

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

**Inquiry into trafficking in women for
sexual servitude**

Submission No:29

Received 29 September 2003

Mr Alastair Milroy

Chief Executive Officer

Australian Crime Commission

GPO Box 1936

CANBERRA ACT 2601

☎ 02 6243 5666 📄 02 6243 5687

E-mail:

BY HAND DELIVERY

Ms Maureen Weeks
Committee Secretary
Parliamentary Joint Committee on the Australian Crime Commission
Parliament House
CANBERRA ACT 2600

Dear Ms Weeks

AUSTRALIAN CRIME COMMISSION SUBMISSION

With reference to your letter of 1 August 2003 please find attached the ACC's Submission to the PJC's inquiry into trafficking of women for sexual servitude. An electronic version of the Submission and this letter will be sent separately.

Yours sincerely

Alastair Milroy
Chief Executive Officer
26 September 2003

Attachment: Submission by the ACC to the inquiry by the PJC ACC to Examine Australian Crime Commission's Response to Trafficking in Women for Sexual Servitude



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

**To Examine Australian Crime
Commission's Response to
Trafficking in Women for Sexual
Servitude**

Submission by the
Australian Crime Commission
September 2003

Table Of Contents

EXECUTIVE SUMMARY	- 3 -
TERMS OF REFERENCE	- 3 -
THE ACC'S WORK IN ESTABLISHING THE EXTENT OF PEOPLE TRAFFICKING IN AUSTRALIA FOR THE PURPOSES OF SEXUAL SERVITUDE	- 3 -
THE ACC'S RELATIONSHIP WITH THE RELEVANT STATE AND OTHER COMMONWEALTH AGENCIES	- 3 -
THE ADEQUACY OF THE CURRENT LEGISLATIVE FRAMEWORK	- 4 -
BACKGROUND	- 5 -
THE NATURE AND MEANING OF PEOPLE TRAFFICKING FOR SEXUAL SERVITUDE	- 5 -
1. THE ACC'S WORK IN ESTABLISHING THE EXTENT OF PEOPLE TRAFFICKING IN AUSTRALIA FOR THE PURPOSES OF SEXUAL SERVITUDE	- 6 -
1.1 ACC SUPPORT TO DEFINING NATIONAL CRIMINAL INTELLIGENCE PRIORITIES (NCIPs)	- 6 -
1.2 PRODUCTION OF A STRATEGIC CRIMINAL INTELLIGENCE ASSESSMENT	- 6 -
1.3 ACC OPERATIONAL ACTIVITY	- 8 -
2. THE ACC'S RELATIONSHIP WITH THE RELEVANT STATE AND OTHER COMMONWEALTH AGENCIES.....	- 9 -
2.1 ACC STRATEGIC RELATIONSHIPS.....	- 9 -
2.2 ACC OPERATIONAL RELATIONSHIPS.....	- 9 -
3. THE ADEQUACY OF THE CURRENT LEGISLATIVE FRAMEWORK.....	- 9 -

Executive Summary

Terms Of Reference

The Parliamentary Joint Committee on the Australian Crime Commission inquiry into trafficking in women for sexual servitude is focussed on three areas:

1. The ACC's work in establishing the extent of people trafficking in Australia for the purposes of sexual servitude;
2. The ACC's relationship with the relevant State and other Commonwealth agencies; and
3. The adequacy of the current legislative framework.

The ACC's Work In Establishing The Extent Of People Trafficking In Australia For The Purposes Of Sexual Servitude

ACC work to date in relation to the issue can be divided into three parts:

- **ACC Support to Defining National Criminal Intelligence Priorities (NCIP).** In May 2003, the ACC produced a classified Overview Threat Assessment designed to support ACC Board decisions on NCIPs. It contained a general assessment of the regional and Australian people trafficking context. As part of deliberations on over 56 threat issues, the ACC Board designated "illegal and indentured prostitutes" as a Category B NCIP.
- **Production of a Strategic Criminal Intelligence Assessment.** The ACC is finalising a classified assessment on the nature and future of trafficking of people to Australia for sexual exploitation.
- **ACC Operational Activity.** Although the ACC is currently conducting an intelligence probe in cooperation with partner agencies it has not yet sought a Board Authorisation and Determination¹ to conduct an intelligence operation or investigation specifically in relation to people trafficking. It has collected some information in the course of a recent investigation under the Midas special investigation.²

The ACC's Relationship With The Relevant State And Other Commonwealth Agencies

During the development of the strategic assessment, the ACC developed strong partnership arrangements, with a number of Departments and agencies, and drew on a range of cases, research and knowledge within the private and public sectors.

¹ A determination by the ACC Board to authorise the use of the ACC's operational capability including special powers.

² The Midas Special Investigation is focussed on money laundering and tax fraud.

The Adequacy of the Current Legislative Framework

ACC comment on the adequacy of current legislative, regulatory and policy frameworks for people trafficking for sexual exploitation is subject to finalisation as part of its classified strategic criminal intelligence assessment. The ACC does note, however, that the Commonwealth Attorney-General's Department will make a submission to the PJC on this topic.

Background

The Nature and Meaning of People Trafficking for Sexual Servitude

The People trafficking Problem

People trafficking for sexual exploitation³ is serious and organised criminal activity as defined in Part 1, Section 4 of the *Australian Crime Commission Act 2002* as it involves two or more offenders, substantial planning and organisation, sophisticated methods and techniques, is ordinarily committed in conjunction with other offences of a like kind and involves serious offences within the meaning of the *Proceeds of Crime Act 2002*, fraud, tax evasion or money laundering.

People trafficking is defined and interpreted in numerous ways, however, put simply it is the buying, selling, and transporting of human beings into the commercial sex industry, forced labour or other slavery-like conditions.⁴ It sometimes involves the illegal movement of people across international borders. The widely accepted definition was agreed at the United Nations (UN) General Assembly on 15 November 2000. The UN Protocol to Prevent, Suppress and Punish People trafficking, Especially Women and Children (Trafficking Protocol) defines people trafficking as:⁵

‘the recruitment, transportation, transfer, harbouring or receipt of person, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation’.

The ACC acknowledges that a common regulatory and enforcement view is that all aspects of the Protocol’s definition need to be present in a case to satisfy consideration as a trafficking issue; that is, movement across borders, coercion or deception and exploitation. However, the ACC’s national intelligence approach is based on the associated criminality of the issue rather than focussing on the status of the victim. This view incorporates and dissects the range of issues identified in the Protocol and considers the nature of the many serious and organised criminal activities associated with trafficking; for example in regards to harbouring, fraud, illicit payments, and exploitation. It is from this perspective that the term trafficking is used in this submission.

³ The term exploitation is preferred to servitude as it more broadly reflects the current problem, even though Commonwealth legislation only reflects the term servitude.

⁴ Also variously referred to as human trafficking and people trafficking.

⁵ United Nations Office on Drugs and Crime, *The Protocol to Prevent, Suppress and Punish People trafficking*, http://www.unodc.org/unodc/trafficking_protocol.html, accessed 6 June 2003.

1. The ACC's Work in Establishing the Extent of People Trafficking in Australia for the Purposes of Sexual Servitude

1.1 ACC Support to Defining National Criminal Intelligence Priorities (NCIPs)

In February 2003, the ACC embarked on an Overview Threat Assessment designed to provide a decision support tool for the ACC Board to determine NCIP.⁶ This process advised the Board of the nature of people trafficking (in the broad context) as an emerging/worsening regional issue as follows:

- The larger issue of indenturing of labour was advised as increasing in prominence, especially as new methods of illegal immigration are exploited by criminals seeking opportunities to exploit the disparity of living standards regionally and globally.
- More specifically, ongoing criminal exploitation of women in Australia's domestic sex industry was assessed as set to continue but unlikely to rise substantially in terms of numbers of women affected. It was noted that visibility of the extent of exploitation has been reduced in line with the legalisation of prostitution and subsequent elimination of law enforcement vice specialists in a number of states, and variances in brothel regulation over recent years and by differing State legislation.
- Links to impacts in terms of fraud in the immigration caseload and the provision of innovative technological responses to law enforcement encroachment were also noted for the Board.

The ACC Board considered this advice - as part of deliberations over 55 other threat issues - and agreed that illegal and indentured prostitution was an emerging, important national issue. The ACC Board designated "illegal and indentured prostitutes" as a Category B NCIP. (Category B issues are "emerging matters, significant matters dealt with largely by individual member agencies (or other relevant agencies), or matters requiring less than the highest priority resourcing").

1.2 Production of a Strategic Criminal Intelligence Assessment

Background to the Assessment

Prior to the ACC being established, the former Office of Strategic Crime Assessments was tasked - under its annual Tasking Directive 2002-2003 - to complete a strategic assessment on people trafficking. The details of the task were:

***Human trafficking.** (Incorporating the sex industry). Interpol reports human trafficking as one of the more significant Asian regional crimes in the future. How will this be manifest? Covers: domestic sex*

⁶ NCIPs are criminal threats and issues, ranked and categorised on the basis of findings according to an ACC coordinated Threat Assessment process. Currently 56 issues have been identified, and categorised, as NCIP. The NCIPs are developed in more detail in the National Criminal Intelligence Collection Requirements (NCICRs), which provide a tasking mechanism requiring information exchange between national agencies. The NCIPs are designed to be a start point for national strategies, with a bearing on operational strategy as well as strictly intelligence-related work.

*industry, sex tourism, paedophilia, labour exploitation, and convergence with people smuggling. Has a regional focus.*⁷

With the formation of an Interdepartmental Committee on People trafficking for Sexual Servitude early in 2003, this task was refined by the ACC to focus on imported sexual exploitation in order to service potential decision requirements for the ACC and Government.⁸ An ACC strategic analyst was allocated to the task for three months from May to July 2003.

The aim and scope of the assessment

The original report was to explore issues surrounding trafficking of people for sexual exploitation to Australia. The analysis was to include discussion concerning the size of the problem, the possible causes of it, whether it is increasing in incidence and the future direction of the problem i.e. whether the rate is likely to increase, decrease or plateau in future years. As a consequence of time constraints, the following specific issues are not examined in the ACC assessment: sex tourism; paedophilia; the trafficking of Australian women; the trafficking of children in the region; or human trafficking in Australia for other types of labour involving servitude or indenturing apart from the sex industry.

Research objective: The primary objective of the assessment was to examine the relationship between human trafficking for sexual exploitation and the sex industry in Australia and to ascertain the likely trajectory of future change in human trafficking for sexual exploitation. Where appropriate, it will also identify gaps in current responses both in law enforcement and wider policy initiatives.

Research process

The research process involved the following:

- A collaborative assessment with the Australian Federal Police (AFP), was planned as a proposed AFP *Regional Environmental Scan on Transnational Sex Offence Matters* was being conducted over a similar time frame. In August the AFP provided relevant case studies which assisted in the verification of findings and influenced the methodology used to determine the number of women under threat.
- A review of key literature and research undertaken by academics and other agencies with an interest in the subject in the Australian context such as the AFP, DIMIA, Attorney Generals and Australian Institute of Criminology.
- A review of Australian law enforcement holdings on the issue – using the Australian Criminal Intelligence Database (ACID) and other ACC holdings. These holdings revealed evidence of trafficking in women for prostitution into Australia mainly occurring from South East Asian countries with Thailand featuring as a core source country and Malaysia as the centre for providing false identity/travel documentation. There were also patterns of interstate trafficking of indentured non-citizen sex workers with Sydney

⁷ Extract from OSCA Tasking Directive 2002/2003.

⁸ It is planned to consider broader issues involved in People Trafficking in a follow-on assessment.

appearing to be a key transit/organising hub. A large proportion of trafficked women appearing in the caseload were believed to be prostitutes by profession.

- Community and academic research was also considered.
- An interagency analytical group on people trafficking was formed and cooperation has resulted in a useful flow of intelligence on the issue that is proving invaluable to the development of the assessment.
- The assessment reflects DIMIA state-sourced information, APMC returns⁹ sourced for a number of state Police Services and some directly sourced State police information. Given the variance in depth of responses and knowledge, a complete representation was not obtained regarding the legal and illegal prostitution industry across Australia. There is, however, sufficient material to form an estimation of the scale and nature of the problem.

Timing

A draft classified Strategic Criminal Intelligence Assessment was produced in August 2003 for limited distribution to key data providers for comment on the analytical methodologies used in the report. The assessment is currently being finalised with the objective of dissemination as a classified document to key stakeholders in early October 2003.

1.3 ACC Operational Activity

Although the ACC is currently conducting an intelligence probe in cooperation with partner agencies it has not yet sought a Board Authorisation and Determination¹⁰ to conduct an intelligence operation or investigation specifically in relation to people trafficking. It has collected some information in the course of a recent investigation under the Midas special investigation.¹¹

This recent investigation included two ACC examinations and two interviews with expert witnesses. Each of these activities was aimed at improving knowledge of the current circumstances in relation to people trafficking for sexual exploitation, rather than for evidential purposes. Any remaining investigations under Midas will be limited to financial investigations rather than the predicate criminal activity.

⁹ Collection processes intended to inform the development of the Law Enforcement National Plan of Action announced by Minister for Justice and Customs on 3 July 2003.

¹⁰ A determination by the ACC Board to authorise the use of the ACC's operational capability including special powers.

¹¹ The Midas Special Investigation is focussed on money laundering and tax fraud.

2. The ACC's Relationship with the Relevant State and Other Commonwealth Agencies

2.1 ACC Strategic Relationships

The ACC continues to seek collaborative involvement of State and Commonwealth partner agencies in the production of intelligence and in planning and execution of appropriate operational activity.

The ACC participated in a recent Inter-Departmental Committee (IDC) to combat trafficking in people, which aims to increase prosecutions of traffickers and to improve victim support measures.

While developing the strategic assessment, the ACC collaborated with DIMIA who had embarked on a project related to the issue. As stated, this led to the formation of an interagency analytical group on people trafficking.

The ACC is also initiating increased international links with the assistance of the AFP Liaison Officer network and, where appropriate, through direct liaison. In the future, the ACC expects to be able to use such international links to gain information and intelligence on regional and global trends.

2.2 ACC Operational Relationships

Whilst the ACC currently has limited scope for conducting intelligence operations or investigations in relation to people trafficking an intelligence probe is being conducted and there is further capacity to facilitate national intelligence development and to assist partner agencies wherever possible. Should the ACC Board authorise more specific operational activity, the ACC would develop a coordinated response with partner agencies.

3. The Adequacy of the Current Legislative Framework

The Commonwealth Attorney-General's Department is the agency with prime responsibility for the development of the Commonwealth law enforcement policy response to people trafficking. They are providing a response to the PJC on this issue.

The ACC expects to be able to provide a valuable contribution to the development of policy and legislation with the release of its strategic criminal intelligence assessment on people trafficking for sexual servitude. .