



Australian Government
Attorney-General's Department

**Criminal Justice Policy
and Programmes Division**

16/8811

28 October 2016

Ms Toni Matulick
Committee Secretary
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

Dear Ms Matulick

**Inquiry into the Australian Crime Commission Amendment (Criminology Research)
Bill 2016**

Thank you for the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Legislation Committee inquiry into the *Australian Crime Commission Amendment (Criminology Research) Bill 2016*.

This submission represents the shared views of the Attorney-General's Department (AGD), the Australian Criminal Intelligence Commission (ACIC) and the Australian Institute of Criminology (AIC).

As you are aware, an earlier version of this Bill was introduced into the 44th Parliament in 2015, and was considered by this Committee. AGD, the Australian Crime Commission (now known as ACIC) and AIC made a joint submission to the previous Committee inquiry. That submission is enclosed at **Attachment A**, and provides an overview of the proposed merger between the AIC and ACIC. I would be grateful if the Committee could take the previous submission into account given that the substance of the Bill remains unchanged and the views set out therein still accurately represent the views of AGD, ACIC and AIC.

Explanatory Memorandum

Prior to re-introducing the Bill in 2016, the Government made a number of changes to the Explanatory Memorandum to provide further information about the continued operations and independence of the AIC following its merger with the ACIC. These changes were intended to address concerns raised during the previous Committee inquiry and during debate on the Bill. The changes are detailed below.

Criminology Research

The Explanatory Memorandum includes additional information about the implementation model for the merged agency. This involves the formation of a separate research branch within the ACIC, to be known as the Australian Crime and Justice Research Centre (ACJRC). The branch will be headed by a senior criminologist and research will be subject to both peer review and ethics approval.

The ACJRC's research priorities will become more closely aligned with law enforcement's high-level priorities. However, the ACJRC's priorities will also continue to be guided by an advisory body similar to the current Criminology Research Advisory Council (further detail below). This will continue to allow independent criminology research expertise to guide the work of the ACJRC.

Research Advisory Committee

The Explanatory Memorandum has also been amended to provide further detail about new governance and oversight arrangements.

The Bill does not continue the Criminology Research Advisory Council, which currently provides oversight to the AIC. The Government consulted closely with the Criminology Research Advisory Council in developing the proposal to merge the AIC with the ACIC and it was agreed that while the Advisory Council wish to play a role in the merged agency, this role did not need to be legislated.

Following the merger, the ACIC Board will assume responsibility for providing strategic direction to the ACIC about its new research functions and for determining the ACIC's criminological research priorities.

The ACIC Board will take advice from a non-legislated Research Advisory Committee. The Committee will consist of:

- existing Criminology Research Advisory Council members (from state and territory justice agencies and the AGD)
- two law enforcement representatives
- two members from the ACIC, and
- a representative from the Australian and New Zealand Society of Criminology.

As noted in the Explanatory Memorandum, a non-legislated body ensures there is the flexibility to add other members if subject matter expertise would assist on particular research topics. The Research Advisory Committee will operate in conjunction with project advisory groups.

Continued access to research and datasets

As recommended in the additional comments in the Committee's previous inquiry report, the Government has amended the Explanatory Memorandum to confirm that criminological research and access to datasets will continue to be made available to the public. The Explanatory Memorandum also notes that the ACIC will have access to the same databases to inform research that are currently available to the AIC.

Continued public access to the JV Barry Library

As recommended in the additional comments in the Committee's previous inquiry report, the Government has amended the Explanatory Memorandum to confirm that the merged agency will maintain the JV Barry Library. The merged agency will continue to provide public access to its holdings, as the AIC currently does.

Privacy matters

The ACIC is exempt from the *Privacy Act 1988*. Accordingly, following the merger the AIC will also be exempt. Instead, the ACIC has a separate system of safeguards and accountability mechanisms provided for in the *Australian Crime Commission Act 2002* that are specifically designed for the sensitive nature of its operations. In addition to these general protections, the Bill also creates new requirements for disclosing personal information which would provide similar protections for personal information as the Privacy Act once the merger takes effect.

The Bill contains a new information disclosure regime to allow the ACIC CEO to disclose and publish the ACIC's criminological research and related information in a manner similar to the way in which the AIC Director can currently disclose that information. Where the ACIC's criminological research or related information contains personal information (as defined by the Privacy Act), the new information disclosure regime will outline additional requirements that must be met before the ACIC can disclose that information. These additional requirements are modelled on the information use and dissemination provisions of the Privacy Act, particularly Australian Privacy Principle 6.

The ACIC CEO may only disclose personal information collected for research purposes for another purpose:

- with the consent of the individual, or
- where the individual concerned would reasonably expect the ACIC to disclose their information, or
- where the ACIC is otherwise required to disclose the information to lessen or prevent a serious threat to life, health or safety of any individual or to protect public health and safety.

The ACIC is also subject to a robust accountability framework which provides significant oversight for the operations of the agency, including its handling of sensitive and personal information. Should an individual have a complaint about how the ACIC deals with their personal information, depending on the nature of that complaint, the ACIC's conduct can be examined by the Commonwealth Ombudsman, the Integrity Commissioner or the Parliamentary Joint Committee on Law Enforcement. Given the sensitive nature of the ACIC's operations, it is considered that this specific accountability framework is more appropriate than the Information Commissioner being responsible for dealing with privacy complaints against the ACIC.

AGD, ACIC and AIC would be happy to provide further information to the Committee if required.

Yours sincerely

Kelly Williams
A/g First Assistant Secretary