

**HOUSE OF REPRESENTATIVES STANDING COMMITTEE
ON LEGAL AND CONSTITUTIONAL AFFAIRS**

**Inquiry into Crime in the Community: Victims,
Offenders, and Fear of Crime**

**National Crime Authority Submission
August 2002**

Organised Crime in the Community

Summary

This submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs addresses each of the Inquiry's Terms of Reference insofar as the work and observations of the National Crime Authority (NCA) are thought to be of assistance to the Committee. Key points are:

- Organised crime in Australia encompasses a myriad of complex activities from illicit drug importation, distribution and manufacture to fraud, money laundering and tax evasion.
- Organised crime has evolved in its scope. It is often entrepreneurial. It thrives where there is a demand for banned, restricted or regulated goods and services. Profit drives organised criminals. No field where large sums of money can potentially be made escapes the attention of organised crime. The economic principle of supply and demand governs how organised crime operates.
- Responding to organised crime requires a balancing of priorities, resources and policies with more general "community crime" issues. Though organised crime is at times "victimless" (for example money laundering) it is, nonetheless serious, having significant flow-on effects to many other crime types.
- Australian organised crime has developed distinctive characteristics and local groups are not simply copies of criminal groups found in Europe, North America or Asia.
- Money laundering is an integral part of organised crime because the *raison d'être* is to generate profit. Profit made by criminals in the illicit market needs to enter the open market at some stage as ostensibly legitimate funds. In a country with strong systems of financial accountability, money laundering becomes necessary for criminals to hide how they actually derived their wealth and worth, so that they can enjoy the profits or reinvest for future criminal activity.
- There is a convergence of opportunities. In this context, the NCA advocates a 'whole of government' approach to organised crime because in its various manifestations, it presents a threat spanning well beyond the province of law enforcement agencies. The NCA argues that such an approach involving law enforcement, health, research and education and other relevant areas is required to effectively combat organised crime and attack the profit motive underpinning it. Organised crime can no longer be recognised as solely a law enforcement issue.
- Advances in technology, which are so much to the benefit of honest commerce and law abiding citizens, are also freely available to organised crime. It is necessary to be technologically aware and to constantly strive to make Australia an unattractive place for organised criminals to ply their trade.

- Despite the best efforts and excellent work of law enforcement agencies, the seizure of illicit drugs represents but a small proportion of the substances available in the Australian market.
- The reach of organised crime in Australia is pervasive, multi-faceted and carries substantial social and economic costs. Significantly, the cost is not just in direct monetary terms but in terms of lost productivity, violence and stability. Another cost is in the diminution of societal security, both in perception and reality.

Background

Given the NCA's specific national role against organised crime, it offers to the Committee some views on the extent and impact of organised crime within Australia and its impact on the Australian community.

Organised crime is a highly significant issue for the Australian community. Organised crime takes a calculated approach to exploiting and misusing key aspects of the broader environment, including Australia's society, community, economy, culture, government and political institutions. Such exploitation and misuse serves to undermine these important institutions and infrastructures.

The National Crime Authority

The NCA's role is to combat organised crime through integrated national responses. The NCA performs its core business (understanding the criminal environment, investigating organised crime, coordinating law enforcement efforts and recommending law and administrative reforms) through integrated and cooperative approaches.

At a national Leaders' Summit on 5 April 2002 the Prime Minister, all State Premiers and Territory Chief Ministers agreed to replace the NCA with the Australian Crime Commission (ACC). The ACC will include the National Crime Authority (NCA), the Office of Strategic Crime Assessments (OSCA)¹ and the Australian Bureau of Criminal Intelligence (ABCI).² At a Commonwealth/State/Territory Meeting on 9 August 2002 principles for the formation of the ACC were agreed by all stakeholders. Details of the review of the NCA and the agreements surrounding the ACC are contained at Annexure A. The points raised in this submission will remain relevant to the ACC when it comes into operation.

The NCA is not a police service – it is an independent statutory authority. It has served as Australia's sole *national* law enforcement agency and as the only agency with a specific charter (and special powers) to investigate complex organised crime. The types of organised criminal activities investigated by the NCA include: drug importation, cultivation, manufacture and trafficking and associated money laundering, theft, fraud, smuggling, environmental crimes, tax evasion, bribery, extortion, murder and violence.

The NCA's role in relation to organised crime has seen it focus with partner agencies on:

- The environment in which organised crime persists and flourishes (including its extent and impact);
- Specific criminal activities pursued;
- Perpetrators, organisers and financiers of such crimes;
- Structures and methodologies adopted to facilitate organised crime;

¹ OSCA provides the Commonwealth Government with policy relevant strategic assessments of significant emerging crime trends and threats to Commonwealth law enforcement interests and fosters intelligence coordination to advance law enforcement interests.

² The ABCI is a joint Commonwealth, State & Territory body responsible for supporting, developing and sharing criminal intelligence.

- Key facilitative activities behind organised crime;
- Driving motives behind organised crime;
- Ways in which the effectiveness of legislative, administrative and law enforcement responses to organised crime might be improved; and
- Development of broader whole-of-government strategies against organised crime.

Organised Crime in the Community

Attached for the Committee's consideration is *Organised Crime in Australia - NCA Commentary 2001* which provides an overview of the NCA's perspective on organised crime as at August 2001. Importantly, this Commentary was intended to inform our community and its elected representatives about organised crime in Australia. Its purpose was to generate a measured understanding of our situation.

The NCA Commentary 2001 focuses on the extent and impact of organised crime within the Australian community, highlighting types of crime, the perpetrators and motives behind crime and well as strategies to reduce crime.

Key points from the NCA Commentary, updating the situation to August 2002, which may be of assistance to the Committee include:

- Organised crime continues to possess qualities which make it resistant to a standard law enforcement approach. Organised crime is not a homogenous phenomenon and, at its most dangerous, is informed, flexible and well-resourced.
- Profit continues to drive organised criminals. The United Nations assessed the global illicit drug trade as the third most profitable industry in the world, surpassed only by the oil and arms industries³. In Australia, crime related costs are estimated to be equivalent to about 4% of Gross Domestic Product (GDP), or \$1000 per capita, per annum⁴.
- The primary activity of organised crime remains the illicit trafficking and distribution of commodities such as drugs, tobacco products, alcohol, fauna, firearms, computer software, motor vehicles, and increasingly people.
- Illicit drugs remain the most lucrative commodities for organised crime in Australia. The estimated cost of illicit drug abuse to the Australian community is at least \$1.7 billion annually⁵.

³ United Nations Secretary General Kofi Anann (2000) "Foreword by the Secretary-General of the United Nations", World Drug Report 2000, Turning the Corner CD-ROM.

⁴ In 1995, John Walker estimated what crime costs Australia: the financial cost of crime was estimated to be \$13 billion per year, or 2.5% of annual GDP, and the economic cost of crime was estimated at \$8 billion per year, or about 1.9% of annual GDP. According to Walker, the total figure of crime related costs for Australian is equivalent to about 4% of GDP annually, or \$1000 per head per year. John Walker (August 1997) "Estimates of the Costs of Crime in Australia in 1996" Trends and Issues in Crime and Criminal Justice, Australian Institute of Criminology, No 72.

⁵ Extrapolated from research by David J Collins and Helen Lapsley (1996) The social costs of drug abuse in Australia in 1988 and 1992, National Drug Strategy, Monograph Number 20, Commonwealth department of Human Services and Health.

- The illicit drug trade in Australia is centred on heroin, cocaine, cannabis and amphetamine-type substances, including MDMA (ecstasy).
- The major trend in the past two years has been the sharp decline in availability of heroin in Australia from 1999-2000 levels. A variety of sources confirmed that there was a dramatic reduction in the availability of heroin in all Australian States and Territories.
- The United Nations (UN) report *Global Illicit Drug Trends 2002* notes that Australia appears to be the only country in the world to have experienced a heroin shortage in the past two years. Both the UN report and the ABCI's *Australian Illicit Drug Report 2002* find that Commonwealth law enforcement operations contributed to the shortage.
- The *Australian Illicit Drug Report* (ABCI 2002) highlights that between October and December 2000 Australian law enforcement, in cooperation with overseas agencies, removed over half a tonne of heroin from the Australian market. In addition to large seizures, Commonwealth law enforcement agencies were successful in dismantling established heroin trafficking networks and removing key players. A further factor was the increasingly effective policing of domestic heroin markets by State and Territory law enforcement.
- The results of the 2001 Illicit Drug Reporting System (IDRS) indicated that the change in availability of heroin was associated with increases in the price, marked decreases in the prevalence and frequency of use, and moderate declines in purity. Significantly, according to Australian Bureau of Statistics data, the number of opioid overdose deaths among 15 to 44 year olds fell sharply in 2000, with almost 25% fewer than in 1999.
- At the same time as the shortage of heroin, both a notable increase in the seizures and availability of Amphetamine Type Substances (ATS) and an increased involvement of organised crime in ATS were noted across Australia.
- Money laundering remains an integral part of organised crime because its *raison d'être* is to generate profit. Current estimates of the extent of money laundering in Australia are \$3-9 billion per annum, and there are indications the volume of money laundering is growing⁶.
- Violence remains endemic to organised crime, but not all individuals or groups involved in organised crime commit violent offences.
- Murder, abduction, assault, torture, violent extortion and other serious acts of violence continue to be hallmarks of organised crime groups directly involved with illicit drugs and other commodities.

⁶ Arie Freiberg and Richard Fox (2000) "Evaluating the Effectiveness of Australia's Confiscation Laws" *The Australian and New Zealand Journal of Criminology*, Vol 33 No 3.

- Gangs associated with organised crime are becoming well-publicised perpetrators of violence using a wide variety of weapons, including firearms.
- Australian expressions of organised crime have developed distinctive characteristics and are not simply copies of criminal groups found in Europe, North America or Asia.
- Vehicle re-birthing, the process of replacing the identification details of stolen vehicles with those from legitimate vehicles, continues to be a significant crime activity.
- Firearms are a significant problem, with an increase noted in the use and availability of handguns by certain organised crime groups on a national basis. As noted in the ACC Agreement of 9 August 2002 (Annexure A) illegal firearms are of concern to all Australian jurisdictions.

The impact of being a victim of crime and fear of crime

The situation noted in the NCA's Commentary in August 2001 remains valid in August 2002. Organised crime encompasses a myriad of complex activities from illicit drug importation, distribution and manufacture to fraud, money laundering and tax evasion. It is also interconnected internationally with other organised groups. Organised crime can use violence and intimidation to censure and discipline its opponents and errant underlings. It can also murder opponents to eliminate competition. This violence contributes to the diminution of societal security both in perception and reality. Further, there is every indication that the reach of organised crime is growing. No field where large sums of money can potentially be made escapes its attentions.

Organised crime makes an indirect impact on the members of the community in ways that are not always apparent. A large proportion of property crime, and some violent crime, is committed by offenders motivated by the need to find the means to buy illicit drugs. The commodities imported, manufactured and distributed by organised crime are thus the ultimate cause of much volume crime. Members of the community who are the victims of such crime are in a sense indirectly the victims also of organised crime.

Organised crime impacts on Australia's economic strength and competitiveness. It undermines both the integrity of numerous structures and institutions and impacts on people's confidence in the same.

Australia seeks trade and investment in a highly competitive international environment and organised crime threatens:

- Our reputation as a nation with a world's best practice financial regulatory system, a major attraction for foreign investors;
- The nation's uptake of e-business solutions due to fear of internet fraud;
- Major government policies such as the Tax File Number system, financial monitoring and reporting requirements and the delivery of services online which are undermined by fraud; and

- Australia's economic stability due to the growing direct and indirect costs of fraud and drug trafficking and associated large-scale money laundering.

Fear of crime in the community

The reach of organised crime in Australia is pervasive, multi-faceted and generates enormous negative social and economic impacts. Significantly, the impacts are not just in direct monetary terms but in terms of lost productivity, health, violence and perceptions of well being. It affects every aspect of our lives from the deaths of addicts on the streets, to the lost revenue of billions of undeclared dollars; from the overtaxing of our court and law enforcement resources, to the manipulation of markets and the creation of not merely unfair, but unlawful and unscrupulous competition; from the trauma caused by armed hold-ups and home invasions to the price we pay to insure our property.

While the NCA has not done extensive study of the impacts of fear of crime in the community, the crime types manifested by organised groups have been closely studied by other bodies and the research sector. Fear of organised crime appears to vary and is based both on the impacts of the particular types of crime (drugs, violence, fraud, extortion, corruption, internet crime etc) and the mythology of organised crime groups.

The influence of media coverage of manifestations of organised crime clearly contributes to fear of organised crime in the community. The level of attention, for example, given to the activities of ethnically-based organised crime groups in Australia by the media has contributed to specific fears in the community

Law enforcement agencies working on organised crime are acutely aware of both the public perceptions and fears of organised crime and consider both in the context of national strategies to counter organised crime.

Strategies to reduce organised crime

The Commonwealth adopts a variety of strategies and approaches to counter organised crime. The contemporary model of organised crime is far removed from the hierarchical, familial structure commonly evident when the NCA was established, and which it was designed and resourced to combat. Contemporary organised crime is much harder and more expensive to detect, investigate and prosecute.

The Commonwealth's role in combating organised crime in the community is integrated across a range of agencies and encompasses a number of programs and strategies.

The NCA works closely with Commonwealth, State and Territory agencies on a range of strategies to combat various manifestations of organised crime. Commonwealth agencies include the Australian Federal Police (AFP), Australian Customs Service (ACS), Australian Transaction Reports & Analysis Centre (AUSTRAC), Australian Securities Investment Commission (ASIC), Australian Taxation Office (ATO) and Department of Immigration, Multicultural & Indigenous Affairs (DIMIA). The NCA also works closely with the Australian Bureau of Criminal Intelligence (ABCI) which is a

national criminal intelligence agency jointly funded by the Commonwealth, States and Territories to share and develop criminal intelligence.

A key joint agency program which is manifested across a number of Commonwealth agencies is the National Illicit Drugs Strategy (NIDS), which provides an integrated cross-sectoral approach to reducing supply and demand for illicit drugs. Further details of the NIDS are available at the Commonwealth Department of Health and Ageing websites: <http://www.health.gov.au/pubhlth/strateg/drugs/illicit/> and <http://www.nationaldrugstrategy.gov.au/>.

The Role of the NCA

The NCA has played a key role in shaping Australia's law enforcement response to organised crime. Conceived in 1984, the NCA is a unique investigative body and has played an integral part in the country's law enforcement community. Its goal has been to counteract complex national organised crime working in partnership with other agencies across Australia and internationally. The NCA has taken a uniquely national approach, focusing on the integration of all its functions and its relationships with other partner agencies to maximise impacts against organised crime and to overcome impediments to effective national responses.

The organised criminal activity the NCA confronts is complex, multi-jurisdictional and sophisticated, necessitating the coordinated development and use of proactive and innovative investigative methodologies. Such investigations are difficult, protracted, resource-intensive and costly. Investigations with a significant transnational component are now common and necessitate the pursuit of targets, drugs and criminal assets around the globe. Given the scope, complexity and sophistication of organised crime, it is recognised that no single agency can adequately respond alone, but that partnerships across jurisdictions and between specialist agencies are needed to effectively counter organised crime.

The NCA has been based on the recognition that complex organised crime can only be tackled by a dedicated agency having a cross-jurisdictional and national focus and the capacity to pursue international elements. It has also reflected the need for an agency to coordinate national efforts and to lead investigations that may not be successfully undertaken by traditional policing methods.

The Commonwealth *National Crime Authority Act 1984* is underpinned by legislation in all States and Territories. This gives the NCA jurisdiction to investigate relevant criminal activities, as defined in the NCA Act, against Commonwealth, State and Territory laws, including offences perpetrated across State and Territory borders.

The NCA's approach has been to utilise multi-disciplinary teams of seconded officers from partner law enforcement agencies, lawyers, financial investigators, intelligence analysts and support staff to bring together the wide range of skills and expertise needed to effectively combat increasingly sophisticated and entrepreneurial organised criminal activity.

Joint-agency National Task Forces provide a unique opportunity for the NCA and its partner agencies to be part of a coordinated national response to particular areas of complex organised crime. Most NCA investigations are cooperatively conducted

under the National Task Forces, which each involve 18 Commonwealth, State and Territory law enforcement agencies. The current priorities for NCA Task Force investigations are as follows:

- South-east Asian Organised Crime - under the Blade Task Force;
- Fraud against the Commonwealth including tax and duty evasion and money laundering together with associated predicate offences - under the Swordfish Task Force;
- Established Criminal Networks - under the Freshnet Task Force;
- Outlaw Motor Cycle Gangs (OMCGs) - under the Panzer Task Force;
- Italo-Australian Organised Crime - under the Cerberus Task Force.

Organised criminal activities of OMCGs or Italo-Australian groups have also been investigated under the Freshnet and Swordfish Task Forces in appropriate circumstances.

The NCA has additional programs in Cybercrime and Intelligence but they do not reflect current areas of criminal investigation. They are programs designed to develop knowledge and expertise required to enable the NCA to monitor the criminal environment, gauge emerging threats, advise on priorities and support a sophisticated proactive investigative methodology.

Further detail of the NCA's task force approach to tackling organised crime is available via its website www.nca.gov.au/.

The expectation arising from the agreement on the ACC is that it will build on many of the achievements of the NCA, ABCI and OSCA to continue to bring a nationally integrated focus to effectively counter organised crime in partnership with other agencies.

The Future for National Law Enforcement

The experience of the NCA and partner agencies over recent years indicates that the following capabilities are essential for improving ongoing efforts against organised crime:

- It is essential to have a detailed and sophisticated understanding of the criminal environment and the anatomy of organised crime to support the setting / addressing of priorities and shaping effective strategies. This suggests an increase in our investment in knowledge, including a coordinated national approach to criminal intelligence which implements agreed frameworks for systematically collecting and developing intelligence and setting agreed national priorities.
- It is essential to develop coordinated and integrated responses to counter organised crime. This requires coordinated and cooperative investigative and legislative responses to counter organised crime uninhibited by jurisdiction or core business focus of particular agencies.
- It is essential to attack the drivers and the motives behind organised crime, in particular profits and proceeds arising from organised crime.

- It is essential to integrate efforts across sectors to achieve whole-of-government responses to crime which both harden the environment against organised crime and undermine the motives behind it. This includes efforts of law reform, counter-intelligence, improved compliance and the like.
- It is essential to have a specialist and independent agency, properly resourced to directly tackle and coordinate efforts against priority and 'hardest' areas of organised crime unhampered by jurisdiction. This is necessary to achieve maximum impacts, to develop innovative law enforcement methodologies and to ensure a corruption-proofed response.
- It is essential to take an intelligence-led proactive and integrated approach to sophisticated organised crime that is beyond the scope of traditional reactive policing.
- It is essential to bring special coercive powers to bear against organised crime that would and should not be available to traditional police forces.
- It is essential to build-in effective measures within our national strategies to ensure that we are best allocating resources in the efforts against organised crime.

Conclusion

Organised crime in Australia is pervasive, entrepreneurial in nature and continues to have significant negative impacts on Australia's society and community. Organised crime is not constrained by borders, either State or national, and has significant international connections and operations. It exploits key aspects of Australia's community, society, economy and institutions to ply its trade.

Organised crime can no longer be regarded as solely a law enforcement issue. A 'whole of government' response is essential to counter the community-wide threat posed by organised crime. Collaborative approaches involving law enforcement, finance, health, research and education and other relevant areas are required to effectively combat organised crime and attack the profit motive underpinning it.

Specific and general responses to organised crime need to be supported and coordinated by strategies, structures and resources that are focused and integrated. Such responses to organised crime must include a broader perspective of the impact on the Australian community and bring together various aspects of government responses. The responses must not be hampered by differences across jurisdictions or between levels of government. In this context, the support of a dedicated specialist agency with an integrated charter to both coordinate cooperative national efforts and lead specialist responses remains critical.

ANNEXURE A

Review of the NCA

On 28 October 2001, the Prime Minister announced plans for a Summit to be held in March 2002 to consider a new national framework to deal with transnational crime and terrorism. The Prime Minister believed it was timely for the Commonwealth, in cooperation with the States and Territories, to review the performance and effectiveness of the NCA in view of the changing criminal environment since the establishment of the NCA in 1984 and in light of the events of September 11, 2001.

The Government's wish to improve national coordination of law enforcement and to enhance Australia's response to organised crime is shared by the NCA. The NCA has approached the review as an opportunity to address some long-standing constraints and to articulate the value of the unique investigative and intelligence methodologies which the NCA contributes to combating organised crime.

The Communiqué issued after the Commonwealth, States and Territories Summit on Terrorism and Transnational Crime on 5 April 2002 dealt with a number of issues including a response to organised crime. It reads in part:

“To strengthen the fight against organised crime it is agreed to replace the National Crime Authority (NCA) with an Australian Crime Commission (ACC) that builds on the important features of the NCA for effective national law enforcement operation in partnerships with State and Territory police forces whilst removing the current barriers to its effectiveness”.

The full text of the Communiqué is appended at Annexure B.

On 9 August 2002, agreement was reached between the Commonwealth, States and Territories on the formation, role and functions of the Australian Crime Commission. Implementation efforts toward the ACC are continuing. In recognition of the agreed threat, the NCA is in the process of seeking new References to support coordinated national efforts toward the control of illegal handguns.

The text of the 9 August 2002 agreement is appended.

Commonwealth State and Territory Agreement of 9 August 2002

THE AUSTRALIAN CRIME COMMISSION

To give effect to the 5 April 2002 Leaders' Summit outcomes in relation to the establishment of a new Australian Crime Commission, Commonwealth, State and Territory's Government's have agreed to the following principles:

1. Function

The National Crime Authority (NCA), Office of Strategic Crime Assessments (OSCA) and the Australian Bureau of Criminal Investigation (ABCI) will be replaced by the Australian Crime Commission. The ACC will provide an enhanced national law enforcement capacity through:

- Improved criminal intelligence collection and analysis;
- Setting clear national criminal intelligence priorities; and
- Conducting intelligence led investigations of criminal activity of national significance including the conduct and/or coordination of investigative and intelligence taskforces as approved by the Board.

2. Intelligence

The ACC will:

- Provide a coordinated national criminal intelligence framework;
- Set national intelligence priorities to avoid duplication;
- Allow areas of new and emerging criminality to be identified and investigated; and
- Provide for investigations to be intelligence driven.

3. Governance

The Inter-Governmental Committee of the NCA (IGC-NCA) will be renamed the IGC-ACC and it will comprise eight State and Territory representatives and one Commonwealth representative. Its responsibilities will include the identification of strategic crime priorities.

Nothing in this agreement is intended to preclude any Head of Government from raising substantive issues of concern at COAG level.

As a Commonwealth law enforcement agency, the ACC will be constituted under the Australian Crime Commission Act 2002 to give effect to the principles agreed between the Commonwealth, State and Territory Government.

There will be discussions between jurisdictions during the drafting of the ACC Bill.

The Federal Parliamentary Joint Committee (PJC-NCA) overseeing the operations of the NCA will continue its current role and function in overseeing the operation of the ACC.

4. Board and Chair

The new ACC Board shall consist of thirteen voting members and the Chief Executive Officer as a non-voting member. The Chairman of the Board shall be the Commissioner of the Australian Federal Police.

The voting members of the Board will be:

- Eight State and Territory Police Commissioners (New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, Northern Territory and the Chief Police Officer of the Australian Capital Territory) and:
- Five Commonwealth Agency Heads – Commissioner of the Australian Federal Police, Director General of Intelligence, the Chair of the Australian Securities and Investments Commission, the CEO of the Australian Customs Service and the Secretary of the Attorney General’s Department.

5. Chief Executive Officer (Director)

The Chief Executive Officer /Director to manage ACC operations will be appointed by the Governor-General on the recommendation of the Commonwealth Minister and Federal Cabinet. Before recommending an appointment, the Commonwealth Minister would accept nominations from members of the Board and consult with members of the Inter-Governmental Committee.

The CEO/Director will be an individual with a strong law enforcement background.

6. Staffing

On establishment, the ACC will maintain the current combined operational staffing levels of the NCA, ABCI and OSCA. Over time this would be subject to the operational requirements of the ACC Board and CEO.

The ACC will have a standing in-house investigative capacity. The mix and composition of in-house and taskforce intelligence and investigative capabilities will be determined by the Board and Chief Executive Officer in accordance with operational priorities.

7. Offices

On establishment, ACC offices will remain in all current NCA locations at current operational staffing and funding levels. Over time this will be subject to the operational requirements of the ACC Board and CEO. The ACC headquarters will be located in Canberra.

8. Powers

The ACC will have in-house and taskforce access to all coercive and investigatory powers currently available to the NCA, which include coercive hearing and telephone interception powers, and a capability for State and Territory access to these powers where appropriate.

The Board will approve the use to which coercive hearing powers can be applied.

Coercive hearing powers would be exercised through independent statutory officers.

9. Investigations

Investigative and operational priorities will be determined by the Board in accordance with operational priorities.

The first priority taskforce for the ACC will be illegal handgun trafficking both into and within Australia.

10. Operational Expenses

The ACC will fund all in-house resources and operational costs (including salaries, staff overtime and travel allowances) under the same arrangements as currently apply to the National Crime Authority and ABCI. The ACC will fund current NCA references as budgeted for in the Commonwealth forward estimates and during that time would maintain its commitment to in-house investigations subject to the operational requirements of the Board.

Decisions regarding the composition of taskforces and the contributions of jurisdictions to these taskforces would be determined by agreement between the Board, CEO and relevant jurisdictions.

This includes a commitment by Commonwealth, State and Territory police forces to cover salary and salary related and other costs of secondees to additional ACC taskforces they participate in as agreed by the Board and CEO.

After three years of operation a review will be conducted into the balance and mix of the inhouse investigative capacity by the IGC.

11. Budget

It is recognised that almost all of the funding of the ACC is to be provided by the Commonwealth.

The Commonwealth confirms that the current levels of funding provided for the agencies as stipulated in the Forward Estimates by the Commonwealth will be provided to the ACC.

It is accepted by all parties that future funding levels will be subject to the normal budgetary processes.

ANNEXURE B**Commonwealth and States and Territories Agreement on Terrorism and Transnational Crime, 5 April 2002****FINAL SUMMIT COMMUNIQUÉ**

The Prime Minister and State and Territory Leaders agreed that a new national framework is needed to meet the new challenges of combating terrorism and multi-jurisdictional crime. The attacks in the United States on 11 September last year indicated that previous assumptions about the nature and potential scale of terrorism are no longer valid. In addition, they noted that international and organised criminal groups did not respect state or national borders, and their activities could also result in major harm to all Australians. They recognised the importance of effective co-operation between the jurisdictions, and the need to build on arrangements that will respond quickly and effectively to these challenges.

In relation to terrorism, Leaders agreed:

1. The Commonwealth to have responsibility for “national terrorist situations”, to include attacks on Commonwealth targets, multi-jurisdictional attacks, threats against civil aviation and those involving chemical, biological, radiological and nuclear materials.
2. The Commonwealth will consult and seek the agreement of affected States and Territories before a national terrorist situation is declared and States and Territories agree not to withhold unreasonably such agreement.
3. To take whatever action is necessary to ensure that terrorists can be prosecuted under the criminal law, including a reference of power of specific, jointly agreed legislation, including roll back provisions to ensure that the new Commonwealth law does not override State law where that is not intended and to come into effect by 31 October 2002. The Commonwealth will have power to amend the new Commonwealth legislation in accordance with provisions similar to those which apply under Corporations arrangements. Any amendment based on the referred power will require consultation with and agreement of States and Territories, and this requirement to be contained in the legislation.
4. That all jurisdictions will review their legislation and counter-terrorism arrangements to make sure that they are sufficiently strong.
5. That the Commonwealth and States and Territories will continue to:
 - i) Improve Australia’s anti-terrorist intelligence capacity and to develop effective means for sharing intelligence.
 - ii) Significantly upgrade the central co-ordination capacity so that the operational arms of the Commonwealth and the States and Territories can obtain the information and strategic advice necessary to respond rapidly and effectively.

6. The existing Standing Advisory Committee on Commonwealth/State Co-operation for Protection Against Violence (SAC-PAV) will also be reconstituted as the National Counter-Terrorism Committee with a broader mandate to cover prevention and consequence management issues and with Ministerial oversight arrangements.

In relation to Organised Crime, Leaders agreed:

7. To strengthen the fight against organised crime it is agreed to replace the National Crime Authority (NCA) with an Australian Crime Commission (ACC) that builds on the important features of the NCA for effective national law enforcement operation in partnerships with State and Territory police forces whilst removing the current barriers to its effectiveness.
8. The ACC to be focussed on criminal intelligence collection and establishment of national intelligence priorities.
9. The ACC to have access to taskforce investigative capability to give effect to its intelligence functions and to support its overall operations. The ACC to include the Office of Strategic Crime Assessments and the Australian Bureau of Criminal Intelligence.
10. The Board of the ACC to include representatives from all States and Territories. Ministerial oversight will be retained by having the Board report to an Intergovernmental Committee of State and Commonwealth Ministers.
11. To streamline the process for obtaining investigation references.
12. The ACC will retain the capacity to use coercive powers and to investigate criminal activity of national significance.
13. Other details to be settled by mutual agreement with the new body to come into operation by 31 December 2002.

In relation to arrangements for dealing with multi-jurisdictional crime, Leaders agreed:

14. To reform the laws relating to money laundering, including a possible reference of powers to the Commonwealth if necessary, for effective offences.
15. To legislate through model laws for all jurisdictions and mutual recognition for a national set of powers for cross-border investigations covering controlled operations and assumed identities legislation; electronic surveillance devices; and witness anonymity. Legislation to be settled within 12 months.
16. To legislate and develop administrative arrangements to allow investigations by the Australian Federal Police into State offences incidental to multi-jurisdictional crime.
17. To modernise the criminal law by legislating in the priority areas of model forensic procedures (during 2002), model computer offences (during 2002), model serious drug offences (during 2003).

18. To ensure adequate access to radio-frequency spectrum for an effective interoperability between national security, police and emergency services agencies.
19. To enhance capacity in each jurisdiction for the collection and processing of samples to create DNA profiles, and the uploading of profiles onto the national DNA database.
20. To undertake as a matter of priority work in the following areas of law enforcement; control over the illegal importation of criminal contraband specifically illicit drugs and firearms; extradition between States; recognition of expert evidence (such as drug analysis certificates); firearms trafficking; identity fraud; vehicle rebirthing; gangs; and cyber crime. The purpose of this work is to ensure elimination of administrative and legal barriers in pursuit of criminal operating in more than one jurisdiction.