



# AUSTRALIAN CRIME COMMISSION

**SUBMISSION TO:**  
**THE PARLIAMENTARY JOINT COMMITTEE ON LAW ENFORCEMENT**

**INQUIRY INTO:**  
**THE GATHERING AND USE OF CRIMINAL INTELLIGENCE BY THE  
AUSTRALIAN CRIME COMMISSION**



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# Executive Summary

Accurate and timely criminal intelligence is the lifeblood of any effective response to serious and organised crime. Criminal intelligence provides decision makers with insight into the activities of organised criminal groups, their members and their activities. It also provides advice on current and emerging areas of risk for Australia's Commonwealth law enforcement, state/territory policing, national security and other government agencies.<sup>1</sup> It informs operational decision-making and priority setting. Criminal intelligence is the product of systematic analysis of information collected from multiple sources. Its uses are many and varied, but its central purpose is to support the decision-making process.

The collection, use and sharing of criminal intelligence is core business for the ACC. The ACC collects data, information and intelligence from various sources, including law enforcement, policing, national security, other government and private sector bodies, and through its own investigations of organised criminal activity. The ACC analyses that material to produce the national picture of serious and organised crime for the benefit of the Australian community.

This picture provides insight into not only current risks facing Australia, but also longer term issues that warrant forward planning to make Australia hostile to serious and organised crime. While this picture is an increasingly important element of the decision-making process, it will only ever be as good as the quality of intelligence on which it is based.

Producing the national picture of serious and organised crime is complicated by a number of issues 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
- the absence of agreement on a consistent way in which Australian agencies collect, collate, analyse, produce, store and disseminate criminal intelligence.

These issues can cause much duplication of effort and inefficiency amongst law enforcement, policing, national security, other government and private sector bodies in understanding the most effective response to the threat and impact of serious and organised crime.

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<sup>1</sup> For the purpose of this submission, the term 'law enforcement' refers to Commonwealth law enforcement agencies; the term 'policing' refers to state/territory police agencies.

To address these issues, the ACC is pursuing an environment where criminal intelligence is treated as a national asset—something that is collected once and used often for the benefit of many—and support is given to an Australian Criminal Intelligence Model and Strategy that secures the free flow of criminal intelligence across the law enforcement, policing and national security domains. The Australian Criminal Intelligence Model and Strategy provide a framework for managing knowledge of the criminal environment for and on behalf of the Australian community, so that this knowledge can be used to reduce the threat and harm posed by serious and organised crime.

The ACC is also pursuing greater collaboration with the private sector and broader community to ensure that responses to organised crime are as adaptive as the criminal business models they seek to disrupt.

## Introduction

In June 2012, the PJC-LE (Committee) established an inquiry into the capacity of the Australian Federal Police (AFP) and ACC to gather, use and share criminal intelligence to reduce the threat and impact of serious and organised crime. The following submission has been structured to address the Inquiry's Terms of Reference, which are listed at Attachment 1.

The collection, use and sharing of criminal intelligence is core business for the ACC. While the agency is effective in performing these functions to produce the national picture of serious and organised crime, there are a number of cultural, technological, legal and policy challenges that inhibit the ACC's efforts. These challenges relate primarily to restrictions on the availability and accessibility of criminal intelligence, and the absence of agreement on the way in which Australian agencies collect, collate, analyse, produce, store and disseminate criminal intelligence.

To address the Inquiry's Terms of Reference, the submission details:

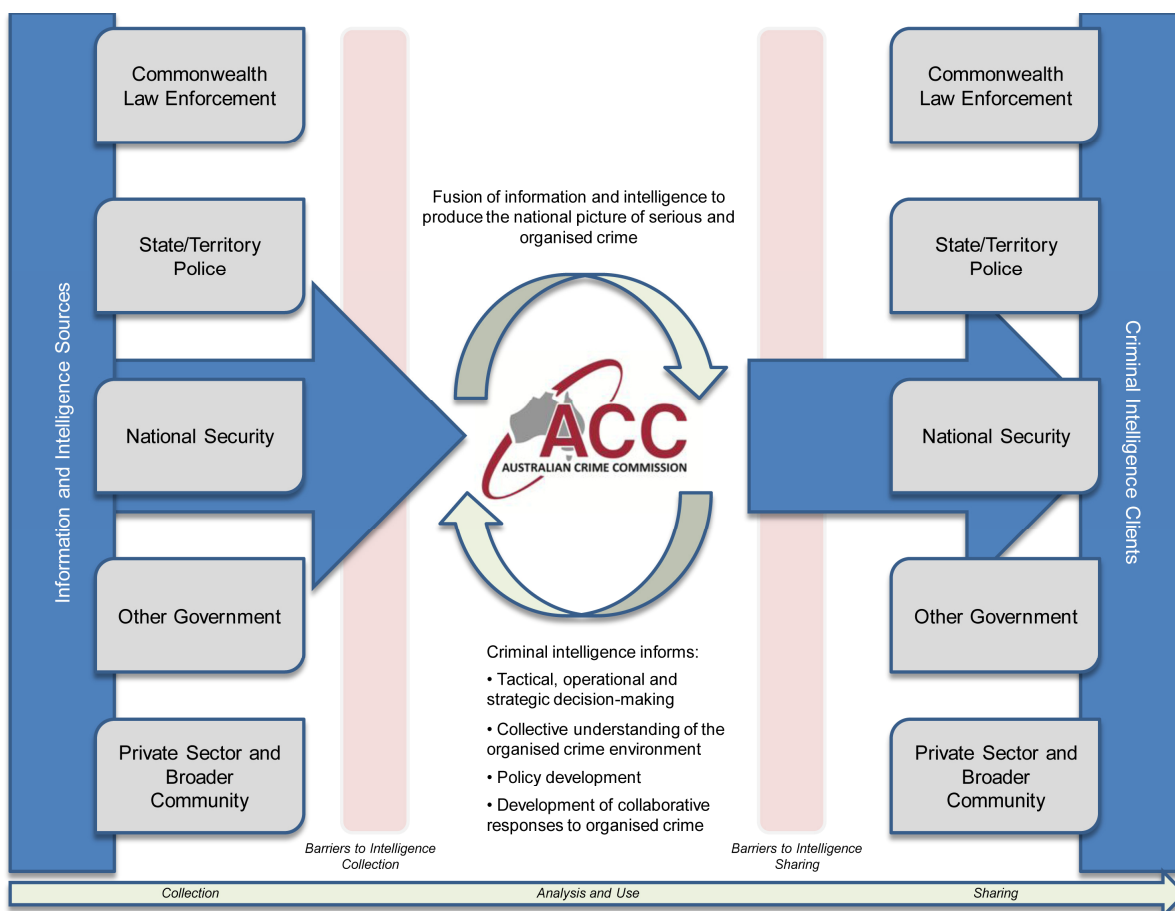
- The role and functions of the ACC
- The contemporary organised crime environment as a national security threat
- The need for criminal intelligence to be seen as a national asset
- Process and challenges associated with the collection, use and sharing of criminal intelligence
- The proposed Australian Criminal Intelligence Model

The submission provides a detailed overview of the proposed Australian Criminal Intelligence Model. The Model is being developed by Australia's law enforcement, policing and national security agencies to improve the flow of criminal intelligence

across these domains, while also securing better interoperability and consistency in intelligence processes. If supported and adequately resourced nationally, the Australian Criminal Intelligence Model will address the many challenges to the effective collection, use and sharing of criminal intelligence discussed in this submission.

A visual representation of the way in which the ACC collects, uses and shares criminal intelligence is provided at Figure 1. More detailed discussion of these processes is provided throughout the submission.

Figure 1. ACC process for the collection, use and sharing of criminal intelligence



# Role and Functions of the ACC

## Who we are

The ACC is Australia's national criminal intelligence agency with special investigative capabilities. The ACC's strategic objective is to work with and for partner agencies to break the business of serious and organised crime.

The ACC's objectives, along with its unique intelligence and investigative capabilities set it apart from other law enforcement and national security agencies in Australia. The ACC uses extensive intelligence collection and analytical techniques to identify previously unknown criminal entities operating domestically and abroad, and to generate actionable intelligence regarding known criminal risks. The ACC works collaboratively across the community to address vulnerabilities exploited by organised crime.

## What we do

The ACC conducts investigations and intelligence operations against Australia's highest risk serious and organised criminals and groups, as well as:

- providing national strategic criminal intelligence assessments
- maintaining the national picture of serious and organised crime
- developing national responses to organised crime
- developing partnerships, providing coordination and collaboration across the Commonwealth, states and territories and the private sector
- providing an independent view about the risk of serious and organised crime across Australia and the impact of offshore threats on the Australian community

The ACC works with partners to disrupt, disable and dismantle serious and organised crime. The agency seeks to harden the Australian environment against the threat of nationally significant crime through the development of prevention strategies and influencing policy and legislation at a Commonwealth and state and territory level.

The ACC is a relatively small agency of approximately 660 staff, with a presence in every state and territory. The ACC Board is a powerful coalition comprised of Australia's Commonwealth and state/territory police commissioners (including the Australian Capital Territory Chief Police Officer) as well as the heads of the ACC, Australian Taxation Office, Australian Security Intelligence Organisation, Australian Securities and Investments Commission, Customs and Border Protection and the Attorney-General's Department. The ACC Board is chaired by the Commissioner of the AFP.



## Agency budget and staffing

For 2012-13, the ACC has a net operating appropriation of \$88.973 million and a departmental capital budget of \$2.754 million. When combined these figures represent a \$91.727 million investment in the ACC's work against the most resilient and significant serious and organised crime entities that impact on Australia.

Funding available to the ACC for 2012-13 has been reduced by \$1.69 million, with available appropriation decreasing by 9.1 per cent overall. The ACC has, for a number of successive years, been subject to very significant cost reduction strategies, particularly in the context of the agency's supplier budget. These reductions adversely affect the ACC's ability to respond to serious and organised crime.

Coordinating the national response to serious and organised crime within current fiscal constraints requires a flexible business model that can scale up or down depending on the resources available. The ACC has well developed internal mechanisms to assess the relative priorities of work that comes to the agency, and uses sound judgment to determine where the agency's resources are best focused to deal with the highest risks and threats that Australia faces.

The ACC's 660 employees include investigators; intelligence collectors and analysts; physical and technical surveillance operatives; research, policy, legal, strategy and governance officers; and various corporate support staff. This figure includes seconded officers (such as state and territory police investigators) and partner agency staff seconded to the National Criminal Intelligence Fusion capability. The Fusion capability brings together the collective skills, knowledge and intelligence holdings of Australian law enforcement, policing, national security and other government agencies. ACC staff require the skills to work in multi-disciplinary teams targeting a broad range of criminal issues affecting Australia.

## Factors to influence ACC intelligence activities

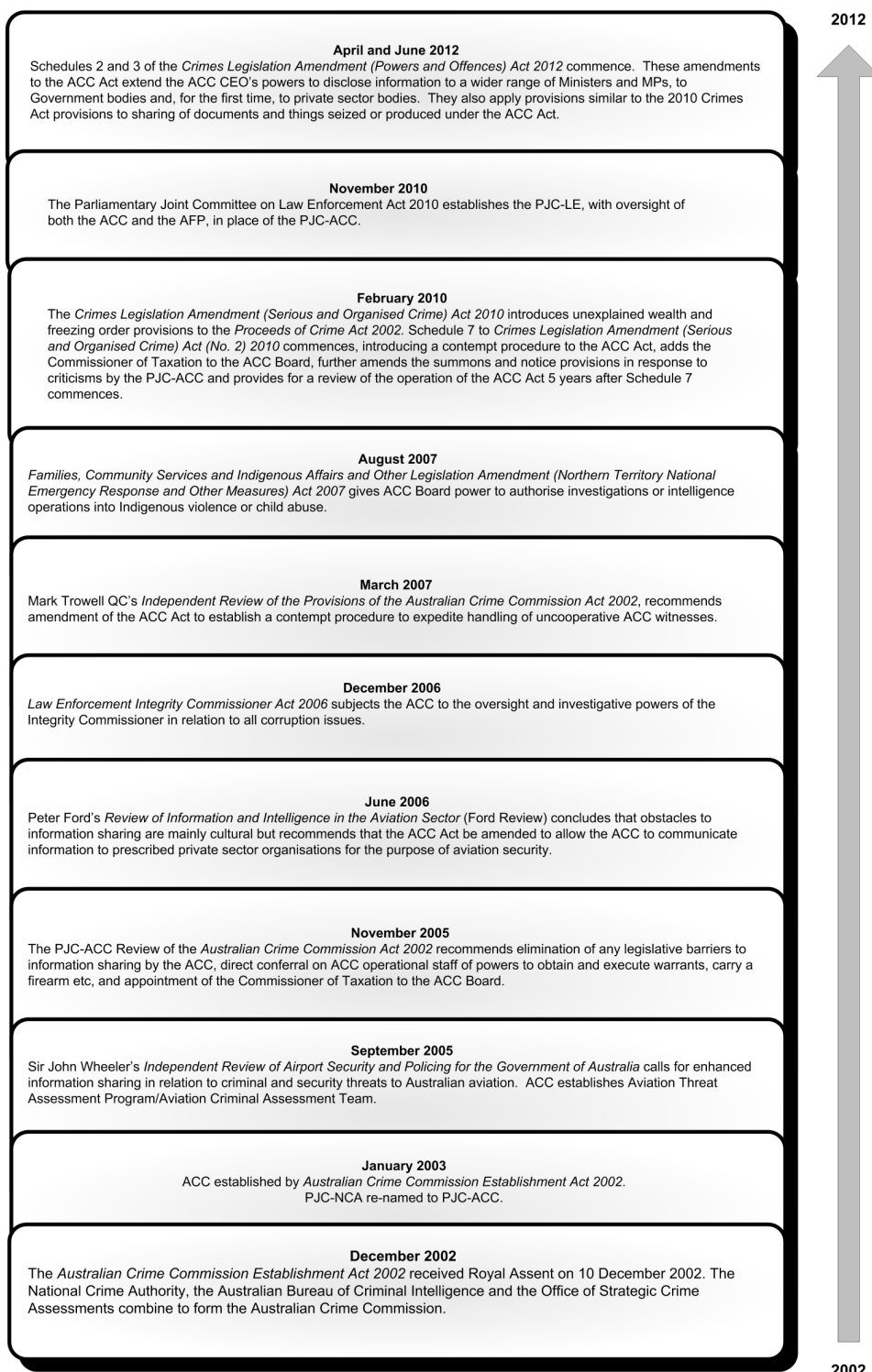
The imperative to share criminal intelligence is not new. A 1986 Australian Bureau of Criminal Intelligence (ABCI) Chairman's report to the Australian Police Ministers' Council stated:

*'Learned papers and international experience over the last two decades clearly indicate that the most effective way to address organised crime and drug trafficking is through the centralised exchange and co-ordination of criminal intelligence.'*

With regard to the ACC, the agency's capacity to collect, use, analyse and share criminal intelligence has been influenced by a number of reviews and inquiries, in addition to several legislative and policy developments. This includes the November

2005 *PJC-ACC Review of the ACC*, which recommended the elimination of any legislative barriers to information sharing by the ACC. The critical milestones that have shaped the ACC's capacity to gather, use and share criminal intelligence are illustrated in Figure 2.

Figure 2. Factors that have influenced the ACC's intelligence sharing framework





# The Contemporary Organised Crime Environment

The traditional view of organised crime conjures up images of criminals trading in illicit drugs, weapons, cigarettes or stolen property sourced from domestic suppliers with links to trusted insiders or corrupt associates. Criminal groups were predominantly hierarchical in structure, with clearly identifiable leaders and followers, who dealt only with other criminals of a similar ethos. Illicit profit was primarily generated through involvement in one or two illicit markets, with little regard for diversification. Violence between criminal groups was resolved in the shadows, and rarely in full view of the public or law enforcement.

Today, the contemporary organised crime environment is unprecedented in its scale and complexity. Some organised criminals operate a business model that mirrors the sophistication and geographical span of legitimate transnational corporations. These more sophisticated criminal enterprises possess the desire, knowledge, resources and adaptability required to rapidly shift into new criminal profit opportunities, while also remaining resilient to law enforcement attention and criminal competition. In the Australian context, the majority of organised criminal entities operate primarily in the illicit drug market. However, many criminal groups have diversified their operations, with interests and activities spanning multiple illicit commodities, with activities often shifting based on product availability and potential profit returns.

Organised criminal groups are now less hierarchical in nature, instead showing a more flexible approach that allows groups to form and dissolve as criminal opportunities arise. In fact, some criminal networks may only exist for as long as it takes to arrange for the importation and distribution of a quantity of illicit drugs. It is also now common for some individuals to provide specific services that facilitate the criminal activities of others. This can include the provision of specialist money laundering services on behalf of drug trafficking networks, or the facilitation of transnational tax avoidance schemes.

Criminal groups no longer operate within a set ethos, and routinely operate outside traditional ethnic or ideological boundaries to pair up with other criminals that can facilitate illicit activities. These changes have altered the level of tension between criminal groups, with competition for illicit markets and geographical territory intensifying as new players enter the market, or existing players attempt to expand control. This tension can trigger public acts of violence between rival group members, with firearms and weapons often used to attack other criminals and their property.

For the majority of Australians, organised crime seems like a distant threat, far removed from our daily lives. In reality, the social and economic harm that is caused through illicit drugs, financial crime and the exploitation of Government programs has a very real impact across the whole community. The ACC conservatively estimates that serious and organised crime costs Australia \$15 billion every year. Indirect costs such as those associated with illicit drug use, forced prostitution and community violence are also significant. Illicit drug use, for example, has an estimated social cost of over \$8 billion annually. There are also serious but non-quantifiable impacts including the damage to family relationships, community and social cohesion, and the loss of public confidence in the rule of law and the administration of justice.

Responding to the contemporary organised crime environment requires an innovative, persistent and all-encompassing approach, using creative strategies and proven methods that seek to reduce the threat and impact of serious and organised crime. This includes greater collaboration between law enforcement, policing, national security and other government agencies, with increased support from the private sector and broader community.

## **Organised crime – an issue of national security**

Organised crime is a significant threat to national security. The propensity for public acts of violence, the trafficking of illicit drugs and weapons that affect health and well-being, the laundering of illicit wealth through legitimate sectors and undermining of the economy can each have a destabilising affect on national interests.

Illicit drug trafficking, money laundering, serious fraud, financial and identity crimes are a daily occurrence in Australia. While these crimes may not be directly visible to the community, they threaten the safety and welfare of Australia's citizens and interests.

Illicit drugs may be sold to fund attacks against a state or its citizens. Monies used to support terrorist organisations can be laundered through the same channels as profits derived from the sale of illicit drugs or weapons. Fraudulent identities, often created with false passports and other identity documents can be used to smuggle or traffic persons across borders and outside of lawful channels.

The ACC plays an important role in Australia's national security environment, and provides a unique nexus between Australia's law enforcement, policing and national security agencies by facilitating the flow of criminal intelligence across these domains. The ACC is developing strong relationships with many members of the Australian Intelligence Community (AIC) to progress innovative and broader responses to serious and organised crime.

# Criminal Intelligence is a National Asset

Accurate and timely criminal intelligence is the lifeblood of any effective response to serious and organised crime. Criminal intelligence provides decision makers with insight into the activities of organised criminal groups, their members and their activities. It also provides advice on current and emerging areas of risk for Australia's law enforcement, policing, national security and other government agencies.

Without a credible intelligence picture, responses to organised crime are likely to treat the symptoms of the issue, as opposed to the causes. Getting to the cause and developing effective and lasting strategies to disrupt the highest criminal risks is absolutely dependant on accurate and timely flow of criminal intelligence.

The United Nations Office on Drugs and Crime (UNODC) describes criminal intelligence as:

*'...the lifeblood of the fight against transnational organised crime. It is the foundation for all proactive investigations...and is used for all serious crimes, including, corruption, drug trafficking, and terrorism.'*

Australian agencies have traditionally used criminal intelligence to inform tactical decisions concerning specific criminal entities—for example, determining criminal associations and likely criminal activities. However, in the current environment, criminal intelligence is used for a multitude of purposes, with its impact stretching across all levels of the decision-making process. It is used to inform long term response strategies to the highest risk criminal targets and markets, as well as the proactive identification of market and sector vulnerabilities open to exploitation by organised crime. Looking ahead, it is envisaged that criminal intelligence will also be used to develop a deeper understanding of the organised crime business model, so that innovative response strategies can be tailored to address criminal entities' weaknesses and vulnerabilities.

Criminal intelligence is generated by all Australian law enforcement, policing and national security agencies in the context of their respective operating environments. Each piece of criminal intelligence generated forms part of a broader puzzle that is the national picture of serious and organised crime. Piecing together this puzzle requires access to all the distinct pieces of criminal intelligence, as well as the determination to generate an objective national picture of organised crime and its related issues. The end result of this process is a national picture of organised crime that is of benefit to all its contributors.

# Collection and use of Criminal Intelligence

## Intelligence collection

The ACC has a primary role in gathering, using and sharing criminal intelligence. This role is legislated under Section 7 of the *Australian Crime Commission Act 2002* (Cth) (ACC Act), which requires the ACC to:

- 7A(a) to collect, correlate, analyse and disseminate criminal information and intelligence and to maintain a national database of that information and intelligence
- 7A(b) to undertake, when authorised by the Board, intelligence operations
- 7A(e) to provide criminal intelligence assessments to the ACC Board, comprised of the heads of Australian law enforcement, policing, national security and other government agencies
- 7A(f) to provide advice to the Board on national criminal intelligence priorities.

### *Sources of criminal intelligence*

The ACC collects information and intelligence from a range of government, public and private sector sources. This includes Australian law enforcement, policing, national security and other government agencies, as well as foreign law enforcement bodies. The majority of this material is provided to the ACC by its partners in support of criminal investigations or mutual intelligence sharing practices aimed at improving the collective understanding of serious and organised crime. Some material is also collected through lawful use of covert sources.

The ACC also collects intelligence using its coercive powers. The ACC is authorised under the ACC Act to compel persons to provide information to the Commission, either via coercive examination or the provision of documents or other materials, where relevant to an ACC Board-agreed Special Investigation or Special Operation. These powers form a critical element of the ACC's intelligence collection capability, and provide a valuable source of intelligence regarding serious and organised crime. Coercive examinations allow the ACC to break the 'code of silence' that plagues the serious and organised crime environment, while providing witnesses a level of protection against self-incrimination. 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.

### ***Link to the Australian Intelligence Community***

The ACC enjoys an effective working relationship with its national security partners. The National Criminal Intelligence Fusion capability (Fusion), established in 2010 to maximise the efficiency of national data and intelligence holdings and the use of analytical skills and systems of law enforcement agencies, forms the bridge between Australian law enforcement and the AIC. Through Fusion the ACC receives intelligence from, and provides intelligence to, the AIC on matters of mutual interest to Australian law enforcement, police and national security agencies.

Beyond the AIC, the Fusion Centre also collects intelligence from:

- Commonwealth law enforcement, regulatory and policy agencies
- State/Territory police agencies and crime commissions
- Foreign law enforcement agencies, supported by the AFP
- Private sector organisations.

### ***Criminal intelligence collection framework***

The ACC collects criminal intelligence in support of the National Intelligence Priorities (NIPs), National Criminal Intelligence Priorities (NCIPs) and ACC Board-agreed Determinations. The NIPs and NCIPs are designed to ensure law enforcement, policing, national security and other government agencies are collectively working toward common intelligence collection goals, of which key areas of threat and risk are prioritised. ACC Board-agreed Determinations, known as Special Investigations and Special Operations, also guide the ACC's collection of criminal intelligence. Determinations are established by the ACC Board and form the basis for the ACC's work priorities. This includes the collection of criminal intelligence in response to significant events, such as major policy shifts or world events (for example, the 2011 UK riots), in order to provide government and its partners with insight and advice in support of future decision-making.

### ***Sovereignty of criminal intelligence***

Once intelligence is provided to the ACC, it can be used and shared in accordance with Section 7 of the ACC Act. This section 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.



## ***Common challenges to intelligence collection***

### ***Inconsistent intelligence collection plans and priorities***

Collectively, the ACC and its law enforcement, policing, national security and other government partners are not uniformly held accountable to a single set of national intelligence priorities that focus collection efforts on issues posing the greatest threat and risk to Australia. This can lead to inefficiency and duplication of effort by these agencies.

### ***Accessibility of information and intelligence sources***

Criminal intelligence is presently stored in more than 30 systems operated by Australian law enforcement, policing, national security and other government agencies, with limited interoperability across each. There is no single and complete point-of-truth for Australian criminal intelligence holdings, or an automated process for searching across all systems simultaneously. While the ACC can lawfully request information and intelligence from its partners, this can be a highly inefficient process. The absence of a consistent request for information (RFI) process amplifies this problem. Access to a single and complete point-of-truth for Australian criminal intelligence holdings, as well as a consistent approach to RFI, would resolve this issue.

### ***Balancing the 'need to know' with the 'responsibility to share'***

The nature of the contemporary organised crime environment demands that the ACC and its partners devise new and collaborative strategies for responding to serious and organised crime. Just as national security intelligence should not be shared all of the time, neither should all criminal intelligence. With any intelligence there is an ever-present, yet unlikely, threat of intelligence falling into the wrong hands. This has the potential to compromise capabilities, disrupt intelligence or investigative operations, and possibly put in danger the lives of intelligence sources. However, for the ACC and its partners to be more effective in responding to serious and organised crime, a culture must exist where security requirements are balanced and information generated and held by individual jurisdictions and the Commonwealth is valued and shared as a national asset. Law enforcement, policing, national security and other government agencies must consider their '*responsibility to share*', in addition to the traditional '*need to know*' principle.

***KEY MESSAGE: Organised crime affects all Australian states and territories. It is a national issue that requires a national response. Criminal intelligence must be treated as a national asset that is available to, and shared by, all relevant agencies.***

## ***Future state of intelligence collection***

The ACC is of the view that for criminal intelligence to be more widely recognised as a national asset that adds value to the decision-making process:

- National agreement and commitment is required to secure the free flow of complete and current criminal intelligence across the law enforcement, policing and national security environments, as identified in the Australian Criminal Intelligence Model discussed within this submission.
- A culture must exist whereby security requirements are balanced and information generated and held by individual jurisdictions and the Commonwealth is valued and shared as a national asset.
- Appropriate technology, policy and legislation must support the sharing of criminal intelligence and related information between agencies operating in law enforcement, policing, national security and other government domains.
- Increased recognition should be given to the transnational and borderless nature of contemporary organised crime. There is a 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.

***KEY MESSAGE: The national picture of serious and organised crime generated by the ACC will only ever be as good as the criminal intelligence on which that picture is based, coupled with the ACC's capacity to effectively analyse and share that picture.***

## **Use of criminal intelligence**

The ACC is both a receiver and producer of criminal intelligence. 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 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.

ACC criminal intelligence is shared in the form of formalised analytical and tactical intelligence products. Analytical intelligence products relate primarily to organised crime trends, methodologies and emerging issues. Tactical intelligence products relate primarily to individual criminal entities or criminal groups of interest to the ACC and its partner agencies.

### ***Strategic and operational intelligence***

The *Picture of Criminality in Australia* (PoCA) suite comprises the ACC's flagship analytical intelligence products. The PoCA suite consists of:

- a biennial *Organised Crime Threat Assessment*, which provides a classified assessment of the risk posed by criminal markets and forms a key element of the Commonwealth Organised Crime Strategic Framework and informs associated Response Plans
- an annual *National Criminal Target Report*, which provides a classified point-in-time picture of serious and organised crime targets' activities, operating locations and methodologies
- an annual *Illicit Drug Data Report*, which provides an unclassified snapshot of the Australian illicit drug market
- a futures-focused *Organised Crime 2020* assessment, which provides advice on the evolving future of organised crime in Australia.

All products in the PoCA suite are developed by the ACC using information and intelligence provided by Australian law enforcement, policing, national security, other government and private sector bodies. These intelligence products represent the collective understanding of the ACC and its partners regarding the 'who' and 'what' of serious and organised crime in Australia.

#### **CASE STUDY: NATIONAL CRIMINAL TARGET REPORT**

The *National Criminal Target Report: Serious and Organised Crime Targets* (NCTR) is one of the ACC's flagship strategic intelligence products. While the *Organised Crime Threat Assessment* looks at the 'what' of organised crime, the NCTR looks at the 'who'. This annual report provides a point-in-time picture of known organised crime entities that represent the highest levels of risk to Australia. It covers both Australian-based and offshore entities whose activities have an impact on the Australian community. The NCTR is produced through analysis of target data provided by Commonwealth law enforcement, state and territory police agencies and crime commissions. The ACC adds value to this data through data matching and data fusion, to identify previously unknown criminal links and targets. The NCTR is deepening the overall understanding of targets and helping to ensure collective resources are used in the most coordinated and effective way possible.

### ***Tactical intelligence***

The ACC provides its partner agencies with tactical intelligence that is designed to convey important messages in a timely manner. Tactical intelligence is derived primarily from covert human sources, electronic surveillance devices, coercive examinations, liaison with partner law enforcement and national security agencies, and ACC-Board approved Special Investigations and Special Operations. Tactical intelligence is most often shared in the form of written information reports, but may also be provided to clients verbally in time-critical situations, such as providing border agencies with advice of an imminent drug importation.

### ***Return on investment for contributing agencies***

As a service delivery agency, the ACC has a responsibility to provide its partners with valuable and actionable intelligence in support of decision-making.

The ACC is a national agency that is able to view the contemporary criminal environment from a national perspective, taking into consideration criminal activities, methodologies and issues relevant to each Australia state and territory, as well as issues affecting the nation as a whole. From this position, the ACC is able to provide Australia's law enforcement, policing, national security and other government agencies with advice on how organised criminality in their region compares to other regions both in Australia and overseas, and to that of the national picture.

Every intelligence and investigative project initiated by the ACC leads to an intelligence dividend. This dividend is always for the benefit of one or more partner agencies. This approach ensures the ACC is consistently focused on providing its partners with a return on investment for their intelligence contributions.

Up until now, the ACC has measured the effectiveness of its intelligence based on traditional law enforcement measures, such as the number of arrests and charges made, number and quantity of drugs seized, and the number of prosecutions brought to court. The quantitative measures were based on the purpose and nature of the organisation in 2003. Since that time, the ACC has matured into Australia's national criminal intelligence agency, focused on improving the country's intelligence dividend by bridging the gap between the policing, law enforcement and intelligence communities.

The ACC is now intent on measuring its performance in a way that reflects this role and which captures the value and impact ACC intelligence provides.

***KEY MESSAGE: Criminal intelligence should be collected once and used often for the benefit of many.***

### ***Common challenges to the use of criminal intelligence***

The use of criminal intelligence can be inhibited by a number of cultural, procedural and information security-related factors. This includes:

- *A limited understanding of the value and utility of criminal intelligence.* Law enforcement, policing, national security and other government decision makers do not always appreciate the ways in which criminal intelligence can be applied in support of decision-making.
- *Challenges to measuring the success and value of intelligence.* The value of an agency's work in the intelligence space is often measured by the number of intelligence products produced and shared. Consideration is rarely given to the impact that intelligence has on the decision-making process. This is primarily due to the difficulty associated with measuring a qualitative variable of this nature.

### ***Future state for the use of criminal intelligence***

Addressing these challenges requires a consistent approach to the management of intelligence assets, in addition to increased recognition of the ways in which intelligence can be used in support of decision-making. The ACC is of the view that:

- A need exists for the establishment of common standards, processes and protocols for managing intelligence assets. This includes greater recognition of the value and benefit of criminal intelligence and its role in supporting the decision-making process at all levels.
- Criminal intelligence must be viewed as a national asset—something that is to be generated by, and shared amongst, law enforcement, policing, national security and other government environments.
- Increased consideration should also be given to the various ways in which criminal intelligence can be better used in government administrative and strategic decision-making processes.

The case study below provides an example of how criminal intelligence may be used in support of the decision-making process.

#### **CASE STUDY: COMPELLING CRIMINAL INTELLIGENCE USED TO DETERMINE SUITABILITY FOR AVIATION AND MARITIME SECURITY IDENTIFICATION CARDS**

In May 2012, the Minister Home Affairs and Minister for Justice the Hon Jason Clare MP announced the next stage of work to tackle organised crime on the waterfront. The announcement revealed a major expansion of the work of law enforcement agencies targeting organised crime on the waterfront to Melbourne and Brisbane; and a number of



major reforms to make it harder for organised criminals to exploit and infiltrate the waterfront and the private sector supply chain.

The Minister announced the Federal Government will introduce legislation to provide powers to revoke or refuse a Maritime Security Identification Card (MSIC) or an Aviation Security Identification Card (ASIC) to a person where it is determined that they are not a fit and proper person to hold a card on the basis of compelling criminal intelligence. This will include an appeal mechanism.

## Intelligence sharing

Once criminal intelligence has been collected and analysed, with value added to it, it must be shared with others in order to have an impact on the decision-making process.

The ACC shares criminal intelligence with law enforcement, policing, national security and other government agencies, in addition to the general public, in accordance with the information sharing provisions of the Act. The Act provides a clear guide on who can receive ACC criminal intelligence and for what purposes.

Changes to the ACC Act in April and June 2012 extended the scope of persons who can receive ACC criminal intelligence to include a wider range of Ministers and Members of Parliament, government bodies and, for the first time, private sector entities. These changes represent a significant advancement, one that will allow the ACC to work more closely with government and private sector bodies to combat the threat and impact of serious and organised crime.

Inclusion of the private sector to the list of ACC criminal intelligence recipients is a particularly important move. It recognises that organised crime affects all aspects of the community, and not just law enforcement and policing bodies. For example, organised criminal entities have a direct impact on sectors such as finance and banking through large-scale fraud and money laundering, and often use trusted insiders working in these sectors to facilitate their activities. The ability to share criminal intelligence with the private sector allows the ACC and its partners to develop more effective and inclusive response strategies to break the business of organised crime.

### **CASE STUDY: CARD SKIMMING CRACKDOWN**

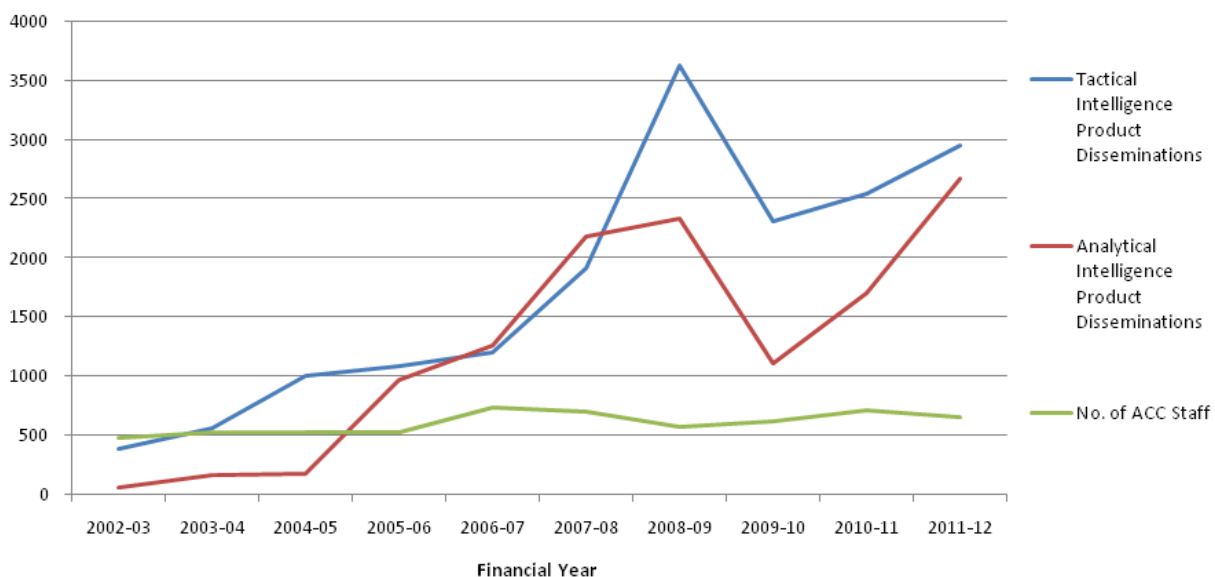
Australia, like many other developed nations, has witnessed an increase in the use of credit and debit cards as a method of payment for goods and services. Although this increase has provided greater convenience for consumers and businesses, it has been accompanied by higher levels of fraud and theft of funds in relation to electronic transactions. In March 2011, the ACC led a coordinated attack against card skimming and associated criminal offences. This resulted in the establishment of Task Force Chamonix with state and territory police, the AFP, Australian Customs and Border Protection Service and the AIC.

The ACC and Task Force Chamonix worked closely with financial institutions and industry groups such as the Australian Payments Clearing Association (APCA), to combat card skimming. In March 2011, the ACC CEO, Mr John Lawler AM APM, launched the APCA initiative 'Safeguard against Skimming'. The initiative, also supported by the AFP and the NSW Police Force, educates merchants about securing their terminals at the point of sale and what to do when security is compromised. The ACC continues to work closely with APCA and other industry bodies to combat card fraud in Australia.

In 2011-12, the ACC shared its analytical intelligence products with partner agencies on more than 2,500 occasions. Tactical intelligence products were shared on more than 3,000 occasions. This is more than twice the number of times intelligence products were shared only five years prior, in 2006-07.

Figure 3 illustrates the number of times ACC criminal intelligence products have been shared annually since formation of the agency in 2003. While the figure highlights an upward trend on the number of times ACC intelligence products are shared each year, the decline in 2009-10 represents an important milestone in the ACC's development. This decline coincides with the implementation of a new operating model and organisational structure for the ACC, known as the Sentinel model, which ingrained the notion that everything the ACC does is with, or for, a partner agency. The Sentinel model places greater emphasis on the production of high-quality intelligence that supports partner agency decision-making, and less emphasis on the number of intelligence products generated.

Figure 3. Number of ACC criminal intelligence disseminations since 2003



## ***Systems to support intelligence sharing***

### *Australian Law Enforcement Intelligence Network*

The ACC maintains the Australian Law Enforcement Intelligence Network (ALEIN). ALEIN is the secure extranet that provides a gateway for law enforcement, policing, national security and other government agencies to access the:

- Australian Criminal Intelligence Database (ACID)
- National Clandestine Laboratory Database
- Violence and Sexual Crime Database

ALEIN is also a secure messaging channel that facilitates the sharing of criminal intelligence between Commonwealth, state and territory agencies. In addition to sending criminal intelligence direct to its partners, the ACC also publishes intelligence assessments to ALEIN, where they are accessible in a secure web-like environment.

### *Australian Criminal Intelligence Database*

ACID is a criminal intelligence and information system that provides more than 25 Commonwealth, state and territory law enforcement, policing, national security and other government bodies with the ability to securely collate, analyse and share criminal intelligence nationally. In 2010-11, there were 2775 active users of ACID, with nearly 560,000 searches for information and intelligence conducted. A total of 451,039 information and intelligence documents were also uploaded to the system.

Intelligence hosted on ACID is contextually rich and offers intelligence analysts and investigators insights into a wide variety of criminal themes, concepts and issues. The system also provides users with functionality and tools to assist with identifying, analysing and sharing critical pieces of criminal intelligence, including details of new criminal trends, emerging methodologies, links between criminal entities and cross-border criminal activities.

## ***Challenges to intelligence sharing***

### *Investment in capability*

The level of resources available to the ACC to facilitate intelligence sharing is also an area of concern for the agency. ACC staff must be trained on processes and procedures for intelligence sharing before they can engage in this work. This is to ensure compliance with the Act and legal disseminations framework. At present, current ACC resource levels are stretched by the volume of intelligence to be collected, analysed and shared. This 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.

#### *Legislative framework*

The 2005 PJC-ACC *Review of the ACC* recommended the elimination of any legislative barriers to information sharing by the ACC. While progress has been made to provide greater flexibility in cross-agency information and intelligence sharing, including recent legislative change allowing the ACC to share information with the private sector, several challenges continue to limit the ACC's ability to share valuable intelligence with its partners. This includes challenges with state/territory privacy and information security legislation that not only limit the agency's access to information and intelligence (and associated systems), but also dictate who intelligence can be shared with and for what purpose.

For example, telecommunications intercept (TI) material collected by the ACC may only be shared with a small number of agencies—with many of the ACC's partners excluded from current sharing provisions.

#### *Technology*

While the ACID/ALEIN systems provide a secure platform for the sharing of criminal intelligence between law enforcement, policing, national security and other government agencies, they are based on outdated technology that is no longer fit for purpose. In addition, the quality, quantity and format of intelligence uploaded to these systems for the purpose of analysis and sharing is significantly varied. This disparity reduces the ability of system users to search across and analyse intelligence holdings, which in turn builds aversion to the system generally. While connectivity exists to allow greater sharing of criminal intelligence between agencies using the ACID/ALEIN network, its value will only ever be as good as the quality of the intelligence that it contains.

***KEY MESSAGE: The current legislative framework offers maximum protection to criminal intelligence, but can also impede cross-agency sharing. There is a need for greater flexibility in recognition of evolving and more collaborative responses to organised crime.***

### ***Future state for the sharing of criminal intelligence***

The ACC views that for criminal intelligence to be more widely shared amongst the law enforcement, policing and national security domains:

- A need exists for common technical and security architectures that support the exchange and analysis of information and intelligence across the law enforcement, policing and national security domains, with capacity to introduce additional government stakeholders (both domestic and foreign) as required.
- Greater legislative flexibility is required to support the exchange of criminal intelligence across agencies and jurisdictions, including the sharing of TI material.
- A critical dependency for the success of the Australian Criminal Intelligence Model is effective technology to underpin each phase of the intelligence cycle.

## **The Future of Criminal Intelligence in Australia**

Addressing the various challenges to the collection, use and sharing of intelligence identified in this submission requires a change to the way in which Australia's law enforcement, policing, national security and other government agencies view criminal intelligence. This comes in addition to changes to the way in which agencies collect, collate, analyse, produce, disseminate and share intelligence—all of which are critical components of the intelligence management process.

A proposed solution to address these many challenges comes in the form of the Australian Criminal Intelligence Model (the Model).

### **Australian Criminal Intelligence Model**

The Model is being developed by Australian law enforcement, policing and national security agencies at the request of the ACC Board. It is designed to provide clarity and consistency of standards, processes and protocols for intelligence-led policing and collaborative work to enhance the national picture of organised crime. The Model reflects the intelligence needs of law enforcement, policing and national security agencies across the Commonwealth and states/territories, and seeks to provide greater interoperability with the national security domain. The Model is consistent with capability 1.3 of the Commonwealth Organised Crime Strategic Framework (OCSF).

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.

The Model has as its guiding principles:

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

These principles underpin the vision of *intelligence partnerships for a safer Australia*. The vision is further supported by a strong mission statement, *the free flow of criminal intelligence across the policing, law enforcement, law compliance and national security environments*, and a commanding set of 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.

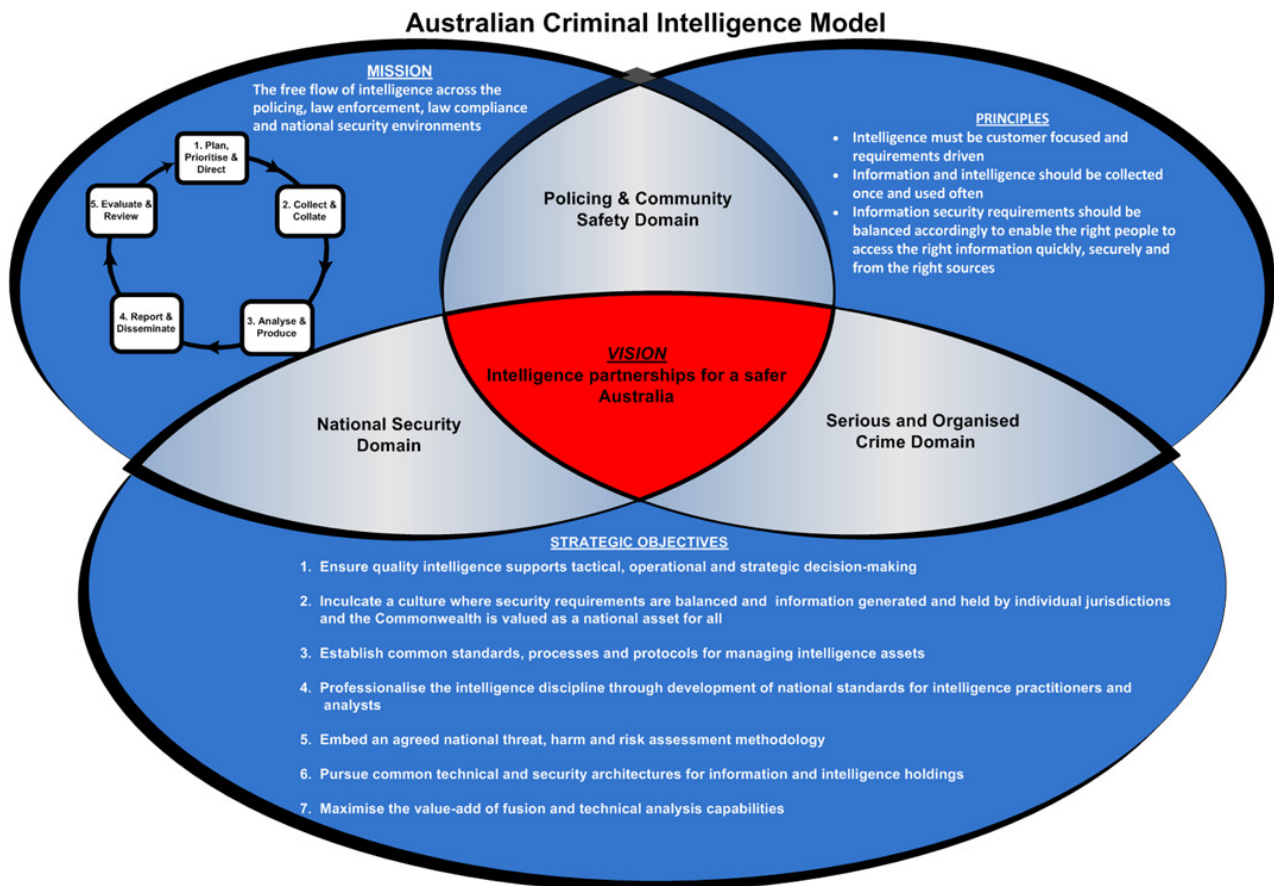
Key to achieving these seven strategic objectives and to the longevity of the Model and Strategy is a supporting policy and legislative framework to facilitate information sharing, improved technical capabilities and a culture of national intelligence sharing. A visual illustration of the Model is provided at Figure 4..

Implementation of the Model and Strategy requires a commitment from Australia's law enforcement, policing and national security agencies to adhere to its guiding principles and strategic objectives. Implementation also requires additional resources

to assist Australia’s agencies in transitioning to a new way of managing criminal intelligence.

Importantly, an investment to improve criminal intelligence processes is an investment in Australia’s ability to identify, detect, disrupt and prevent serious and organised crime.

Figure 4. Australian Criminal Intelligence Model



# Conclusion

To meet the ACC's mandate to be Australia's national criminal intelligence agency, access to the widest possible range of information and criminal intelligence is essential. Just as the ACC is constrained by its own legislation and resources in disseminating criminal intelligence, it also experiences difficulties in accessing information and intelligence held by others. Causal factors include artefacts of a culture that remains rigid in its application of the 'need to know' principal; inconsistent approaches to the provision of information and intelligence to the ACC; inconsistent approaches to the collection, storing and management of intelligence; and incompatible systems and security frameworks that limit sharing potential. When combined, these issues limit the ACC's capacity to collect vital intelligence used to produce the national picture of serious and organised crime.

In an ideal situation there would be sufficient harmonisation between Australia's law enforcement, policing and national security agencies to secure access by the ACC and its partners to the free flow of criminal intelligence across these domains. Culture, technology, policy and legislation would all support greater exchange of criminal intelligence, and recognition would be given to the increasing role the private sector and broader community play in responding to serious and organised crime.

Intelligence would be viewed as a national asset that forms an integral part of the decision-making process, with its uses stretching beyond traditional tactical decisions, into increasingly broader strategic advice to government about over-the-horizon threats and vulnerabilities. There would be common standards, processes, protocols and priorities to improve the efficiency with which Australian agencies collect, use and share intelligence, with the broader strategic aim of increasing the value of criminal intelligence in reducing the threat and impact of serious and organised crime.

The Australian Criminal Intelligence Model and Strategy provide a solution to many of these challenges, noting however that some challenges require cultural change that can only be achieved with consistent effort over a long period of time. Acceptance and resourcing of the Model and Strategy would be a significant move toward optimal intelligence partnerships for a safer Australia.

# Attachment

## Attachment 1. Terms of Reference

### **Inquiry into the gathering and use of criminal intelligence**

To inquire into the capacity of the ACC and AFP to gather, use and share criminal intelligence to reduce the threat and impact of serious and organised crime. In that context the committee will 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
- e. interoperability of Australian law enforcement agencies in relation to criminal intelligence holdings.