



Australian Government

Attorney-General's Department
Criminal Justice Division

The Senate Legal and Constitutional Affairs Legislation Committee

**Inquiry into the Australian Crime Commission Amendment (Criminology Research)
Bill 2015**

**Joint submission from the Commonwealth Attorney-General's Department, Australian Crime
Commission and Australian Institute of Criminology**

November 2015

Introduction

1. The Attorney-General's Department (AGD), Australian Crime Commission (ACC) and Australian Institute of Criminology (AIC) welcome the opportunity to provide the Senate Legal and Constitutional Affairs Legislation Committee with this submission as part of the Committee's inquiry into the Australian Crime Commission Amendment (Criminology Research) Bill 2015 (the Bill).
2. The purpose of this Bill is to amend the *Australian Crime Commission Act 2002* (ACC Act) and repeal the *Criminology Research Act 1971* (CR Act) in order to merge the AIC with the ACC.
3. Schedule 1 of the Bill makes amendments to the ACC Act. The purpose of the amendments in this schedule is to enable the merged agency to:
 - continue to carry out the AIC's research work
 - share criminological research and information with any person, including the private sector, and
 - carry out commissioned research.
4. Schedule 2 repeals the CR Act to abolish the AIC as a statutory agency.
5. This submission focuses on the concerns about the Bill outlined in Appendix 1 of the Selection of Bills Committee report of 12 November 2015. It also responds to issues raised in a written submission of 18 November 2015 lodged by the Australian Crime Prevention Council (ACPC) and to concerns raised by the Committee during the public hearing on 19 November 2015.

Overview of the proposed merger

6. Law enforcement and justice agencies are increasingly dependent on accurate research and intelligence to develop and implement evidence-based responses to crime.
7. In recognition of this, the Government has decided to merge the AIC with the ACC to leverage the strengths of both agencies and improve their capacity to provide accurate and timely research and intelligence to police and policy makers. The Bill implements this decision.
8. Following a merger, the AIC will carry its research functions over to the ACC, where it would form a new research branch – the Australian Crime and Justice Research Centre – headed by a senior criminologist and research specialist.
9. The Bill makes a number of amendments to ensure that the Australian Crime and Justice Research Centre can continue to carry out criminological research, and share the results of that research with other researchers and the broader community, in the same way as the AIC currently does. For example, the Bill:
 - amends the ACC's functions to ensure that the Australian Crime and Justice Research Centre can continue to carry out all of the AIC's research, including its monitoring programs, and related work, such as holding conferences and seminars
 - inserts a new information disclosure regime into the ACC Act to enable the ACC to share and publish criminological research and information in the same way as the AIC currently does, and
 - inserts a new provision into the ACC Act that enables the ACC to charge a fee for the services it performs in relation to its new criminological research functions, ensuring that

the Australian Crime and Justice Research Centre can continue to carry out commissioned research.

Implications of the proposed merger

10. Appendix 1 of the Selection of Bills Committee report of 12 November 2015 notes a number of issues which the Committee wishes to examine as part of this inquiry, including whether the Australian Crime and Justice Research Centre will continue to provide:

- strong and independent research, with continued access to the datasets currently available to the AIC, and
- an open-access library.

11. The ACPC, which we understand to be a small voluntary association, has submitted to the Committee that in its view all of the AIC's research work, including its statistical monitoring programs, and related work such as conferences, should continue following a merger.

12. Similar questions were raised by other stakeholders during the development of the merger proposal and the Bill, and the AGD, the ACC and AIC have given significant consideration to these concerns.

13. This submission addresses each of these issues below. It also provides further information on the Criminology Research Advisory Council's role in the merged agency and the impacts the merger will have on staff.

Continued production of strong and independent research

14. If passed by Parliament, the Bill would amend the ACC Act to provide the ACC with the new functions of:

- conducting criminological research
- communicating the results of that research
- performing other activities relating to the conduct of that research, and
- administering programs for awarding criminological research grants and activities related to that research, and to assist the recipients of grants in that research or those activities.

15. These functions are drawn from the AIC's existing functions in section 6 of the CR Act. The AIC was closely involved in drafting these provisions to ensure that the ACC is able to carry out all of the AIC's existing activities should the proposed merger proceed. Like the AIC's functions in the CR Act, this list does not go into specific details of the research topics or activities the Australian Crime and Justice Research Centre may engage in, to ensure that the Centre has the operational flexibility to respond to emerging crime and justice issues.

16. As noted above, following a merger the AIC would form a new branch of the ACC known as the Australian Crime and Justice Research Centre. This will be headed by a senior criminologist and research specialist. An ethics committee will oversee the Australian Crime and Justice Research Centre's activities, as one currently does for the AIC.

17. The Attorney-General's Department, ACC and AIC agreed on this organisational structure following specific feedback from the AIC's stakeholders that the AIC needed to maintain the capability to produce independent research in order to inform evidence-based policy.

18. While part of the Australian Crime and Justice Research Centre's research may become aligned more closely with law enforcement's high-level priorities, such as illicit drugs or transnational crime, the remit of the Centre will continue to be widely defined as crime and justice issues of national importance and will extend well beyond issues affecting law enforcement only. Just like the AIC's research, research developed by the Australian Crime and Justice Research Centre will remain subject to robust ethical and peer-reviewed processes, overseen by an experienced criminology researcher.

19. The Australian Crime and Justice Research Centre will seek to enhance the AIC's international reputation for high quality research, especially through engagement in the Asia-Pacific region. It will also seek to maintain its membership of the UNODC Network of Professional Institutes, which provides an important connection with the UNODC's Commissions and Congresses on Crime Prevention and Criminal Justice.

20. In addition to ensuring that the Australian Crime and Justice Research Centre's research remains independent, the Centre will also continue to have access to the datasets that are currently available to the AIC.

21. The Australian Crime and Justice Research Centre will continue to carry out the AIC's three main work streams:

- statistical monitoring programs
- fee-for-service research, and
- thematic research on crime and justice priorities.

22. The Australian Crime and Justice Research Centre's capacity to conduct monitoring programs and fee-for-service research will not be altered by the proposed merger. In relation to its thematic research on crime and justice priorities, the Australian Crime and Justice Research Centre will work closely with the rest of the ACC, particularly on issues of common interest such as illicit drugs, transnational and organised crime and crime prevention.

23. Researchers from the Australian Crime and Justice Research Centre would also obtain access to the ACC's sensitive law enforcement information, enabling them to carry out research on specific issues for the ACC, law enforcement and justice agencies (which, depending on the nature of the research may or may not be confidential). This will increase the value and relevance of the Centre's research, providing an enhanced evidence base to support a proactive and targeted response to crime and policy development by all Australian law enforcement and justice agencies.

Continued access to AIC datasets by criminologists and the public

24. The ACC Act contains strict provisions governing dissemination of ACC information to other government agencies (section 59AA) and the private sector (section 59AB). This is appropriate, given the sensitive information and intelligence the ACC currently handles.

25. While this is appropriate for the ACC's existing operations, following a merger it will be important that the ACC can continue to make AIC research available to other criminology researchers and the broader Australian community, as the AIC currently does.

26. In recognition of this, the Bill inserts a new information disclosure provision into the ACC Act to enable the ACC to share and publish criminological research and information in the same way as the AIC currently does. This will ensure that criminological research will not become subject to the strict information disclosure regimes that apply to other types of ACC information.

27. The JV Barry Library will also be maintained and the merged agency will continue to provide public access to its holdings on an appointment-basis, as the AIC currently does. As part of the proposed merger, the AIC has also begun digitising parts of the JV Barry Library to improve public access. This process will continue following a merger.

28. The Bill will also provide the ACC with the function of carrying out activities related to criminological research. This will ensure that the ACC can continue to hold, or be involved in, conferences on criminology research and crime prevention issues.

29. In addition to publishing research and holding conferences, the merged agency will respond to specific data requests from researchers in the same way as the AIC currently does. Each request will be assessed on a case-by-case basis, with the level of detail provided subject to ethical and privacy considerations.

30. In the unlikely event of a disagreement between an external researcher and the ACJRC, as is currently the case, researchers can escalate the matter to the CEO. In the unlikely event of a dispute not being dealt with, external avenues of complaint (eg Commonwealth Ombudsman) may provide an avenue for further review.

31. The Bill also inserts a new provision into the ACC Act that enables the ACC to charge a fee for the services that it provides in performing any of its criminological research functions. This provision is intended to replicate the provisions in the CR Act which enable the AIC to charge a fee-for-service, with amendments as required to reflect the merged agency structure. The amendments are intended to ensure that the merged agency can continue to carry out commissioned work. As is currently the case, decisions on charging a fee for datasets will be on a case-by-case basis, depending on the complexity of the data request and the time taken to provide the data.

Criminology Research Advisory Council

32. The CR Act establishes the Criminology Research Advisory Council (Advisory Council) to advise the AIC Director in relation to the AIC's strategic criminology research priorities, the priorities for communicating the results of that research and applications for research grants. Under the CR Act, the AIC Director is ultimately responsible for making a final decision on these issues. The Advisory Council consists of a representative from the Commonwealth Attorney-General's Department and a representative from each state and territory justice department.

33. Schedule 2 of the Bill repeals the CR Act in its entirety. The Bill does not propose to replicate the provisions relating to the Advisory Council in the ACC Act. This is because, while Advisory Council members have noted that they may wish to play a role in the merged agency, they agreed that this role did not need to be legislated.

34. Under the section 7C of the ACC Act, the ACC Board has the functions of providing strategic direction to the ACC and determining the priorities of the ACC. Following a merger, this function will include determining the Australian Crime and Justice Research Centre's strategic direction and criminological research priorities. While the ACC Board includes law enforcement representatives from the Australian Federal Police and each state and territory police force, it also includes Commonwealth representatives that have broader policy interests, including the Attorney-General's Department and Australian Taxation Office.

35. It is proposed that the ACC Board will take advice from a non-legislated Research Advisory Committee. The Research Advisory Committee is intended to perform a similar role to the current

Criminology Research Advisory Council. This will ensure that justice agencies continue to play a central role in advising on the Australian Crime and Justice Research Centre's priorities.

36. At the most recent Criminology Research Advisory Council meeting on 20 November 2015, it was agreed that the new Research Advisory Committee would consist of the Advisory Council's existing members plus two representatives from the ACC, two law enforcement representatives (to be selected by the ACC Board) and a representative from the Australia and New Zealand Society of Criminology. These changes are intended to broaden range of stakeholders from which advice is received regarding crime and justice research priorities. The ACC CEO also proposes that the Research Advisory Committee would meet twice per year, with one meeting focused on research priorities and another on Criminology Research Grants (CRG).

37. It is also proposed that the Research Advisory Committee would still have a role in advising the CEO on CRG applicants through a CRG subgroup. Membership of the CRG subgroup will consist of Research Advisory Committee members who provide a financial contribution to the CRG fund. These arrangements will create a strong and independent committee structure to provide advice to the ACC Board on research priorities for the ACJRC.

Australian Crime and Violence Prevention Awards

38. The Australian Crime and Violence Prevention Awards are annual awards sponsored by the heads of Australian governments and members of the Law, Crime and Community Safety Council (Attorneys General, police and justice ministers from each jurisdiction) as a joint Australian Government, state and territory initiative.

39. The awards reward good practice in the prevention or reduction of violence and other types of crimes in Australia, to encourage public initiatives and to assist governments in identifying and developing practical projects that will reduce violence and other types of crime in the community.

40. Following the merger, the ACJRC will continue to run the Australian Crime and Violence Prevention Awards as a means of fostering and promoting effective crime prevention.

Implications for staff

41. The proposed merger is not about cutting the costs or personnel of either agency – it's about creating a unified workforce incorporating the staff of both agencies. Cumulative savings are expected to total \$0.96m by 2018/19, resulting largely from a reduction of five staff over this period through natural attrition.

42. On 8 October 2015, a delegate of the Public Service Commissioner transferred AIC staff to the ACC under the *Public Service Act 1999*. This important demonstrates that AIC staff will have a place within the merged organisation. It also allows AIC staff to participate in negotiations for the ACC's next Enterprise Agreement.

43. As the AIC will remain a separate agency unless and until Parliament passes the Bill, the ACC CEO has seconded some staff back to the AIC to ensure that it can continue to carry out its statutory functions. Should Parliament not pass the Bill, AIC staff can be formally transferred back to the AIC under the Public Service Act.

Conclusion

44. The Bill implements the Government's decision to merge the AIC with the ACC. It ensures that, following a merger, the ACC can continue to carry out all of the AIC's current research work and share the results of that research with other researchers and the public.

45. This will enable the combined agency to develop strong, independent research on issues of common interest – such as illicit drugs and transnational crime. In turn, this will provide a better evidence base to assist law enforcement and justice agencies to identify the patterns and associations that can help detect and disrupt crime.