



OFFICE OF THE
CHIEF EXECUTIVE

Our ref: 12/141911

Ms Julie Dennett
Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Australian Parliament House
Canberra ACT 2600

Dear Ms Dennett,

**Senate Standing Committee on Legal and Constitutional Affairs Legislation Inquiry
into the *Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other
Measures) Bill 2012***

Australian Crime Commission Submission

1. The Australian Crime Commission (ACC) welcomes the opportunity to make a submission to the Senate Standing Committee on Legal and Constitutional Affairs Inquiry into the *Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012* referred to the Senate on 11 October 2012.
2. This submission is unclassified, and may be published publicly.

Background

3. In today's increasingly globalised society, the opportunities for organised crime are unprecedented. Complex networks stretch across continents to support activities which range from drug importation to identity fraud; cybercrime to high-level offshore tax evasion; counterfeit goods to money laundering; and even environmental crime. Organised crime is sophisticated, resilient, highly diversified and pervasive. It operates within and alongside legitimate businesses, spanning multiple sectors to maximise return and minimise risk.
4. The Australian Government established the ACC on 1 January 2003 as an independent statutory authority under the *Australian Crime Commission Act 2002* (ACC Act). The ACC's primary objective is to support and complement Australian law enforcement efforts to break the business of organised crime. As Australia's national criminal intelligence agency, the ACC is a niche, complementary agency that delivers specialist intelligence analysis and investigative capabilities to law enforcement and national security partners, as well as a unique and valuable understanding of serious and organised crime, including its activities, methodologies and emerging areas of influence.

5. The ACC plays a pivotal role in fusing criminal information and intelligence from throughout Australia's law enforcement community into a single repository of intelligence. The ACC has developed an extensive and comprehensive understanding of the large, well-entrenched and lucrative Australian illicit drug markets, which represents more than half of the organised criminal market and is the primary source of profit for serious and organised crime in Australia.
6. Australians are among the world's highest per capita consumers of illicit stimulants, and drug prices in Australia far exceed prices overseas, making domestic drug production and importation highly profitable. The major illicit drug markets in Australia are multi-billion-dollar enterprises that provide an opportunity for significant numbers of syndicates to operate.
7. Drug use and addiction causes considerable social harms, impacting on the health, financial and social welfare of users, and perpetuates both street-level and organised crime. Problematically, drug taking with friends and associates on social occasions and drug dealing within social networks has become accepted behaviour in some areas of Australian society. This involves, in particular, illicit stimulants such as methylamphetamines, MDMA, cocaine and analogue substances that mimic the effect of these stimulants
8. Working with partner agencies, the ACC has developed comprehensive knowledge of the use of false identification to facilitate serious and organised crime and provides strategic direction about the future of identify crime in Australia. Identity crime is one of the fastest growing crimes in Australia. While stealing someone's identity is a crime in itself, identity theft also provides a foundation for other serious crime. Fraudulent identities may be used for money laundering, tax evasion, to obtain personal loans, enter into credit agreements, deal in stolen motor cars, or to protect the true identities of organised crime members. Identity crime can also be used to obtain telephones, vehicles, premises and travel documents to avoid law enforcement detection.

The Scope of the ACC submission

9. The ACC is supportive of the provisions set out in the *Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012*. The ACC seeks to make specific comments relating to the proposed enhancement of the legislative framework surrounding the listing of serious drugs, the use of false identities in airline travel and the review of penalty units.

Specific comments against the provisions set out in the *Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012*

Schedule 1 – Serious drugs

10. The ACC fully supports provisions which ensure that the Commonwealth's serious drug offences framework can quickly respond to new and emerging substances. As such, the ACC supports *the Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012* and believes this approach will strengthen the Commonwealth's ability to adapt to and address the changing illicit drug markets.

Serious drugs – conditions for listing by regulation

301.7 (2) (b) (ii)

11. The ACC advocates the listing of substances by regulation.
12. In particular, the ACC supports provisions relating pharmacological similarity as set out in 301.7(2)(b)(ii) which states “taking the substance or plant would have a physical or mental effect substantially similar to that caused by taking a serious drug that is already listed.”
13. The ACC considers that the ability to regulate substances that are pharmacologically similar to listed serious drugs will improve the rate at which drug analogues and novel substances can be included within legislation, increase law enforcement capacity to respond and address the subsequent harm to the community.

301.7 (2) (b) (iv)

14. The ACC is fully supportive of the measure which enhances our ability to work closely with international governments and take advantage of international research to counter the threat from new and emerging substances.
15. The ACC looks forward to continuing to work with the AGD on the implementation of the provisions and in particular the way in which information will be accepted from foreign jurisdictions.

301.13 Emergency determinations – serious drugs

16. The ACC fully supports the legislative framework to establish Emergency determinations regarding serious drugs.

301.13 (2) (b) (ii)

17. As per the 301.7(2)(b)(ii), the ACC considers that the ability to regulate substances that are pharmacologically similar to listed serious drugs will improve the rate at which drug analogues and novel substances can be included within legislation, increase law enforcement capacity to respond and address the subsequent harm to the community.

Schedule 2 – Identity crime and air travel

18. The ACC welcomes and supports the creation of new offences relating to air travel and the use of false identities. The ACC has previously supported this measure and continues to be supportive of measures that harden the aviation environment against exploitation by serious and organised crime groups.

Schedule 3 – Other measures

Part 2 – Penalty units

19. The ACC welcomes and supports triennial review of the amount of a penalty unit as a prudent practice to ensure the deterrent factor remains high.

ACC Contact

20. On behalf of the ACC, I thank you for this opportunity to provide comment on the *Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012*.

Yours sincerely

John Lawler AM APM
Chief Executive Officer

6 November 2012