



Australian Government

**Australian Transaction Reports
and Analysis Centre**

**Parliamentary Joint Committee
on the Australian Crime Commission**

**Inquiry into the adequacy of aviation and maritime
security measures to combat serious and organised
crime**

**Australian Transaction Reports and Analysis Centre
Submission
November 2009**

Introduction

The Australian Transaction Reports and Analysis Centre (AUSTRAC) welcomes the opportunity to make a submission to the Parliamentary Joint Committee on the Australian Crime Commission (ACC) inquiry into the adequacy of aviation and maritime security measures to combat serious and organised crime.

Profit is the primary driver of serious and organised criminal groups. How these groups process their profits, whether through legitimate businesses or other illicit activities, exposes a key vulnerability. It is the money trail left by money laundering or reinvestment in other illicit activities that makes serious and organised crime visible to law enforcement or other regulatory agencies.

As Australia's financial intelligence unit (FIU) and anti-money laundering and counter-terrorism financing regulator, AUSTRAC is strategically placed to identify, monitor and report on the processes that serious and organised criminal groups use to launder or reinvest their profits. AUSTRAC collects and analyses financial transaction data and information from the financial services, bullion and gambling services sectors. It uses this information to develop and disseminate targeted, tactical and strategic financial intelligence to designated agencies and the financial intelligence units of foreign governments.

Serious and organised criminal groups often launder or reinvest their profits off-shore. AUSTRAC identifies this financial activity through the collection and analysis of international funds transfer instructions, cross border movements of physical currency or bearer-negotiable instruments, threshold transaction reports and suspicious matter reports. AUSTRAC also exchanges financial intelligence with

overseas FIUs and is therefore able to request and receive financial intelligence from abroad.

The methods used by serious and organised criminal groups to infiltrate Australia's airports and ports, and the extent of the infiltration

Recent national and international investigations of serious and organised crime infiltration at airports and ports show a common *modus operandi* via the corruption of employees or placement of group members in key services within airports and ports.¹ AUSTRAC believes that there is the potential to identify corrupt employees or members of serious organised crime groups employed within airports and ports through the examination of the nature of financial relationship between the parties. There may be indicators of unusual or suspicious activity linked to persons engaged in this industry that indicate potential corruption and may also establish an association between entities identified through transactions recorded on the AUSTRAC database.

For example, if a corrupt employee was to receive large lump sum cash payments, it is possible AUSTRAC might receive a related threshold transaction report or suspicious matter report from a reporting entity. However, if the person is paid a regular retainer which falls below the \$10,000 cash transaction reporting threshold, the behaviour may not be directly visible to AUSTRAC unless a suspicious matter report is lodged.

¹ ACC Strategic Intelligence Report into Australian Aviation Sector Criminality Assessment (June 2006); Wheeler Review of Airport Security and Policy for the Government of Australia (September 2005); ACC update Illegal Maritime Importation and Movement Methodologies (IMIMM) Determination: Findings (September 2008); ACC Strategic Intelligence Report into the Nature and Extent of Criminal Infiltration of the Maritime Sector.

AUSTRAC believes that it is essential to understand the profit sharing arrangements among members of serious and organised criminal groups in order to identify possible members operating in airports or ports. By understanding the profit sharing arrangements and mechanisms, including the raising of funds for joint ventures between criminal groups, it may be possible to detect these transactions in AUSTRAC's intelligence holdings. This information may lead to AUSTRAC identifying broader financial networks of interest to law enforcement agencies.

The range of criminal activity currently occurring at Australia's airports and ports

AUSTRAC's financial data has assisted in the identification of a range of suspected offences occurring at Australia's airports and ports, including:

- the importation and distribution of narcotics;
- money laundering;
- tariff avoidance;
- currency/undeclared cash smuggling;
- tax evasion;
- people smuggling;
- prohibited goods
- counterfeit goods; and
- tobacco smuggling.

Other vulnerabilities may include exporting prohibited native fauna and commodities such as diamonds, bullion, and jewellery (high value, low volume goods).

The effectiveness of the Aviation Security Identification Card (ASIC) and Maritime Security Identification Card (MSIC) schemes; including the process of issuing ASICs and MSICs, the monitoring of cards issued and the storage of, and sharing of, ASIC and MSIC information between appropriate law enforcement agencies

Aviation Security Identification Cards (ASIC) and Maritime Security Identification Cards (MSIC) are issued under the AusCheck scheme, which conducts background checks on the suitability of applicants to be employed in the maritime or aviation transport sectors. Under the *AusCheck Act 2007* (Cth), background checks include an assessment of information relating to an applicant's criminal history, matters relevant to a security assessment of the individual, the citizenship or residency status of the individual or entitlement to work in Australia, and verification of identification documents.

The AusCheck scheme was developed in response to security concerns in the aviation and maritime sectors after the September 11 terrorist attacks in the United States. The scheme is predominantly designed to assess whether an applicant is considered a threat to national security, rather than any link to serious and organised crime. AUSTRAC believes there would be benefit in expanding the criminal history check to include criminal and financial intelligence. This would involve amending the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) to include AusCheck as a designated agency.

AUSTRAC understands that the ACC has found that some individuals associated with (or previously associated with) serious and organised criminal groups have been issued with an ASIC or MSIC card. AUSTRAC has undertaken financial intelligence assessments of ASIC and MSIC holders for the ACC and the New South Wales Crime

Commission. AUSTRAC submits that broader access to ASIC and MSIC data would enable it to identify potential criminal activity in the aviation or maritime sectors.

AUSTRAC's data may include sector or occupation information which can be used to identify persons or entities engaged in the aviation and maritime sector. AUSTRAC data can be interrogated to identify such individuals or entities that are linked to unusually large cash transactions or international funds transfer instructions (IFTIs) to drug and source transit zones or jurisdictions which pose a national security risk. Analysis of IFTIs may assist in identifying links between transactors who are suspected criminals with individuals employed in the aviation and maritime sector. This information could be referred to the relevant law enforcement agency for further analysis and investigation.

The current administrative and law enforcement arrangements and information and intelligence sharing measures to manage the risk of serious and organised criminal activity at Australia's airports and ports

Combating serious and organised crime has been traditionally considered the purview of law enforcement agencies and specialist intelligence units. There has been less recognition of the potential use of information held by regulatory agencies in the aviation and maritime sectors. AUSTRAC submits that financial intelligence and law enforcement information and intelligence exchange networks should be extended to regulatory agencies, beyond the current arrangements. The value of financial intelligence in this area may substantially assist managing the risk of serious and organised criminal activity at Australia's airports and ports.

Law enforcement agencies and specialist intelligence units have developed sophisticated information and intelligence exchange networks such as the multi-agency co-located financial intelligence assessment team (FIAT) in the ACC to combat serious and organised crime. These networks are designed to improve information sharing among select agencies to support investigations and intelligence functions. These networks are often unavailable to regulatory agencies responsible for licensing, access and audit of aviation or maritime related sectors which may be vulnerable to serious and organised criminal groups.

Regulatory agencies with responsibility for aviation or maritime sectors may not have designation to networks facilitating information or intelligence exchange due to access and secrecy provisions in key legislation. The secrecy and access provisions contained in the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (the AML/CTF Act) restrict the ability of AUSTRAC to disclose AUSTRAC information to non-designated Commonwealth agencies, such as the Australian Fisheries Management Authority (except under section 129 of the AML/CTF Act, discussed below).

AUSTRAC is authorised to disclose AUSTRAC information under section 126 of the AML/CTF Act to designated agencies, including the Australian Federal Police, Australian Customs and Border Protection Service, Australian Crime Commission and state and territory police and revenue agencies. Regulatory agencies that are designated agencies for the purpose of the AML/CTF Act are the Australian Competition and Consumer Commission, the Australian Prudential Regulation Authority and the Australian Securities and Investment Commission. These regulatory agencies are focused on the financial sector, and have ongoing relationships with AUSTRAC.

Under section 129 of the AML/CTF Act, AUSTRAC may disclose AUSTRAC information on request to a non-designated Commonwealth agency for the purpose of an investigation or proposed investigation of a breach (or possible breach) of a law of the Commonwealth. These requests are dealt with on a case by case basis and at the discretion of the AUSTRAC Chief Executive Officer.

Access by regulatory agencies in the aviation or maritime sector to criminal or financial intelligence for the purposes of assessing whether a person is a 'fit and proper person' to hold an ASIC or MSIC or a licence may be an effective preventative measure to combat serious and organised crime infiltration of these sectors.

AUSTRAC submits that access to licence holder or security card holder details would enhance the capability of law enforcement and intelligence units to develop proactive intelligence products on potential serious and organised crime at airports and ports.

The findings of the Australian Crime Commission's special intelligence operations into Crime in the Transport Sector and Illegal Maritime Importation and Movement Methodologies.

The findings of the ACC's special intelligence operations into *Crime in the Transport Sector and Illegal Maritime Importation and Movement Methodologies* provide law enforcement, intelligence units and regulatory agencies with a detailed overview of serious and organised crime in these sectors. The detailed information provided by the reports as to occupation, type of criminal activity and methodology is extremely useful in developing and refining search parameters or data mining processes with respect to financial intelligence.

AUSTRAC supported the ACC special intelligence operation by providing tactical and operational support with respect to persons of

interest. The reports by the ACC highlighted the need for law enforcement, intelligence units and regulatory agencies to better understand the dynamics of the relationship, in particular the financial relationship, between serious and organised criminal groups and corrupt employees. AUSTRAC could assist to bridge this gap.