

Chapter 1

Introduction

Background

1.1 On 6 March 2003, the Parliamentary Joint Committee on the Australian Crime Commission agreed to conduct an inquiry into a number of aspects of cybercrime, and the role of the ACC in investigating and detecting it.

1.2 In 2000 the Committee's predecessor, the Parliamentary Joint Committee on the National Crime Authority conducted an inquiry into the Law Enforcement Implications of New Technology.¹ Since that time the complexity of technology has continued to increase exponentially, as have the opportunities for applying technology to criminal activity.

1.3 Of particular concern to the Committee were three areas of increased activity which were incorporated into the terms of reference. The terms of reference were :

That, in accordance with paragraph 55(1)(d) of the *Australian Crime Commission Act 2002*, the Parliamentary Joint Committee on the Australian Crime Commission inquire into and report on recent trends in practices and methods of cybercrime with particular reference to:

1. child pornography and associated paedophile activity;
2. banking, including credit card fraud and money laundering; and
3. threats to national critical infrastructure.

Duties of the Committee

1.4 The Inquiry was conducted under the authority of paragraph 55 (1)(d) of the *Australian Crime Commission Act 2002* (the Act). The paragraph states:

Duties of the Committee

(1) The duties of the Committee are:

(d) to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the

1 Parliamentary Joint Committee on the National Crime Authority 'Law Enforcement Implications of New Technology', August 2001, Available at: <http://www.aph.gov.au/Senate/committee/history/index.htm#national>

Committee thinks desirable to the functions, structure, powers and procedures of the ACC;

1.5 In developing this Inquiry the PJC considered that the role and capacity of the Australian Crime Commission (the ACC) in this area should be examined to assess any resource implications and the likely effect of cybercrime on the activities and priorities of the ACC.

1.6 The ACC commenced operation on 1 January 2003, replacing the former National Crime Authority. It is established under the *Australian Crime Commission Act 2002*.

1.7 The Commission's role is set out in section 7A of the Act which may be found at Appendix 1.

1.8 At the core of the ACC's investigative role is 'federally relevant criminal activity' which involves 'serious and organised crime'. Section 4 of the Act (see Appendix 1) sets out the characteristics of serious and organized crime, and applies it to a series of offences of which cybercrime is one.

1.9 The inclusion of cybercrime as an offence in the definition of 'serious and organised crime' in the establishing legislation is indicative that the offence is an emerging concern. It was not a matter that was under the purview of the National Crime Authority. In conducting the inquiry the PJC was also interested in establishing the impact of the offence and public awareness of the potential of the crime.

The conduct of the inquiry

1.10 Prior to setting its terms of reference, the Committee received background briefings from the Australian Crime Commission and the Australian Federal Police. These briefings served to provide a context for developing the terms of reference.

1.11 The Committee placed an advertisement in *The Australian* of 9 April 2003, inviting interested parties to provide submissions by 9 May 2003. The Committee readvertised on 7 May 2003 and later extended the deadline for submissions. The terms of reference were also placed on the Committee's website. The Committee also wrote to interested organisations and individuals inviting them to provide a submission to the inquiry.

1.12 The Committee received 35 submissions (including 4 supplementary submissions) and these are listed at Appendix 2. Submissions were placed on the Committee's website for ease of public access.

1.13 The Committee held public hearings in Melbourne on 17 July 2003, in Sydney on 18 July 2003 and in Canberra on 21 July 2003. The hearings included evidence received *in camera*. A list of witnesses who appeared at the hearings is at Appendix 3.

The report

1.14 This report canvasses the principal issues which emerged in evidence and in the submissions provided to the Committee, as they affect the work of the Australian Crime Commission.

1.15 The evidence provided to the Committee represents a snapshot of the application of communications technology in July 2003. As this is not a static area of development, the position is almost certain to be more complex in two years or even less.

1.16 Chapter 2 identifies the principal characteristics and manifestations of cybercrime.

1.17 Chapter 3 addresses the issue of paedophile activity and the Internet, and while the ACC has no direct responsibility for paedophile activity the Commission is involved in a general sense through its investigation of crime which is committed through information technology.

1.18 Chapter 4 examines the extent of, and potential for, criminal interference in cybertechnology within the banking and finance sector. A number of cautionary examples demonstrate some simple precautions which can be taken, as well as surveillance and detection methods. The chapter also discusses the role of organised crime in the banking and finance area.

1.19 Chapter 5 looks at the risks to public infrastructure which is increasingly reliant on communications technology for its operation and maintenance.

1.20 Chapter 6 summarises the main issues and includes recommendations.

1.21 The Committee considered and adopted the report at a private meeting on 11 March 2004.

Acknowledgements

1.22 The submissions were most informative, particularly regarding the technical aspects of cybercrime and were of great assistance to the inquiry and the Committee wishes to thank those individuals and organisations who gave evidence at public hearings and who provided submissions.

Note on references

1.23 References in this report are to individual submissions as received by the Committee, not to a bound volume. References to the Committee Hansard are to the official Hansard.

