings and recommendations of the Australian Criminal Intelligence Database (ACID) and Australian Law Enforcement Intelligence Network (ALEIN) scoping study,

49 AFP, Portfolio Budget Statement 2010–11, Attorney-General's Department, p. 158, http://www.ag.gov.au/Publications/Budgets/Budget2010-11/Documents/08%20PBS%2010_11%20AFP.pdf (accessed 9 April 2013).

50 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 2.

51 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 45.

52 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 9.

National Information and Intelligence Needs Analysis, and assessment of the AFP's Project Spectrum. The report should provide details on:

- **the recommendations regarding ACID and ALEIN and how they will be implemented including a timeframe;**
- **the outcome of the National Information and Intelligence Needs Analysis;**
- **the assessment of the AFP's Spectrum Program; and**
- **how the recommendations of each respective review and assessment will inform the development of the Australian Criminal Intelligence Model and maximise interoperability between existing databases and systems.**

Recommendation 2

5.45 The committee recommends that the Australian Crime Commission (ACC) as the lead agency on criminal intelligence and the Australian Criminal Intelligence Model (ACIM) provide it with a report on how the ACC will ensure that all current information technology systems are fully utilised and accessible under the ACIM.

Legislation

5.46 One of the primary challenges to a national criminal intelligence model is the complex legislation at state, territory and Commonwealth level whereby negotiation with the different, overlapping and multiple legislative regimes is required to get intelligence in and out.⁵³ Another key matter is that of intelligence obtained under different regimes and powers. There are strict rules concerning intelligence gleaned from coercive hearings while different regimes exist in relation to intelligence obtained from telephone intercepts or other electronic surveillance. Mr McDevitt described the current situation as one in which:

...you get a very rich picture in the middle, but it is extremely difficult to share that because of the rules that are attached to each piece of intelligence that comes in to make up that picture.⁵⁴

5.47 Mr Lawler also noted the complexities in addressing legislative barriers and obstacles at the Commonwealth, state and territory levels. He informed the committee in September 2012 that while the model was at that time about to be presented to the Standing Council on Police and Emergency Management (SCP EM), the legislative requirements themselves in relation to implementing the model were anything but clear:

There is a question, even, about whether police ministers have the jurisdictional authority to commit to such a significant endeavour and whether there is a compact of some other nature that is required here to ensure that what the board of the Australian Crime Commission, and its

53 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 6.

54 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 6.

15 representatives, believe to be in the national interest, is actually set on very solid foundations.⁵⁵

5.48 However, in response to a written question on notice, the ACC clarified that formal endorsement by the SCPEM and ACC Board resolved the issue of authority to commit. The ACC further noted that while agencies have already committed to the ACIM, any uncertainty that emerges is in relation to 'compatibility of legislative frameworks that govern agency ability to share'. The dynamics are such that:

- No single agency has authority over all of the multiple legislative frameworks.
- States and territories must comply with their own jurisdiction's legislative framework and they only have authority over their own jurisdiction.
- Commonwealth agencies must comply with a different set of Commonwealth legislative frameworks.

5.49 In light of these dynamics, the challenge for the ACIM becomes how to coordinate the legislative requirements of each framework to align and facilitate a freer flow of intelligence and information among agencies.⁵⁶

5.50 Mr Lawler commented that the legislative challenges are multifaceted and that many such challenges originate with the ACC itself:

Some of the legislative challenges actually start within the commission itself and some of the legislative challenges have a very sound basis. Of course, the commission in the exercise of its powers—we have very intrusive powers that have been entrusted to us by parliament—has constraints on whom that information can be shared with. There are very strict legislative arrangements in place. I would like to give the committee, if I could, a sense of the legislative constraint within the commission itself.

I am not saying that this is inappropriate constraint; I am just saying that this is the totality. [The ACC has]... a 21-page draft disclosure checklist, which is a checklist in relation to the fact that each piece of information that leaves the commission has to be completed and signed off. It takes into account the multitude of various acts and provisions that have to be considered and what the implications of those provisions are before information can be disseminated to our partner agencies.⁵⁷

5.51 The disclosure checklist is designed to identify the point of origin of information that is received by the ACC and to ensure adherence to any laws around that information. This process becomes complex when that information contributes to a package that is disseminated by the ACC to other agencies.⁵⁸

55 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 46.

56 Australian Crime Commission, Answer to written question on notice, No. 8, received 28 March 2013.

57 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 48.

58 Dr David Lacey, ACC, *Committee Hansard*, 14 March 2013, p. 4.

5.52 The legislative requirements of contributing agencies will determine what is shared and how it can be shared. Data is also held by the ACC and can be used by other agencies under the ACC's legislation. As the ability to share intelligence differs according to legislative requirements relating to each partner agency, the challenge for the model will be to ensure that all agencies have equal rights to access information generated under the model. The ACC's Mrs Harfield explained:

That is why it is not necessarily about putting all the information into one place, where everybody has equal rights of access, but making sure that you construct your architecture so that it deals with all those nuances. Over time, you might then decide that you want to deal with the differences from a legislative perspective so that you have some standardisation, but you would not necessarily have to do that at the beginning...It would not make it an open-ended opportunity for anybody to access any information: all the protocols around rights of access, levels of classification of the material—and we deal with those issues all the time now.⁵⁹

5.53 The ACIF report and dissemination subgroup has collected information regarding agency legislative requirements as they relate to sharing data, information and intelligence. It will examine these legislative requirements with a view to reconciling the various legislative requirements and to identify possible solutions to enable the freer flow of intelligence and information.⁶⁰

Policy

5.54 It was noted by the ACC that one of the most critical moments in relation to the development of the model was the agreement reached on the part of all 17 agencies to contribute intelligence and factual data. The ACC commented that the collective contribution of raw data alone from the 17 agencies without any analysis of it would 'probably give us a richer picture than what we had' about an entity.⁶¹ To this extent, data and information will be contributed to the centre for utilisation by respective agencies. In addition:

Where possible, agencies like the Australian Crime Commission try to add value to the contributions that are brought in from multiple sources, analyse that and subsequently develop products that can be shared. As an example of an agreement on what we are going to share, the Australian Criminal Intelligence Forum has now agreed that all agencies will put all of their strategic products into the middle.⁶²

5.55 Mr McDevitt informed the committee that most of the participating agencies have their own strategic products such as environmental scans and criminal analysis of

59 Mrs Karen Harfield, ACC, *Committee Hansard*, 14 March 2013, p. 4.

60 Australian Crime Commission, Answers to written questions on notice, Nos 6 and 8, received 28 March 2013.

61 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 3.

62 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 3.

particular themes which they have agreed to contribute under the model to enable agencies to search against that information.⁶³

5.56 The ACC argued that the ACIM and its strategy are the first steps towards the development of a universal methodology for criminal intelligence. Within these key documents, the NTS has been implemented, an intelligence cycle which represents a standard methodology for analysis of criminal intelligence has been agreed to and ACIM principles underpin criteria for how criminal intelligence should be treated across agencies. Furthermore, the ACC argued that:

The agreed ACIM strategic objectives (once all actioned) will provide rules for regulating how intelligence is managed.⁶⁴

Dealing with transnational and borderless contemporary organised crime

5.57 The current intelligence landscape comprises state, territory and federal law enforcement agencies (including policy and regulatory agencies) which operate within and across three intersecting domains—national security, serious and organised crime, and policing and community safety. Criminal intelligence, as the linkage between the three domains underpins an ability to understand these complex criminal environments and to identify threats, determine priorities and develop preventive response strategies.⁶⁵

5.58 Mrs Harfield explained the rationale for drawing in the three domains under the model:

Crime is linked through those domains in a way that means that information is separate, even though those paths move in parallel, means that there are gaps. It is about how you can make the relevant things accessible to the relevant people based on the intel questions that they need answered, even if they do not necessarily recognise them as intelligence questions. They might describe them in some other way as information or data, but actually it adds to an intelligence picture for people that they can then use in a practical circumstance.⁶⁶

5.59 The ACC's submission emphasised the need for 'increased sharing with the ACC and its partners (including those offshore) of intelligence regarding foreign criminal groups, individuals and non-state actors that impact on Australia'.⁶⁷ Dr David Lacey, ACC Executive Director, People, Business Support and Stakeholder Relations, further clarified that:

63 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 3.

64 Australian Crime Commission, Answer to written question on notice, No. 11, received 28 March 2013.

65 Australian Criminal Intelligence Management Strategy 2012–15, tabled by the Australian Crime Commission at a public hearing on 14 March 2013, p. 3, http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Committees?url=le_ctte/criminal_intelligence/submissions.htm (accessed 25 March 2013).

66 Mrs Karen Harfield, ACC, *Committee Hansard*, 14 March 2013, p. 9.

67 Australian Crime Commission, *Submission 10*, p. 15.

One of the key mitigating strategies in looking at finding common points of interface of information and intelligence for all to benefit from is to mitigate the prospect that there might be an alleged criminal act in one state while another enforcement agency may have pertinent information that connects critical pieces of information, intelligence and evidence. Without having that national nexus point, the risk of not joining dots is significantly great. That is also a critical component of having the strategy in place—to risk-mitigate that prospect. We have a violence and sexual offending information repository that seeks to serve that purpose where perpetrators cross borders. And key information and intelligence is available for others who are part of that particular networking system to connect to.⁶⁸

National Criminal Intelligence Fusion Capability

5.60 Mrs Harfield drew a parallel between the Fusion capability and the ACIM in terms of vision and operability rather than scale. She noted that Fusion contained an alerting and monitoring capability which could be targeted at specific groups, individuals, network or targets. This capability is complemented by an ability to search across data and collect information from agencies that will then 'build an automated pattern for you that will trigger alerts'.⁶⁹ Therefore:

... if you have a particular issue that a partner organisation wants to look at, we can construct through the data architecture a way to automatically trigger an alert against that issue when you see it. That might be a piece of information about how somebody is managing a particular aspect of their finances, for example.⁷⁰

5.61 The model recognises the importance of drawing on Fusion and other technical analysis capabilities under its seventh strategic objective. The objective notes the importance of assessing opportunities and deploying technologies to 'better exploit federated technologies to collect, collate and share intelligence across domains'.⁷¹

Supporting initiatives

5.62 The ACC lists five key initiatives that go to the national interest of which the ACIM is the first. Others include an upgrade of ACID which the ACC recognised as:

...essential in order to ensure it is capable of maintaining and exploiting national criminal intelligence holdings as envisaged in the ACC Act, noting that resources will be required to realise such an upgrade.⁷²

68 Dr David Lacey, ACC, *Committee Hansard*, 14 March 2013, pp 4–5.

69 Mrs Karen Harfield, ACC, *Committee Hansard*, 14 March 2013, p. 4.

70 Mrs Karen Harfield, ACC, *Committee Hansard*, 14 March 2013, p. 4.

71 Australian Criminal Intelligence Management Strategy 2012–15, tabled by the Australian Crime Commission at a public hearing on 14 March 2013, p. 9.

72 Australian Crime Commission, 'ACC has a legislative mandate to maintain the national picture of serious and organised crime', Additional information tabled at public hearing on 21 September 2012.

5.63 ACID and ALEIN, as well as other databases and networks including the child sex offenders register, DNA database and the National Police Reference System database of persons of interest will remain separate resources to the model database.⁷³ ACID is used in relation to serious and organised crime whereas the model impacts on a wider range of criminality across different domains.

5.64 Mr McDevitt explained that accessibility was another reason for this decision. He emphasised that interoperability between databases and systems and accessibility to them was more important than providing a single repository of intelligence:

Under this model you may have something whereby, for example, some of the discussions we have had have been where I go onto a factually based data set like the National Police Reference System and I look up the name Ben McDevitt. If it is there, I will see the factual data, I will see the link to the fingerprint database that I can then follow to the fingerprint database. I can see that DNA has been taken and that can be linked back to where the DNA identifying information is held. And I can perhaps see a link to ACID or another intelligence database that is held by the ACC. So the information intelligence does not have to be in one repository; in fact there is good reason for it not to be. I think the key is accessibility to it for those who have good reason to need to be able to see it.⁷⁴

5.65 Other key initiatives include the establishment of an administrative accountability mechanism. Legislative change can remove barriers to sharing of intelligence, particularly to those agencies that can help deliver long-term prevention outcomes. However, administrative mechanisms must also be established to ensure that high levels of accountability are imposed upon agencies which contribute intelligence to the national holdings.⁷⁵

Stakeholder views

5.66 Notwithstanding the fact that most stakeholders before the committee are represented on the ACC Board and have endorsed the proposed model in its current largely undeveloped state, some placed qualifications on that support. Acting Deputy Commissioner Hudson of the NSW Police Force informed the committee that there would be widespread support for the ACIM if it is able to establish some consistency in relation to what is captured, how it is treated and delivered to a central depository as well as how that intelligence is then utilised.⁷⁶

5.67 Other police jurisdictions including the Queensland Police Service and Victoria Police were concerned as to how to balance their own priorities in relation to

73 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 5.

74 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 5.

75 Australian Crime Commission, 'ACC has a legislative mandate to maintain the national picture of serious and organised crime', Additional information tabled at public hearing on 21 September 2012.

76 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 28.

volume crime with that of organised crime.⁷⁷ Acting Deputy Commissioner Pope of the Victoria Police emphasised that while his police force was committed to national consistency in relation to criminal intelligence and considered organised crime to be a priority (for which a significant part of its intelligence capability had been committed) the reality is that volume crime is the most significant issue before the Victoria Police.⁷⁸ These and other concerns raised by law enforcement stakeholders as well as the ACC's response to them are the subject of the following chapter.

77 Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35.

78 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 2.

CHAPTER 6

Challenges to an Australian Criminal Intelligence Model

6.1 As the national body for collecting and disseminating criminal intelligence, the ACC recognised that the proposed ACIM will provide the solution to many of the identified impediments. Under the ACIM, criminal intelligence is viewed as a national asset which can be collected once and used often and seeks to establish an interoperable system for the free flow of criminal intelligence based on consistent standards, processes and protocols. However, some submitters cautioned against the free flow of intelligence and argued for greater checks and safeguards on intelligence sharing. Conceptualising intelligence as a national asset also raised questions regarding controls on information sharing and access, including overall responsibility for, and ownership of, the intelligence and supporting data.

6.2 These matters go to the central question of whether the proposed ACIM can address the impediments identified by involved agencies, while maintaining appropriate checks and balances on criminal intelligence gathering and sharing. Other key issues brought to the fore during the inquiry have a direct bearing on reform to the criminal intelligence sharing environment. This chapter details those matters and the ACC's response to them.

A definition of criminal intelligence and universal methodology

6.3 The recently released Australian Criminal Intelligence Management Strategy (ACIMS) provides a definition of criminal intelligence. This is supported by the ACC's definition of both information and intelligence. The committee supports efforts to provide a definition to support the ACIM and encourages ongoing discussion on the distinctions between information and intelligence. These discussions are important because the ACIMS definition was not acknowledged by witnesses during the course of the inquiry. Furthermore, as many law enforcement agencies who gave evidence to the committee emphasised the importance of common terms and standards, there is a strong emphasis across involved agencies to ensure common understanding as the basis on which to build commonly agreed standards and processes. This intention is captured by the ACIMS which noted that all involved agencies are 'dedicated to nationally consistent methodology for the management of criminal intelligence'. The ACIMS also states that the ACIM and ACIMS provide an agreed set of common standards, best practices, and information sharing protocols for management of criminal intelligence assets.¹

6.4 Witnesses to the inquiry supported the development of a clear, practical definition of criminal intelligence that will underpin a common methodology and ethos.² A universal methodology was highlighted as important for reasons including

1 Australian Criminal Intelligence Management Strategy 2012–15, tabled by the Australian Crime Commission at a public hearing on 14 March 2013, p. 3.

2 Detective Chief Superintendent Colin Cunningham, South Australia Police noted for example that there was a need for further definition. *Committee Hansard*, 27 September 2012, p. 38.

the fact that intelligence is the subject of subpoena for criminal trials.³ Some witnesses highlighted the need for consistent application of intelligence gathering and sharing methods and argued in favour of the ACIM dictating to users how they should collect, collate and disseminate intelligence.⁴ Others underscored the importance of establishing a centralised way of classifying information to avoid a situation in which a piece of information is treated differently in different jurisdictions and by different agencies.⁵ To this end, establishment of a clear information management strategy which presents information that meets the needs of its users and applies common data standards was seen as fundamental.⁶

6.5 Many witnesses noted that interoperability was dependent upon a standardised code directory that can operate across systems.⁷ Mr Doug Smith, CEO of CrimTrac, explained that standardisation goes to matters as simple as providing a standardised way of writing down a person's name given that different formats are used in different jurisdictions:

With some police forces you would put the given names and then the surname in capitals. Other police forces would mandate that you put the surname and a comma and then the given names. To share information in a way whereby it is easy to share, you need actual data standards. In dealing with Asian names and Arabic names, there is a huge conversation that needs to be had on how you will actually gather those for official purposes ...The point I am trying to make is that to get greater potential from the data that is kept locally you need to make it visible in a way that is consistent—in other words, driving on the same side of the road.⁸

6.6 As noted in the previous chapter, the ACIF 'collect and collate' subgroup is developing a National Criminal Intelligence Product Directory and a RFI capability. Both the directory and RFI capability are expected to include a standard product definition, set of key words, naming conventions, metadata standard fields and business rules. The committee appreciates that development of both capabilities will address many of the obstacles which have hindered the timely sharing of criminal intelligence.

6.7 Many other law enforcement agencies also highlighted the importance of standardisation in approach, processes, systems and training.⁹ However, the

3 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 3.

4 Detective Chief Inspector Colin Cunningham, South Australia Police, *Committee Hansard*, 27 September 2012, p. 40.

5 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 28.

6 Mr Michael Pezzullo, ACBPS, *Committee Hansard*, 27 September 2012, p. 9.

7 CrimTrac, *Submission 4*, p. [6].

8 Mr Doug Smith, CrimTrac, *Committee Hansard*, 21 September 2012, pp 25–26.

9 Mr Patrick Walsh, *Committee Hansard*, 31 October 2012, p. 6.

committee was concerned that a number of police jurisdictions had recently invested in new criminal intelligence methods, strategies and supporting infrastructure apparently without consideration for a standard approach or the impact on sharing intelligence. The committee sought the ACC's advice on how the ACIM would address the varying approaches across involved agencies.

ACC response

6.8 The ACC responded that the ACIM proposes to use a building block approach. In addition, emphasis has been placed on agencies to review and align their own systems with ACIM standards and principles. According to the ACC, this approach has already achieved some successes:

- WA Police have undergone a review of its intelligence function and used the ACIM as a benchmark. Its intelligence model is under redevelopment to achieve alignment with the ACIM.
- Queensland Police Service is reviewing and restructuring its intelligence function by using the ACIM as a benchmark.
- While Victoria Police only recently completed its own intelligence doctrine and will not review its processes in the foreseeable future, it has confirmed that its doctrine aligns with that of the ACIM.
- ANZPAA is using the ACIM as a benchmark in the development of Education and Training Guidelines for Police Intelligence.¹⁰

Committee view

6.9 The establishment of the ACIM involves solving complex policy problems, some of which are resistant to resolution and will require persistence. At present, law enforcement agencies describe the model and its purpose differently because they apply their respective interpretations of the intelligence cycle and of intelligence terms.¹¹ The committee appreciates that numerous efforts are underway to encourage agencies to move from their respective agency standpoint to establish common understanding of the intelligence cycle based on common terms and definitions. Formal endorsement of the intelligence cycle is an important step in this regard. However, the committee also recognises that without the practical application of universally agreed terms and processes, further development of the model will be extremely difficult. For this reason, the committee strongly encourages ongoing initiatives and dissemination of a clear, working definition of criminal intelligence and descriptions of key terms. Ensuring that all agencies share the same understanding and expectations of the model is critically important as negotiations and discussions on key aspects of the model progress and will minimise confusion or misperceptions going forward.

10 Australian Crime Commission, Answer to written question on notice, No. 12, received 28 March 2013.

11 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 10.

Recommendation 3

6.10 The committee recommends that the Australian Criminal Intelligence Forum (ACIF) develop for the endorsement of all 17 Australian Criminal Intelligence Model agencies an information management strategy. As a first step in developing the strategy, the ACIF should define key terms including a clear, working definition of criminal intelligence and provide descriptions of relevant concepts and processes.

A criminal intelligence repository

6.11 One of the key questions that arose during the course of this inquiry was whether a repository of criminal intelligence should take the form of a unitary or a federated model. Within this discussion, the question of whether CrimTrac could serve as the agency responsible to manage the national repository was raised.

6.12 There were a number of options raised in evidence including:

- Police Google whereby the data is left in the jurisdiction which gathered it and is made available to each user through a federated search engine. The FBI in the United States is an example of this type of system.¹²
- One centralised database whereby users go to the centre to upload data and draw intelligence. An example of this system is the National Automated Fingerprint Identification System.¹³
- A system whereby each jurisdiction houses its own database with a supporting centralised database into which information is contributed. The National Criminal Investigation DNA Database is a case in point.

Determining factors

6.13 Some of the key determining factors for selecting the most appropriate repository for criminal intelligence raised in evidence include:

- legislative impediments, sovereignty, jurisdictional ownership and privacy considerations;
- avoiding silos of information dependent upon individual arrangements;¹⁴
- provision of real-time intelligence and avoiding duplication of effort;
- appropriate clearances and filtered access;¹⁵
- accountability mechanisms including audit trails;¹⁶ and

12 Detective Superintendent John Pointing, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 36.

13 Mr Doug Smith, CrimTrac, *Committee Hansard*, 21 September 2012, p. 24.

14 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 1.

15 ACPBS argued for a federated system with filtered access. Mr Michael Pezzullo, ACBPS, *Committee Hansard*, 27 September 2012, p. 10.

- accommodating international operations which involve foreign jurisdictions.¹⁷

Legislative impediments, sovereignty, jurisdictional ownership, and privacy

6.14 Evidence before the committee suggested that the sovereignty of data was a primary consideration in determining the most appropriate repository. The first and most important question in this regard is to determine what agencies can share legally.¹⁸

6.15 It was put to the committee that one of the primary advantages of avoiding a central database with Commonwealth managed data is that the issues of jurisdictional ownership, sovereignty and privacy do not become the problem of the agency managing the central repository.¹⁹ In contrast, under a federated model, once a particular jurisdiction agreed that certain aspects of its data holdings should be shared, addressing legislative and other constraints becomes a matter for that jurisdiction.²⁰ In addition, each agency is then responsible for managing the integrity of information and intelligence they access and use.²¹

6.16 Mr Pezzullo of the ACBPS argued in favour of a federated system whereby federal, state and territory along with international partners share 'enterprise architecture' or 'information architecture'. Within a federated system, agency leaders are accountable to optimise both their reach into that federated system and their contribution to that federated system.²² Mr Pezzullo explained how the system would work:

Here are the different holdings of information. They are held in these repositories and they are labelled. There is aviation data here, there is biometric data there, there are facials here and fingerprints there. And subject to the objects of your agency and the limitations that might be in your legislation and my legislation—within that federated system—we can enter into a structured arrangement where we can turn on as much or as little as you want. We can depersonalise it, we can filter it or we can give you the whole load, depending on your particular requirements.

Within that single architecture, you are much better off creating, to use a shorthand reference, a 'free market of arrangements', which are still fettered by law—privacy and other disclosure provisions—and then letting the

-
- 16 The PFA argued that an accountability trail which could track which agencies access what information can be established as soon as a user agency enters a common portal to access information. It would also make it far easier to track who had access to information that was ultimately misused. Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 4.
- 17 Mr Michael Pezzullo, ACBPS, *Committee Hansard*, 27 September 2012, p. 10.
- 18 Mr Doug Smith, CrimTrac, *Committee Hansard*, 21 September 2012, p. 24.
- 19 Mr Doug Smith, CrimTrac, *Committee Hansard*, 21 September 2012, p. 25.
- 20 Mr Doug Smith, CrimTrac, *Committee Hansard*, 21 September 2012, p. 25.
- 21 Commander Alf Fordham, WA Police, *Committee Hansard*, 27 September 2012, p. 44.
- 22 Mr Michael Pezzullo, ACBPS, *Committee Hansard*, 27 September 2012, p. 11.

agencies mobilise around their interests. That is certainly how we did it in the Australian intelligence community.

6.17 The ACIM approach to addressing the question of a repository model is clearly focused on identifying the respective legislative impediments as a first step. The ACC's Mr McDevitt observed that incremental progress would be made as specific legislative impediments were identified. However, he also recognised that sharing:

...starts to become a whole lot more complicated when intelligence or information goes into the middle and then is disseminated beyond and they [contributing agencies] are not able to act to track where it originally started from, in terms of their contribution.²³

6.18 Evidence to the committee also highlighted the need for a consistent approach and uniform standards in relation to information contributed to the ACIM which becomes the subject of legal processes including Freedom of Information (FOI) requests and subpoena. FOI legislation which varies across jurisdictions was recognised as one of the legislative impediments to sharing information.²⁴ A concern raised in relation to it was that an FOI request that is refused in one jurisdiction may then be made to agencies in other jurisdictions that have access to the relevant data through the ACIM or to the ACIM host agency.²⁵ Noting that intelligence is often the subject of subpoena for criminal trials, witnesses also highlighted the importance of universal standards regarding intelligence including how it is managed and protected.

6.19 The committee recommends that the AGD review disclosure of information procedures under FOI across the Commonwealth, states and territories. The AGD review should provide recommendations for a consistent approach to dealing with FOI requests under the ACIM. As intelligence contributed to the ACIM may be subject to subpoena, the committee also recommends that the AGD review standards that can be applied to information contributed to the ACIM and its management which will protect the intelligence and direct agencies how to manage, share, store and destroy ACIM information. The committee recognises that these reviews may overlap with work underway by the ACC and the ACIF and its respective subgroups and encourages collaboration between them wherever appropriate.

Recommendation 4

6.20 The committee recommends that the Attorney-General's Department conduct a review of disclosure of information procedures under Freedom of Information (FOI). The review should provide recommendations on any legislative, administrative or policy reforms required to achieve a consistent

23 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 45.

24 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 3. Chapter 4 details the evidence on this matter.

25 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 3.

approach to FOI requests for information under the Australian Criminal Intelligence Model.

Recommendation 5

6.21 The committee recommends that the Attorney-General's Department review law enforcement data security management practices, standards, principles and safeguards. The review should provide recommendations on:

- **standards and uniform principles for the security and integrity of information contributed to the Australian Criminal Intelligence Model (ACIM). These standards should detail how ACIM agencies are to hold, protect, secure and manage ACIM intelligence; and**
- **an accountability and oversight mechanism to monitor compliance with the uniform standards and principles.**

Provision of real-time intelligence and avoiding duplication of effort

6.22 The Queensland Police Service and ASIC highlighted the importance of real-time criminal intelligence as a key factor in determining the preferred model. Detective Superintendent Pointing explained that agencies should be able to make a request for information through a search engine that can access information from every other jurisdiction contemporaneously. He argued that such a system would provide a lot more safety to the police on the street, because the operational police would know immediately where the dangers were, as well as any additional information that may assist in decision making.²⁶ Detective Superintendent Pointing argued that the police Google option would be the most time-efficient for this reason:

If we all had access to each other's systems, with appropriate clearances, audit trails et cetera, through a federated search engine or some other, for want of a better term, 'police Google', it would save a lot of time. We would be able to interrogate each other systems and use what we need. The audit trail is there for governance and we do not have people typing out requests and sending faxes. It would save a lot of time.²⁷

6.23 Similarly, Mr Geddes of ASIC highlighted the need for the model system to provide real-time access to other agencies' information.²⁸

Interoperability and avoiding silos of information dependent upon individual arrangements

6.24 The NSW Police Force emphasised the importance of output over the type of system used. Acting Deputy Commissioner Hudson argued that what was of greatest importance was interoperability between the systems rather than whether data should

26 Detective Superintendent John Pointing, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 36.

27 Detective Superintendent John Pointing, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 36.

28 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 32.

be centrally stored or not. Emphasising centralised access over centralised storage of information, he noted that the National Names Index was not a centralised database but that user agencies use it as a repository to access each other's information on it.²⁹

6.25 Mr Geddes of ASIC envisaged a system whereby agencies could overlay elements of the NCTR or other products and then see how they match up with the regulated population to identify activities that would not ordinarily show up as nefarious or related to criminal agencies or enterprises.³⁰

6.26 One of the important considerations raised was that of avoiding a situation where detective constables or ACBPS officers at relatively junior levels have to go through the transaction impediments of filling out forms and questioning who to direct their query to. Mr Pezzullo of the ACPBS argued that a federated system with connectivity between the respective depositories would avoid this circumstance.³¹

6.27 The AFP's position was that if there were a national database containing the bulk of information, huge efficiencies would automatically be realised given that the current context is one in which the AFP, with its national jurisdiction, must deal with each state and territory individually.³² At the same time, Assistant Commissioner Morris highlighted that each police force in Australia has already made 'substantial investments in their databases and their case management systems' and that:

As we try to look at ways we might be able to build this together into a more coherent approach, you are not going to expect some of those police services to walk away from a system that they have just invested many millions of dollars in. We are going to have to wait until they become redundant and then perhaps have the architecture to say, when you replace that system, if it has certain characteristics, so it can talk to others and be part of a federated system.³³

6.28 Assistant Commissioner Morris further noted that the extent to which agencies will share is dependent upon how well the intelligence functional process is integrated into each agency's operations which:

...varies from agency to agency. In some it is kept a little bit at arm's length. In others it is very well integrated right into the operational side of the business.³⁴

ACC response

6.29 The ACC acknowledged that the model database might look something like a police Google whereby the user can search multiple databases simultaneously but that

29 Acting Deputy Commissioner David Hudson, NSW Police Force, *Committee Hansard*, 27 September 2012, p. 29.

30 Mr Mark Geddes, ASIC, *Committee Hansard*, 27 September 2012, p. 34.

31 Mr Michael Pezzullo, ACBPS, *Committee Hansard*, 27 September 2012, p. 10.

32 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 35.

33 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 36.

34 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 38.

ultimately there would have to be strict business rules built into the system. Such rules would ensure that constraints placed on particular databases by a jurisdiction or agency would prohibit the search engine from accessing those databases.³⁵

6.30 However, the ACC explained that:

Given the volume of data in existing databases and the different stages agencies are at in their technology life cycles, the ACC is still considering options for a national repository.³⁶

6.31 The ACC also noted that as the options analysis was yet to be completed, the strengths and weaknesses of each possible option was yet to be fully evaluated. While the ACC commented that a federated model appeared to the ACC to be the least disruptive of options, it also noted that such a model comes at a higher cost whereas a centralised model:

...provides the avenue for nationally agreed standards and workflows, thereby creating a synergy between business and IT convergence leading to increased sustainability and long term efficiency and effectiveness gains; reducing management overheads and costs appreciated by the central organisation and its partners.³⁷

6.32 Notwithstanding this argument, the ACC concluded that the challenge for both federated and unitary models is 'how to reconcile the various legislative frameworks for the state, territory and Commonwealth information and intelligence assessed'. This is the question before the ACIF 'report and dissemination' subgroup.³⁸ In order to address the 'multiple legislative frameworks that govern agencies ability to share' and the current technical limitations, an examination of the various legislative frameworks across law enforcement agencies is currently underway. At the same time, different technological options and methods to address the lack of interoperability are under consideration. Underpinning these discussions is the implementation of the National Request for Information capability which will provide efficiencies with respect to information sharing processes.³⁹

Committee view

6.33 The committee appreciates the complexity in establishing a repository that provides for timely intelligence, interoperability across the respective agencies and complements to the fullest extent possible current databases and information management systems. While the committee recognises the simplicity in the police

35 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 10.

36 Australian Crime Commission, Answer to written question on notice, No. 14, received 28 March 2013.

37 Australian Crime Commission, Answer to written question on notice, No. 14, received 28 March 2013.

38 Australian Crime Commission, Answer to written question on notice, No. 14, received 28 March 2013.

39 Australian Crime Commission, Answer to written question on notice, No. 26, received 28 March 2013.

Google option, it also appreciates that any national repository for criminal intelligence will have to accommodate the various legislative frameworks while also taking into account ownership and data management issues. But whatever model is chosen, the committee is of the view that a national repository of some form is essential.

Recommendation 6

6.34 The committee recommends the establishment of a national repository for criminal intelligence as part of the Australian Criminal Intelligence Model.

Recommendation 7

6.35 The committee recommends that a cost-benefit analysis be undertaken in relation to the options for a national repository. This analysis should take into consideration:

- **the determining factors detailed in Chapter 6 of this report;**
- **the need to complement existing information technology initiatives such as the AFP's Spectrum Program;**
- **the need for interoperability and complementarity with current databases including the National Criminal Investigation DNA Database and the National Automated Fingerprint Identification System; and**
- **the intelligence sharing model used by the Australian intelligence community.**

Single national security classification standards

6.36 A major impediment to the sharing of information and intelligence is the lack of consistency in security standards. However, release of a simplified security classification system under the information security management protocol in July 2011 provided an opportunity for law enforcement agencies to develop compliant protective security policies including classification guides under the protocols. Under the new system, which removed the distinction between national and non-national security information, emphasis is placed on information security management including safeguarding confidentiality, integrity and the availability of information over document handling. Under the program, agencies have until July 2013 to phase out old classifications.

6.37 The committee was assured that the Commonwealth's initiative to standardise security classifications in relation to data across all agencies was well underway. Assistant Commissioner Morris of the AFP explained that 'whether you are an intelligence agency, defence or law enforcement we will be using a common set of security classifications'. He further explained that there were two steps that needed to be completed:

The first is the classifications and the second is we have invested a lot of money in the last few years building a top-secret and secret network around Australia. So never before have the AFP, at least, been so well connected into classified information which is vital for us on a variety of crime matters.

What we have done is made sure that access to that is located in our joint counter-terrorism team, so our state and territory counterparts have access to this information as well. So, in many respects, in terms of the national approach and access to classified information, we have never been in a better position. And in one state—I won't name which particular one—they have never had a chance to get access to this information; now they have their police officers there. They need to get security clearances as well to access this information—that is the other side of the coin here.⁴⁰

6.38 Acting Deputy Commissioner Pope explained that in Victoria, changes at the Commonwealth level in relation to national security standards will have to be adopted and then applied to the policing context.⁴¹ Assistant Commissioner Kershaw of the NT Police also noted that changes would have to be made to its current system which is not accredited. As an additional consideration, the NT Police have shared service arrangements with the NT Government which would have to be taken into account in the shift to a nationally consistent standard.⁴²

6.39 Other agencies explained some practical operational challenges in the move towards the national classification system. Commander Fordham of the WA Police explained that there was a conflict between its own classification system and Commonwealth-based classifications because much state-based information is operationally sensitive and not necessarily secret, top secret, highly protected or protected. He gave a practical example to make the point:

We may have a squad of 70 officers who are dealing with an issue and all of them will know what is going on. They have to, because they have a need to know. When we provide that to the Commonwealth system it will get classified to a level where, strictly speaking, we cannot give that information to the very people who are generating it. I do not see that as being a roadblock; I see that as being a pothole that we need to work on. But I do not see it as being a stopper to achieving the outcome that we all think we should achieve.⁴³

6.40 While acknowledging that agencies are progressing towards a standard classification process and will move to a standardised clearance process, the ACC argued that lack of standardisation was not a major inhibitor to information and intelligence sharing. The ACC commented that despite the fact that there was no equivalent to the standardised Commonwealth process for security clearances for officials using the Australian Government Security Vetting Agency (AGSVA), states and territories make use of Commonwealth clearing processes. However, the primary

40 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 39.

41 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 6.

42 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 24.

43 Commander Alf Fordham, WA Police, *Committee Hansard*, 27 September 2012, p. 44.

inhibitors are the time the process takes and the associated costs.⁴⁴ Yet the ACIM incorporates into its business processes the use of Commonwealth classification standards. Therefore, supporting initiatives include educating the states and territories on the standardised Commonwealth security clearances process (using AGSVA) and engaging the Commonwealth clearance process to clear state and territory taskforce and seconded members as and when required.⁴⁵

Committee view

6.41 The committee appreciates that moving to a national classification system for state and territory jurisdictions is a complex and resource-intensive process. Notwithstanding this fact, the evidence to the committee overwhelmingly supports a single classification standard and the committee fully supports the Commonwealth initiative in this regard. Furthermore, the committee recognises standardisation in relation to intelligence as the foundation of a strong and effective ACIM. For this reason, it strongly encourages all state and territory jurisdictions to align their security clearances processes with that of the AGSVA.

Recommendation 8

6.42 The committee recommends the standardisation of security clearance processes. To this end, the committee strongly encourages all state and territory jurisdictions to align their security clearance processes with that of the Australian Government Security Vetting Agency.

Should the provision of information be mandatory or voluntary?

6.43 Mr Burgess of the PFA informed the committee that one of the main inhibitors to intelligence flow is the lack of a mandatory obligation to share information.⁴⁶ The PFA argued that a legislated requirement to share would counter any concerns that sharing information might breach some type of privacy rule or process.⁴⁷ The PFA's Vice-President, Federal Agent Jonathan Hunt-Sharman continued:

Everyone would be far more comfortable if there was a clear piece of legislation that said, for example, that the government agency heads have to report suspect criminal activity affecting their department.⁴⁸

6.44 Similarly, Mr Patrick Walsh in his submission supported a system whereby nationally significant intelligence is shared on a mandatory basis between law enforcement agencies. He explained that:

44 Australian Crime Commission, Answer to written question on notice, No. 18, received 28 March 2013.

45 Australian Crime Commission, Answer to written question on notice, No. 18, received 28 March 2013.

46 Mr Mark Burgess, PFA, *Committee Hansard*, 21 September 2012, p. 4.

47 Federal Agent Jonathan Hunt-Sharman, PFA, *Committee Hansard*, 21 September 2012, p. 8.

48 Federal Agent Jonathan Hunt-Sharman, PFA, *Committee Hansard*, 21 September 2012, p. 8.

It should be mandatory for the two higher categories of national criminal intelligence collection requirements to be shared on a common criminal intelligence database that all agencies can contribute to and exploit. This will require greater leadership between federal and state police ministers and attorney-generals to sign MOUs that will drive this process.⁴⁹

6.45 The WA Police encouraged consideration as to whether intelligence sharing should be made compulsory.⁵⁰ The Victoria Police argued in favour of a 'cautiously mandated' approach which would need to address the technical challenges and entail significant national investment at the Commonwealth and state levels.⁵¹ While the SA Police raised the question of whether having one agency compel others to give intelligence would be palatable to the wider community.⁵²

6.46 The AGD noted that the Commonwealth could only request that the states and territories share information, whereas it could be mandated for Commonwealth agencies but would need to have regard to respective secrecy provisions and whether they would cut across each other. Mr Anderson of the AGD further argued that there were already a range of bodies in place at different levels to promote collaboration including the Senior Officers' Group on Organised Crime and that a mandatory requirement was not necessary.⁵³

6.47 Rather than a mandatory approach, the AFP supported a reciprocal obligation to share information and reform processes as opposed to a dual responsibility which exists for use and supply of intelligence. While recognising a legislated obligation as probably a step too far, Assistant Commissioner Morris explained that agencies are obliged to contribute intelligence to the collective because they take and exploit intelligence from collective databases. He drew on Europol to make the point:

If you want to benefit from the collective knowledge that the law enforcement agencies of 27 countries contribute to the overall intelligence holdings, if you want to enjoy that benefit, you also have to contribute.⁵⁴

6.48 Other witnesses highlighted the importance of building on growing confidence in an effective system as the impetus for sharing rather than mandatory participation. While supporting a mandatory approach, Mr Patrick Walsh observed that it could be avoided if a database was established with appropriate security levels which achieved harmonisation between state and federal legislation regarding retrieval and storage of information.⁵⁵

49 Mr Patrick Walsh, *Submission 2*, p. 6.

50 Commander Alf Fordham, WA Police, *Committee Hansard*, 27 September 2012, p. 43.

51 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 3.

52 Detective Chief Inspector Colin Cunningham, South Australia Police, *Committee Hansard*, 27 September 2012, p. 38.

53 Mr Iain Anderson, AGD, *Committee Hansard*, 21 September 2012, pp 19–20.

54 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 37.

55 Mr Patrick Walsh, *Committee Hansard*, 31 October 2012, p. 3.

ACC response

6.49 Mr McDevitt of the ACC emphasised the importance in having agencies recognise for themselves the value in contributing and sharing intelligence rather than mandating their participation:

I do not think that you can legislate or prescribe for them to share; I think the reality is that they need to see the benefit in sharing and see that they are getting what you are talking about in terms of a value-add—hopefully from actually putting into the middle.⁵⁶

6.50 Mr Lawler further highlighted the importance of a national capability where all involved agencies 'want to and need to access the system for the value that the system can provide to them'. The consultative approach taken to developing the ACIM is directed at ensuring voluntary participation and thereby enabling cultural change. In contrast, mandating or forcing agencies to use the system is a very different proposition to that of a willingness to engage.⁵⁷

6.51 Recognising the need to ensure that the information contributed to the ACIM is used by all involved agencies, Mr Lawler argued for strong accountability mechanisms. These might include the transparent, independent, high-level examination of information-sharing across the model as a middle ground between a mandatory and voluntary approach.⁵⁸ He argued that accountability systems and oversight would provide visibility over which agencies are contributing and how.⁵⁹ This information would then inform discussions on methods to improve sharing.

Committee view

6.52 The committee appreciates that frustration with current intelligence-sharing arrangements underpins the argument for a mandatory approach. Evidence to the committee emphasised that a mandatory approach to intelligence sharing would be complex, difficult to achieve and only encompass Commonwealth agencies.

6.53 The committee supports the consultative approach taken in relation to the development of the ACIM which strives to establish a system owned by involved agencies who uphold a common commitment to contribute and share intelligence. The committee's view is that this commitment should be formalised. The committee recognises a national repository as essential in providing an effective means to share information and produce timely criminal intelligence to prevent, detect and disrupt serious and organised crime. Unless there is a strong impetus to share, the risk is that the current gaps in national efforts created through limited information exchange and

56 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 3.

57 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, p. 7.

58 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, p. 7.

59 Mr Ben McDevitt, ACC, *Committee Hansard*, 14 March 2013, p. 7.

the siloing of information identified in the National Security Statement in 2008 will remain.⁶⁰

6.54 The committee supports the establishment of a formal requirement achieved through licencing or other administrative arrangements which requires agencies that are signatory to the national repository to formalise a commitment to contribute information and intelligence. This agreement must be supported by a strong accountability and oversight regime to ensure that agencies are accountable for their contribution to the national holdings. As part of this regime, the Senior Officers' Group on Organised Crime (SOG on OC) could provide oversight reports to the Ministerial Council for Police and Emergency Management—Police (MCPEMP) and Standing Committee of Attorneys-General (SCAG) on the contribution of each respective agency for review and remedial action where required.

Recommendation 9

6.55 The committee recommends that the Australian Crime Commission in collaboration with the Attorney-General's Department establish as part of a licencing requirement to the national repository or other administrative arrangement, a formal agreement which requires signatory agencies to declare a commitment to contribute information and intelligence to the national holdings.

Recommendation 10

6.56 The committee recommends the establishment of an accountability and oversight regime to ensure that agencies are accountable for their contribution to the national holdings. As part of this regime, the Senior Officers' Group on Organised Crime (SOG on OC) should provide an annual oversight report to the Ministerial Council for Police and Emergency Management—Police and Standing Committee of Attorneys-General on the contribution of each respective agency for review and remedial action where required.

Data management and integrity

6.57 The committee raised questions during the course of the inquiry regarding ownership and management of data and methods to uphold the integrity of intelligence systems. A number of Commonwealth, state and territory agencies provided numerous examples of how their data and databases are efficiently managed and monitored. This evidence was supported by the ACC which argued that the current protections and security arrangements for classified information are strong.⁶¹

6.58 The following three matters came to light during the inquiry in relation to data management:

- responsibility for the integrity and accuracy of the data;

60 Mr Ric Smith AO PSM, *Homeland and Border Security Review*, Summary and Conclusions, 4 December 2008, presented to the Australian Government on 27 June 2008, http://www.dpmc.gov.au/national_security/docs/20081204_review_homeland_security.pdf (accessed 31 July 2012).

61 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, p. 10.

- monitoring transfer of data and controls around accessibility; and
- considerations regarding the weight or importance given to specific data within a national repository.

6.59 Assistant Commissioner Kershaw of the NT Police argued that the agency responsible for supplying information into a central repository must ensure that what they are contributing is the most accurate, up-to-date information possible. While he recognised the ACC as the most likely agency to manage a national repository, each individual jurisdiction should be held responsible for the information it inputs into the system.⁶² In Victoria, for example, the Commissioner for Law Enforcement Data Security imposes standards on Victorian law enforcement in relation to how data is to be held:

When our data is shared with agencies it also imposes similar standards on those agencies to hold, protect, secure and manage Victoria Police information and intelligence as we do within Victoria. There needs to be some legislated minimum standards that are going to adequately protect the intelligence and dictate how we manage, share, store and destroy our information.⁶³

6.60 In terms of accountability mechanisms, AUSTRAC's holdings are provided to its 40 agency clients through an online system. Every search conducted by an Australian-based agency is logged and AUSTRAC is able to retain detailed records of every search and every activity that is undertaken on the database.⁶⁴

6.61 Drawing on current arrangements, Dr Lacey of the ACC explained that intelligence was treated at the point of the lowest common denominator which is the information from which intelligence is derived. To disseminate intelligence, each source of information which contributed to the intelligence must be considered 'because of the various legislative frameworks that the information imposes, from a protection perspective and from a handling perspective'.⁶⁵

6.62 These considerations relate to the weight or importance given to one specific piece of intelligence over another and how this may be accommodated under a nationalised system. Drawing on current arrangements, Mr Lawler explained to the committee the manner in which intelligence is tested on the admiralty scale:⁶⁶

Some intelligence will be A1 in that it can be corroborated, it might be sworn testimony and it might have very high levels of authenticity and

62 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 25.

63 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 3.

64 Mr Johann Visser, AUSTRAC, *Committee Hansard*, 21 September 2012, p. 31.

65 Dr David Lacey, ACC, *Committee Hansard*, 14 March 2013, p. 10.

66 The admiralty scale is a globally recognised process for assessing information and determining its likely veracity. See further, Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 47.

reliability. Then other information that might come from a single source that is unknown will be of a much lower quality and be much less reliable, and we are likely to have everything in between that.

The purpose of the intelligence process is to use that information and build upon it so that it produces an assessment or a judgement—a professional judgement—undertaken by professional intelligence analysts that goes to inform. In some ways, it is not a matter of absolute truthfulness or absolute inaccuracy. These are assessments that are made based on a variety of pieces of information by professional people to say that in our professional judgement we think X or Y. That is how the intelligence process works in a very simplistic form.⁶⁷

6.63 Mr McDevitt also observed that this rating system allows those using the intelligence to make informed judgements about the weight the ACC should attach to a particular piece of intelligence.⁶⁸ Furthermore, in circumstances where intelligence was circulated to agencies and then subsequently found to be unsubstantiated or inaccurate, a further report would be circulated stating that the material was untruthful or was discredited.⁶⁹

6.64 Concerns have been raised by state and territory law enforcement agencies regarding the Threat Risk Assessment Methodology (TRAM) used to assess national targets. In response to these concerns, the ACC conducted a review of TRAM, utilising the ACIF to work with Commonwealth, state and territory agencies to identify their needs. As a result of the review, a new national process which incorporates 'eighteen variables with equal rating to quantitatively measure threat and to generate a risk rating' has been established. It is being implemented as part of the National Target System (NTS) which is currently being rolled out across Australian law enforcement agencies.⁷⁰

6.65 Other issues of concern include the fact that law enforcement and other government agencies are vulnerable to corruption by reason of their use or knowledge of information technology systems and processes.⁷¹

Cyber security measures, such as firewalls, passwords and anti-virus software, may have the unintended effect of increasing the threat of corruption from insiders in businesses and government agencies (IBM, 2006). Most security measures are aimed at blocking attempts from outsiders to gain access to information being held within organizations. However, with increased levels of security, it may be easier for criminals to

67 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 47.

68 Mr Ben McDevitt, ACC, *Committee Hansard*, 21 September 2012, p. 47.

69 Mr John Lawler, ACC, *Committee Hansard*, 21 September 2012, p. 48.

70 Australian Crime Commission, Answer to written question on notice, No. 22, received 28 March 2013.

71 Russell G. Smith and Penny Jorna, 'Corrupt misuse of information and communications technologies' in Adam Graycar and Russell G. Smith (eds) *Handbook of Global Research and Practice in Corruption*, 2011, p. 270.

corrupt insiders rather than devoting the considerable resources required to breach security measures externally.⁷²

6.66 While there are many ways in which information technology could be used to minimise risks of corruption, at the same time 'computerisation of procedures in the public sector could create new opportunities for bribery and illegality' which will need to be managed through initiatives such as integrity testing.⁷³

6.67 When concerns regarding data management and integrity were raised with the ACC, it noted that the ACIF is in the 'early stages of discussion with respect to accountability mechanisms and where responsibility will lie for ensuring the accuracy of data on the system'. As part of its considerations of various accountability mechanisms, ACIF have received a presentation on the EUROPOL model while discussions continue about 'accountability versus responsibility'. Underpinning this discussion is the question of whether instilling a responsibility to provide is preferred over an accountability system which would compel agencies to contribute.⁷⁴

Committee view

6.68 The committee recognises that many Commonwealth agencies who have endorsed the ACIM are currently under the purview of Australian Commission for Law Enforcement Integrity (ACLEI). These include the ACC, AFP and ACBPS. CrimTrac will come under ACLEI's oversight from 1 July 2013. However, the committee is concerned that three Commonwealth agencies that have endorsed the model and will gain access to sensitive information and intelligence through the national repository are not subject to the oversight of the ACLEI.

6.69 In 2011, the Parliamentary Joint Committee on ACLEI recommended that limited ACLEI oversight under a 'second tier jurisdiction' be extended to a number of agencies including the ATO.⁷⁵ In its response in February 2012, the Government noted the recommendation and clarified that:

Before considering the inclusion of new agencies within ACLEI's jurisdiction, the Government considers that it is appropriate to allow 12 to 18 months for ACLEI to consolidate its existing jurisdiction following the inclusion of ACBPS. That experience can then be used to properly inform any further expansion of ACLEI's functions.

72 Russell G. Smith and Penny Jorna, 'Corrupt misuse of information and communications technologies' in Adam Graycar and Russell G. Smith (eds) *Handbook of Global Research and Practice in Corruption*, 2011, p. 265.

73 Heeks (1998) cited in Russell G. Smith and Penny Jorna, 'Corrupt misuse of information and communications technologies' in Adam Graycar and Russell G. Smith (eds) *Handbook of Global Research and Practice in Corruption*, 2011, p. 275.

74 Australian Crime Commission, Answer to question on notice, No. 21, received 28 March 2013.

75 PJC-ACLEI, Inquiry into the operation of the *Law Enforcement Integrity Commissioner Act 2006*, Final Report, 7 July 2011, p. vii, http://www.apf.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=aclei_ctt/completed_inquiries/2010-13/integrity_com_act/index.htm (accessed 9 April 2013).

All of the agencies nominated by the Committee for inclusion as tier two agencies are subject to the Public Service Act 1999 and as such are bound by the APS Values and Code of Conduct. These agencies also have existing internal and external corruption prevention and investigation measures.⁷⁶

6.70 Noting the government's response, the committee recommends that the Parliamentary Joint Committee on ACLEI (PJC-ACLEI) inquiry into the feasibility of extending ACLEI's jurisdiction to include ASIC, the AGD and the ATO. The committee recommends that the PJC-ACLEI consider whether these three agencies should be brought under ACLEI's jurisdiction on a whole-of-agency basis by regulation.

Recommendation 11

6.71 The committee recommends that the feasibility of extending the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI) to include oversight of the Australian Securities and Investments Commission, the Attorney-General's Department and the Australian Taxation Office be referred to the Parliamentary Joint Committee on ACLEI for inquiry and report.

Balancing national and state priorities

6.72 In Chapter 5, the committee noted the concerns raised by some state and territory law enforcement agencies regarding the need to balance intelligence resources between organised crime and volume crime. Of central concern to law enforcement agencies is the need to work across national and local priorities and meet community and government expectations accordingly.⁷⁷

6.73 Victoria Police argued that it is committed to national consistency as evidenced by its adoption of the ACC national threat assessment methodology and commitment of a significant part of its intelligence capability to organised crime. However, the reality is that volume crime (including burglaries, theft of cars or from cars and property damage) is the most significant policing issue for the state. With over 300 000 incidents of volume crime committed in Victoria each year, such crimes consume a considerable amount of its police intelligence effort. In addition, matters including public order, family violence and road policing are the other significant issues for the Victorian police whose performance is measured by its ability to reduce volume crime to make a safer community for Victoria. For example, a current priority for Victoria Police is alcohol fuelled violence and youth offenders.⁷⁸

76 Australian Government Response to: Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, Final Report—Inquiry into the Operation of the *Law Enforcement Integrity Commissioner Act 2006*, p. 2.

77 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, p. 4.

78 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, pp 2–3.

6.74 Acting Deputy Commissioner Pope of the Victoria Police noted that the ACIM would need to take into account the fact that state police jurisdictions have different priorities and work across all forms of crime including organised crime, serious crime, volume crime, public order and road policing.⁷⁹ The NT Police held a similar view noting that local issues highly rated within the Northern Territory are not national priorities. Assistant Commissioner Kershaw of the NT Police argued for a balance between local issues that impact on local communities with that of the nationally significant matters.⁸⁰ Similar concerns regarding the need to balance state with federal priorities were raised by the Queensland Police Service and SA Police.⁸¹

6.75 However, Commander Fordham from the WA Police emphasised the importance of moving away from a 'black and white serious and organised crime versus volume crime model'. He supported a flexible and adaptive model which could recognise that serious and organised criminals typically come from a volume crime environment. Flexibility within the model is required for these reasons. He continued:

I think that, whilst there is absolutely no argument that some serious and organised criminals come into Australia, commit serious crime and leave Australia and fit within the very stereotypical definition of 'serious and organised crime', there are lots of serious and organised criminals that live in Australia, work within Australia and migrate between volume crime, the adaptive zone and serious and organised crime. So with ACC only concentrating on the serious and organised crime, it is a bit like a car and all you are concentrating on is the engine, while the car is actually the sum of its parts. I think it is incumbent upon the ACC to have the holistic picture of offending within Australia so that they can then, in an informed manner, concentrate on the consequences of serious and organised criminals and perhaps have a broader opportunity to interact and interfere and disrupt them in their activities.⁸²

ACC response

6.76 As part of initial efforts to recognise local and state challenges, the ACIM's first strategic objective concerning quality intelligence to support 'tactical, operational and strategic decision-making' highlights the need to incorporate mechanisms for 'identifying regional priorities within national collection plans'.⁸³

79 Acting Deputy Commissioner Jeff Pope, Victoria Police, *Committee Hansard*, 27 September 2012, pp 2–4.

80 Assistant Commissioner Reece Kershaw, Northern Territory Police, *Committee Hansard*, 27 September 2012, p. 24.

81 The Queensland Police Service emphasised that its police priorities were broader than that of the ACC and serious and organised crime (Acting Assistant Commissioner Gayle Hogan, Queensland Police Service, *Committee Hansard*, 27 September 2012, p. 35). See also Detective Chief Inspector Colin Cunningham, South Australia Police, *Committee Hansard*, 27 September 2012, p. 40.

82 Commander Alf Fordham, WA Police, *Committee Hansard*, 27 September 2012, p. 43.

83 Australian Criminal Intelligence Management Strategy 2012–15, tabled by the Australian Crime Commission at a public hearing on 14 March 2013, p. 8.

6.77 The committee asked the ACC how the ACIM would enable state and territory law enforcement agencies to balance a commitment to the ACIM with their state priorities and resources. The ACC responded that over the past two years, the ACIF has negotiated the development of the ACIM and strategy with consideration to ensuring a balance between commitments to the ACIM with commitments to individual agency priorities. Other supporting initiatives include:

- establishment of the ACIF as a representative and consultative body;
- education and awareness of state and territory priorities to identify overlaps;
- engagement with ACIF members to ensure adequate state and territory representation;
- ACIF subgroup activities including that of the 'analyse and produce' subgroup which has explored various options including secondments across agencies to promote understanding and awareness across agencies, engagement of the ANZPAA to ensure alignment and input into the Education and Training Guidelines for Police Intelligence;
- incorporation of state and territory concerns in the TRAM review and evaluation process; and
- incorporation of jurisdictional requirements including crimes against persons in the new threat variables.⁸⁴

6.78 Furthermore, the ACC asserted that national and state priorities could coexist and that there would be some overlap of collection priorities as:

The ACIF supports flexibility by providing the mechanism for eight states and territories and many Commonwealth agencies to communicate their sometimes unique or divergent goals and to agree a set of national principles for intelligence practice that are also aligned with their individual priorities.⁸⁵

Committee view

6.79 The committee appreciates that law enforcement agencies across the states and territories are committed to the ACIM but remain concerned about how to balance national with local priorities and manage resources accordingly.

6.80 However, the committee received convincing evidence that serious and organised criminality often emerges from a volume crime environment. It also recognises that criminal entities are able to exploit legislative, jurisdictional and policy gaps between the two by migrating between volume crime and organised crime. For these reasons alone, it is important that the ACIM as the national repository provide comprehensive intelligence on criminality in Australia. As the ACIM has been

84 Australian Crime Commission, Answer to written question on notice, No. 23, received 28 March 2013.

85 Australian Crime Commission, Answer to written question on notice, No. 24, received 28 March 2013.

specifically designed to prevent the siloing of information and intelligence by bringing together for the first time, policing, national security and serious and organised crime, the committee is confident that it is adequately flexible to accommodate intelligence emanating from these three domains regardless of whether they represent national or state priorities or the intersection of the two.

CHAPTER 7

Committee view and conclusions

7.1 Evidence to the committee has highlighted the challenges and complexities in gathering and sharing criminal intelligence. Currently, Commonwealth, state and territory law enforcement agencies have their own systems, processes and approval mechanisms with limited interoperability to enable timely information sharing. For these reasons, the committee recognises that a national mechanism for the sharing of criminal intelligence is fundamentally important.

7.2 The committee did not hear from a single submitter to the inquiry that did not support the introduction of some form of structural overhaul to the way criminal intelligence is shared and disseminated in Australia. While there were varying views about the respective roles of agencies in relation to the Australian Criminal Intelligence Model and about how the model would be structured, no single organisation or individual held the view that the status quo provided an adequate criminal intelligence system.

Nature of contemporary law enforcement and the role of the ACC

7.3 During the inquiry, the committee was informed that within the policing context, intelligence was traditionally considered to be of secondary importance to investigations and other policing disciplines. Yet, traditional policing methods are no longer able to meet the challenge of detecting and disrupting serious and organised crime. Evidence to the committee detailed in chapters 2 and 4 of this report identified the ways in which criminal groups exploit legislative and policy gaps, geographical borders and state boundaries. Criminal entities exploit the current business model by moving between the spheres of volume crime and serious and organised crime. At the same time, cybercrime, which has been identified by the ACC as one of the greatest emerging threats to law enforcement demands a universal, collaborative and coordinated approach.¹

7.4 The establishment of an effective national criminal intelligence repository offers the possibility of closing legislative, geographical and information gaps in the pursuit of addressing organised crime. The committee takes the view that the establishment of an effective national criminal intelligence repository is of vital importance to the future of policing in Australia. A viable ACIM is fundamentally important to law enforcement efforts in preventing, detecting and disrupting organised crime. The funding and resourcing of the ACIM must reflect its importance.

7.5 The committee acknowledges that as criminal intelligence is the core business of the ACC, the agency is committed to sustaining strong cooperative partnerships with all Commonwealth, state and territory agencies that have endorsed the ACIM. The committee supports the ACC's focus on criminal intelligence and partnership approach.

1 Australian Crime Commission, *Annual Report 2011–12*, p. 10.

Committee endorsement and support

7.6 There are no quick fixes or simple solutions to the sharing of criminal intelligence. The issues before the ACIF and its respective subgroups are complex not least because cultural change is part of the solution. Establishment of the ACIM will require broad, collaborative and innovative approaches and a need to build on common ground that has already been established.

7.7 One of the key challenges for the ACIF which has come to light during this inquiry is the need to engage effectively with law enforcement agencies to ensure their involvement and investment in identifying the possible solutions. For their part, law enforcement agencies must keep in view the overall aim of the model, including interrelationships between a range of causal factors and policy objectives.

7.8 The committee supports the ACIM and endorses efforts underway to develop its respective components. The committee highlights the concerns raised by the ACC CEO, Mr Lawler at its last hearing and recognises the need to build on successes in order identify common solutions and accommodate differences:

I think there is a real risk that, despite all of the very good will of agencies and people now, for a whole raft of reasons, it could be side-tracked or unpicked in some way—and that would be a terrible shame for the health of this country.²

Risks of maintaining the status quo

7.9 There are considerable risks in maintaining the status quo in relation to criminal intelligence gathering and sharing. Many of these risks were highlighted in evidence concerning current practices. Witnesses such as Assistant Commissioner Morris of the AFP explained the consequence of not moving towards a national approach. He argued that:

The other risks are that adversaries, whether they be terrorists or organised crime, are just going to leverage off new technologies even more. So we are going to fall behind. The other risks are that we compartmentalise and each of us are holding vital pieces of criminal intelligence that might hold the key to success for someone else's activities. These days I think of a tightening budgetary environment as well. There cannot be anything more important to us than being efficient with the dollars we have. A national approach to criminal intelligence, whatever databases come up with, is actually part of the road map to being far more efficient than perhaps we were in the past. Do one search on one entity, rather than 12 searches on the one entity. There are currently a lot of great automated analysis and data-mining tools on the market. These are the types of capabilities that all law enforcement will require if they are going to have a chance of success in the future.³

2 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, pp 10–11.

3 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 39.

7.10 Assistant Commissioner Morris also noted the importance of capturing all available information which current systems are unable to achieve:

Obviously, if we keep doing business the way we have always done it, we will actually go backwards. That is clear. What we are seeing is far more information. People store more information these days. Previously, you might execute a search warrant and find a small telephone book. These days, everyone has a laptop, an iPad and a computer. So we are finding more information and processing more information. So we have to approach treating that information in far more sophisticated ways than we have done in the past; otherwise we will just be bombarded with information overload.⁴

7.11 The committee believes that a national approach is required to criminal intelligence for a number of reasons including those identified by Commissioner Morris. The ACC acknowledged changes in the ways in which criminal intelligence is being used. Traditionally, intelligence informed tactical decisions regarding specific criminal entities such as determining criminal associations.⁵ In the current environment, criminal intelligence is used for multiple reasons and its impact stretches across all levels of the decision-making process. As criminal gangs do not operate within a business model and are much more fluid, flexible and responsive to opportunities than large organisations, addressing organised crime requires equally responsive and flexible solutions.⁶ A national system will ensure that there is no intelligence gap in the crossover that takes place when criminal entities become more sophisticated and start to legitimise their criminal activity through company structures.

Risk appetite and partnership approach

7.12 The committee appreciates the complexities and difficulties for the 17 criminal intelligence agencies in establishing a national model. It recognises that flexibility and compromise on the part of agencies will be required. Furthermore, it understands that there may well be mistakes made along the way and shortcomings which will require readdress. For this reason, there must be a risk appetite for and appreciation of the potential benefits of reform which must overcome any threats that change will inevitably bring.

7.13 Rather than being risk averse, involved agencies must appreciate that some of the matters before them are ambiguous, complex issues that may require experimental and innovative approaches. However, of central importance is that they invest in change, build on commonality and cooperate to provide for a fully accountable system. Mr Lawler noted in this regard that:

Given that people will change over time and there will be different environments, there need to be systemic underpinnings of what we are

4 Assistant Commissioner Timothy Morris, AFP, *Committee Hansard*, 21 September 2012, p. 39.

5 Australian Crime Commission, *Submission 10*, p. 11.

6 Commander Alf Fordham, Western Australia Police, *Committee Hansard*, 27 September 2012, p. 42.

actually trying to do here and we need to somehow ensure that there is high level accountability to see that the journey that is started is, in actual fact, finished and that it moves from something that is on a piece of paper to the potentially futuristic model—as you described it—of the Queensland police around their Google system.⁷

Information dissemination

7.14 Important information in relation to the ACIF and subgroups only came to the committee's attention by way of specific written questions on notice. The committee appreciates that development of the ACIM is fluid and that there are multiple initiatives that are underway. However, as the ACIF reports twice yearly to the ACC Board, consideration should be given to simultaneous release of public information on progress. The committee also encourages the ACC to provide a detailed account of progress towards the ACIM including challenges before the ACIF in its annual reports.

Recommendation 12

7.15 The committee recommends that the Australian Crime Commission provide a detailed account of progress towards the Australian Criminal Intelligence Model in its annual reports.

Mr Chris Hayes MP
Chair

7 Mr John Lawler, ACC, *Committee Hansard*, 14 March 2013, pp 10–11.

APPENDIX 1

Submissions, additional information and answers to questions on notice received by the committee

Submission Number	Submitter
1	Name Withheld
2	Mr Patrick F. Walsh, Senior Lecturer, Intelligence and Security Studies, Charles Sturt University
3	Attorney-General's Department
4	CrimTrac
5	Confidential
6	Law Council of Australia
7	Police Federation of Australia
8	Confidential
9	Australian Commission for Law Enforcement Integrity
10	Australian Crime Commission
11	Civil Liberties Australia Inc.
12	Australian Federal Police, Ministerial Policy and Governance
13	Australian Securities and Investments Commission
14	Australian Transaction Reports and Analysis Centre (AUSTRAC)
15	Australian Taxation Office
16	Northern Territory Police, Fire and Emergency Services
17	Speed and Stracey Lawyers Attachment 1 Attachment 2
17A	Supplementary Submission
18	Australian Customs and Border Protection Service
19	Department of Police and Emergency Management - Tasmania
20	Confidential
21	Western Australia Police
22	Confidential
23	Australian Federal Police Association

Additional Information Received

- 1 Office of the Australian Information Commissioner - Privacy Factsheet 3, 4A Framework, received 10 September 2012
- 2 Civil Liberties Australia - Court spikes Wickenby case, tabled at a public hearing on 21 September 2012
- 3 Australian Crime Commission - ACC has a legislative mandate to maintain the national picture of serious and organised crime, tabled at a public hearing on 21 September 2012
- 4 Australian Crime Commission - Australian Criminal Intelligence Model, tabled at a public hearing on 21 September 2012
- 5 Australian Crime Commission - Australian Criminal Intelligence Management Strategy 2012-15, tabled at a public hearing on 14 March 2013

Answers to Questions on Notice

- 1 Answer to Question on Notice from the Australian Federal Police at a public hearing on 21 September 2012
- 2 Answer to Question on Notice from the Australian Federal Police Association at a public hearing on 21 September 2012
- 3 Answer to Question on Notice from the Australian Federal Police Association at a public hearing on 21 September 2012
- 4 Answer to Question on Notice from Civil Liberties Australia at a public hearing on 21 September 2012 has been received by the committee and accepted as 'in confidence'.
- 5 Answers to Questions on Notice from the Australian Crime Commission at a public hearing on 14 March 2013

APPENDIX 2

Witnesses who appeared before the committee

Friday, 21 September 2012 – Canberra ACT

Police Federation of Australia

Federal Agent Jonathan Hunt-Sharman, National President, Australian Federal Police Association; and Vice-President, Police Federation of Australia

Mr Mark Burgess, Chief Executive Officer

Mr Angus Skinner, Project Officer

Civil Liberties Australia

Dr Kristine Klugman, President

Mr William Rowlings, Chief Executive Officer

CrimTrac

Mr Doug Smith, Chief Executive Officer

Mrs Jane Diedricks, Senior Legal and Policy Adviser

Australian Transaction Reports and Analysis Centre

Mr Johann Visser, Acting Executive General Manager, Intelligence

Australian Federal Police

Assistant Commissioner Timothy Morris

Commander John Beveridge, Manager

Mr Peter Whowell, Manager, Government Relations

Australian Crime Commission

Mr John Lawler AM APM, Chief Executive Officer

Mrs Karen Harfield, Executive Director, Fusion, Target Development and Performance

Dr David Lacey, Executive Director, People, Business Support and Stakeholder Relations

Mr Ben McDevitt AM APM, State Manager, Queensland

Law Council of Australia (via teleconference)

Mr Tim Game SC, Co-Chair, National Criminal Law Committee

Ms Rosemary Budavari, Co-Director, Criminal Law and Human Rights

Thursday, 27 September 2012 – Canberra ACT

Victoria Police

Mr Jeff Pope, Acting Deputy Commissioner

Australian Customs and Border Protection Service

Mr Michael Pezzullo, Acting Chief Executive Officer

Mr Christopher Wall, Acting National Director, Intelligence and Targeting

Australian Taxation Office

Mr Bruce Quigley, Acting Commissioner of Taxation

Mr Greg Williams, Deputy Commissioner, Serious Non-compliance

Northern Territory Police, Fire and Emergency Services (via teleconference)

Mr Reece Kershaw, Assistant Commissioner, Crime and Specialist Services

New South Wales Police Force

Mr David Hudson, Acting Deputy Commissioner, Specialist Operations

Australian Securities and Investments Commission

Mr Mark Geddes, Agency Intelligence Coordinator

Queensland Police Service

Ms Gayle Hogan, Acting Assistant Commissioner, State Crime Operations Command

Detective Superintendent John Pointing, State Crime Operations Command

South Australia Police

Detective Chief Inspector Colin Cunningham, Acting Officer in Charge, State Intelligence Branch

Western Australia Police

Commander Alf Fordham, Director State Intelligence

Tasmania Police

Mr Scott Tilyard, Deputy Commissioner of Police

Wednesday, 31 October 2012 – Canberra ACT

Charles Sturt University

Mr Patrick Walsh, Senior Lecturer, Intelligence and Security Studies

Thursday, 14 March 2013 – Canberra ACT

Australian Crime Commission

Mr John Lawler AM APM, Chief Executive Officer

Mrs Karen Harfield, Executive Director, Fusion, Target Development and Performance

Mr Paul Jevtovic APM, Executive Director, Intervention and Prevention

Dr David Lacey, Executive Director, People, Business Support and Stakeholder Relations

Mr Ben McDevitt AM APM, State Manager, Queensland

