

Chapter 7

Results

Introduction

7.1 This chapter attempts some general assessment of the results achieved by the ACC after nearly three years in operation.

7.2 Overall, the reactions to the ACC by other institutional participants in the Australian law enforcement world have been very positive. The Australian Federal Police submission, for example, states that:

The first years of the ACC have been a period of achievement in a difficult environment with a new agency emerging from the shadows of its three predecessors under a new legislative framework.

In the AFP's view, the Board and the ACC has produced tangible outcomes strategically and operationally and the ACC has emerged as an effective national law enforcement body.¹

7.3 Chief Commissioner Nixon of the Victoria Police states:

...the ACC is operating effectively and I am confident that the ACC will become a far more effective organisation moving forward.²

7.4 Detective Superintendent Gollschewski of the Queensland Police described the ACC's role as integral to the national law enforcement capability,³ while the Queensland Crime and Misconduct Commission said:

The history of cooperation between the CMC and the ACC has been notable and allowed for some significant achievements in the fight against organised crime.⁴

7.5 In this context, this chapter examines the development of internal and external institutional arrangements, its criminal intelligence capability, investigations and finally, the evolving issue of performance measures.

Internal institutional arrangements

7.6 The first challenge for a new organisation is to both establish the internal working arrangements and begin the process of building a coherent sense of corporate

1 AFP, *Submission 10*, p. 13

2 Victoria Police, *Submission 8*, p. 1

3 Detective Superintendent Steve Gollschewski, *Committee Hansard*, Brisbane, 19 August 2005, p. 20

4 CMC, *Submission 6*, p. 1

identity and purpose. The former entails taking the broad institutional frameworks created by the Act and developing the practical relationships and procedures that make these frameworks into a functional organisation. This is a significant challenge in itself, given the organisational and political complexity of the ACC's governance environment. The latter task was made particularly challenging by the need to bring together three existing entities – the National Crime Authority, the Australian Bureau of Criminal Intelligence and the Office of Strategic Criminal Assessments – each with their own purpose, history and culture.

7.7 Mr Milroy outlined his view of these challenges:

As the commission nears the completion of its third year of operation, it has faced many challenges including the need to: ensure a smooth integration of the structures, people and processes of its antecedent agencies; establish a head office in Canberra; put in place an appropriate organisational structure; identify its future menu of work; and progressively deal with a range of difficult work force planning and management issues.⁵

7.8 According to Mr Keelty, Chairman of the ACC Board:

The ACC has had to manage the transition from three distinct existing agencies to a single new agency with new governance arrangements involving a new act and a board with considerable powers vested in it. The difficulty of this task alone cannot be underestimated.⁶

7.9 At a basic level, these tasks are reflected in the production of a range of corporate documents, such as the Corporate Plan 2004-07, the Business Plan, the Professional Standards and Integrity Management Plan, as well as the various Policies and Procedures documents.

Policy capacity

7.10 The AFP also suggested the ACC could further develop its capacity for policy development. As Mr Keelty told the Committee, this is an area of high importance:

the demands placed on the ACC are quite distinct to the demands placed, for example, on the AFP's policy area, and the ACC, by virtue of its role, will form a view as an organisation in areas of policy. I think for all of us the current environment of policy making in law enforcement has been so volatile and so voluminous that the ACC can value-add in those areas because it does and will see things differently to how the AFP will see them. It needs to be resourced in that area to enable it to make a positive contribution to policy.⁷

5 Mr Alastair Milroy, *Committee Hansard*, Canberra, 7 October 2005, p. 60

6 Mr Mick Keelty, *Committee Hansard*, Canberra, 7 October 2005, p. 22

7 Mr Mick Keelty, *Committee Hansard*, Canberra, 7 October 2005, p. 34

7.11 The AFP submission also referred to this, arguing that: 'The ACC's position in having multiple stakeholders across multiple agencies further reinforces our view that the ACC should have a dedicated Policy capability.'⁸

7.12 In response, the ACC advised that, as of 1 July 2005, there is now such a dedicated unit, with policy responses and initiatives coordinated through the Strategy and Governance area, and has also been strengthened with the creation of a General Manager Strategic Policy.⁹

Relationship development

7.13 As a new nationally focused law enforcement agency, the ACC faces the significant challenge of finding its place in the law enforcement community, and avoiding the danger of counterproductive turf warfare.

7.14 Mr Milroy identified the need to acknowledge 'that this is an area of responsibility for a lot of bodies.'¹⁰ He also said that the organisation is strongly focused on the need to establish and build the ACC's relationships with law enforcement agencies. Mr Milroy explained that:

we realised that there was clearly a need for us to improve our relationship management. ... We realise we have to understand our partners and we have to brief them on what we are trying to achieve for their benefit in national criminal intelligence.¹¹

7.15 This has seen the establishment of working groups at various levels including groups such as joint management groups in each jurisdiction,¹² the National Criminal Intelligence and Operations Forum and the National Information Sharing Working Group.¹³ According to Mr Milroy, as a result, the ACC has:

established productive and robust working relationships with its board, national law enforcement partners and other stakeholders, including private sector organisations; and developed robust investigative management and accountability governance structures.¹⁴

7.16 These efforts have also been recognised by Mr Keelty:

A key aspect of the ACC's progress has been the practical cooperation displayed between agencies represented on the board on a day-to-day basis

8 AFP, *Submission 10*, p. 11

9 ACC, *Submission 14B*, Attachment G

10 Mr Alastair Milroy, *Committee Hansard*, Canberra, 7 October 2005, p. 69

11 Mr Alastair Milroy, *Committee Hansard*, Canberra, 7 October 2005, p. 69

12 Mr Alastair Milroy, *Committee Hansard*, Canberra, 7 October 2005, p. 69

13 Detective Superintendent Steve Gollschewski, *Committee Hansard*, Brisbane, 19 August 2005, pp 19 & 27

14 Mr Alastair Milroy, *Committee Hansard*, Canberra, 7 October 2005, p. 60

on matters that are major to law enforcement in this country, particularly the area of the creation of multi-agency task forces.¹⁵

7.17 Similarly, Detective Superintendent Gollschewski of the Queensland Police described how the ACC has:

established and maintained a close collaborative working relationship with the Queensland Police Service in both the intelligence and investigative areas.¹⁶

7.18 Strong working relations appear also to have been developed with the Police Federation of Australia, which represents police at a national level.¹⁷

7.19 The Committee also notes the ACC's endeavours in building relationships with international agencies. Mr Kitson told the Committee that:

I think one other thing that needs to be recognised is that the development of the ACC has seen us build some very strong partnerships domestically and peripherally in the international field. We have to continue to strengthen those and we have to continue to be able to collect intelligence from the widest range of areas. That is a process that is ongoing. We have built some spectacularly strong relationships and we have had some very encouraging returns from some of our partners. We must continue to build that aspect, because it is that global reach and that global perspective that will give us, I think, a true dimension and give meaning to our work in terms of strategic criminal intelligence.¹⁸

Private sector

7.20 The Committee is aware that the ACC has also been working to establish dialogue and information sharing relationships with the elements of the private sector.¹⁹ It is also clear to the Committee that this is likely to become an increasingly important aspect of investigating organised crime, driven by the growing trends in financial and insurance fraud, money laundering, and the use of high technology communications.

7.21 The Insurance Australia Group submission also draws attention to the need for enhancing the level of collaboration between law enforcement agencies and the private sector to more effectively respond to organised crime involvement in motor

15 Mr Mick Keelty, *Committee Hansard*, Canberra, 7 October 2005, p. 22

16 Detective Superintendent Steve Gollschewski, *Committee Hansard*, Brisbane, 19 August 2005, p. 19

17 Mr Mark Burgess, Police Federation of Australia, *Committee Hansard*, Canberra, 13 October 2005, p. 14

18 Mr Kevin Kitson, *Committee Hansard*, Canberra, 7 October 2005, p. 66

19 Note also the comments in IAG, *Submission 19*, p. 3

vehicle theft and re-birthing, and fraud.²⁰ Further, the Wheeler review observes that Australia appears to be 'lagging behind leading Western countries ...in integrating intelligence exchange between the public and private sectors'.²¹

7.22 However, the Committee also notes the discussion in Chapter 3 of this report, which examines the legislative limits to the sharing of information with the private sector.²²

7.23 This is an interesting developing area. Clearly, given current crime trends, the degree of cooperation and information exchange will need to develop, whilst balancing the proper protection of privacy. The Committee notes that as far as it has been possible, the ACC has ventured into sharing expertise with the private sector. However, as noted in chapter 3, priority should be given to resolving the policy and integrity issues which arise from a public sector/private sector interface in order to further develop this aspect of the ACC's operations.

Criminal intelligence

7.24 The core function of the ACC is the collection, analysis and dissemination of criminal intelligence. In a quantitative sense, the achievements of the ACC can be measured in the establishment of a series of products, including the endorsement by the board of the National Criminal Intelligence Priorities and the delivery of:

- National criminal threat assessments
- Picture of Criminality in Australia
- Criminal Intelligence Reports²³
- Alerts
- Illicit Drug Data Report²⁴

7.25 These represent the products of the board approved special investigations detailed earlier in the report.

7.26 Another important area of ACC activity is the development and maintenance of key intelligence databases such as:

- Australian Criminal Intelligence Database (ACID)
- Australian Law Enforcement Intelligence Network (ALEIN)

20 IAG, *Submission 19*, p. 4

21 Wheeler, the Rt Hon J., *An Independent review of airport security and policing for the government of Australia, September 2005*, p. xv

22 Mr Miles Jordana, *Committee Hansard*, 7 October 2005, p. 5

23 For a more extensive listing of these reports, see the ACC Annual Report 2003-04, p. 34

24 ACC & ACC board, *Submission 14*, p. 6

- Violent Crime Linkage Analysis System (ViCLAS)
- Australian Identity Fraud Protection Registers (AIPR)²⁵

7.27 A second level of assessment is a qualitative one: how useful and effective has all this criminal intelligence product been in 'reducing the incidence and impact of serious and organised criminal activity' in Australia? As Mr Lenihan, a former senior officer of the NCA, points out, judging the quality of the intelligence depends on the views of the users of that intelligence, who are primarily the police services.²⁶ As has been noted elsewhere in the report, the lack of response from the many of the police services limits the capacity of the Committee to form a view. However, what evidence the Committee has received suggests that the recipients of the ACC's intelligence products are satisfied with their quality, timeliness and content. Mr Jordana, a Deputy Secretary in the Attorney General's Department, told the Committee that:

The ACC is meeting its objectives by enhancing national law enforcement capacity through improved criminal intelligence collection and analysis, setting clear national criminal intelligence priorities and conducting intelligence-led investigations into nationally significant criminal activity. Through its criminal intelligence function, the ACC is fulfilling an important role of supporting and informing whole-of-government policies and decision making on nationally significant criminal threats.²⁷

7.28 The Department also detailed the useful contribution the ACC's intelligence has made to national policy development in areas such as firearms, people trafficking for sexual servitude, and illicit drugs.²⁸

7.29 Detective Superintendent Gollschewski of the Queensland Police Service described the ACC product as 'easily read and easily understood' and one that is based on a useful template and methodology that the Queensland Police are themselves adopting.²⁹

7.30 The Committee also notes that Mr Keelty described 'the areas is the streamlining of the intelligence reporting, the breadth of its dissemination and also the quality of the reports' as one of 'two key areas where the ACC has really moved beyond our expectations'.³⁰ The Committee commends the ACC for these achievements, and also notes the commitment by the ACC to publish a public version of the Picture of Criminality in Australia. This document will make an important

25 ACC & ACC board, Submission 14, p. 9

26 Mr Lenihan, *Submission 20*, p. 2

27 Mr Miles Jordana, *Committee Hansard*, Canberra, 7 October 2005, p. 2

28 AGD, *Submission 17*, p. 3

29 Detective Superintendent Steve Gollschewski, *Committee Hansard*, Brisbane, 19 August 2005, p. 29

30 Mr Mick Keelty, *Committee Hansard*, Canberra, 7 October 2005, p. 30

contribution to the national public debate on the emerging trends in organised crime and the extent of the threat it poses.

Strategic intelligence capacity

7.31 Evidence to the inquiry has raised two issues in relation to the ACC's criminal intelligence services: the extent of its strategic intelligence products and the extent of the use of core ACC systems by partner agencies.

7.32 Mr Keelty, perhaps speaking more in his capacity as Commissioner of the AFP, told the Committee that he wishes to see the ACC further develop its strategic criminal intelligence capabilities:

One of the things I think we have to maintain within the ACC – because nobody else is doing it to the level that the ACC can – is that over-the-horizon view[.]

7.33 He noted the emergent trends of identity crime and people-smuggling without it having being predicted:

I think that the over-the-horizon product is critical and will be more important to us in the future, particularly when you consider how the funding processes operate in cycles and how we need to be very prepared for new policy initiatives to be in the cycle of the budgetary process in order to acquire resources in time to have an impact. In law enforcement one of the problems is that we are always lagging because of that process.³¹

7.34 The importance of this role was accepted by Mr Milroy:

the responsibility for us to have an over-the-horizon-capability is warranted. It is one of the major roles that the ACC should be involved in.³²

7.35 However, according to the Australian Federal Police Association, it is a role that has been neglected, pointing to the disbanding of the Emerging Issues section within the intelligence directorate, and the discontinuance of the futures forecasting previously undertaken by OSCA.³³

7.36 The ACC reject this criticism, arguing that while the form of strategic reporting has changed, the function has not. As Mr Kitson, the Director of National Criminal Intelligence explained:

It has not endured in the way that might make it immediately visible if you were to inspect our structure or organisation charts today; you might not readily recognise the capacity that is there. That is because we have taken an approach that integrates it across a number of our functional areas. An

31 Mr Mick Keelty, *Committee Hansard*, Canberra, 7 October 2005, p. 30

32 Mr Alastair Milroy, *Committee Hansard*, Canberra, 7 October 2005, p. 65

33 AFPA, *Submission 16*, p. 4

outcome of that is that we have embedded that outlook capacity in documents like Picture of Criminality.³⁴

7.37 A component of the Picture of Criminality report is the Strategic Environment for Law Enforcement which focuses on likely patterns and trends that might occur in criminal markets over the next five years. The principal strategic intelligence products are the Strategic Criminal Intelligence Products (SCIAs), which generally relate to an issue identified in the Picture of Criminality report. The Board endorses a program of these each year, with twelve planned for 2005-06.³⁵

7.38 At an organisational level, the ACC created a new section in August 2005, with responsibility for preparing the Picture of Criminality report, the SCIAs, and developing a strategic warning program. This capability is further enhanced by the creation of a newly formed research area.³⁶

7.39 These organisational changes represent 'quarantined' resources working on a predetermined menu of work:

We set a menu of strategic criminal intelligence reports which is endorsed by the board. That is our over-the-horizon product. That is a menu of work that we propose to the board each year, with a rationale for each piece of work that is in there. ...

In the current cycle of work proposed for strategic assessment, we have some ambitious projects in areas that are perhaps seen by some as almost peripheral to law enforcement – issues of wider labour exploitation, potential criminal exploitation of international trading systems and the potential impact on criminality in Australia, of democratic patterns and shifts.³⁷

7.40 An important point was made by Mr Kitson, that 'strategic' in this context means no more than around five years out:

the nature of crime does not change in its broad sweep; it changes in its minute detail. It changes in its method of operation rather than in its actual style. So I think it is more useful to concentrate on saying: 'This is how we see it in the next five years. This is how law enforcement needs to adjust its focus in that period.' I think it is useful nonetheless to speculate on some of the issues that might confront us beyond the immediate five-year period, and indeed our Picture of criminality does do that. For example, it touches on the potential of, say, a pandemic to significantly affect regional and global dynamics in economic, political and social contexts. Our capacity to

34 Mr Kevin Kitson, *Committee Hansard*, Canberra, 7 October 2005, p. 65

35 ACC, *Submission 14B*, Attachment F

36 ACC, *Submission 14B*, Attachment F

37 Mr Kevin Kitson, *Committee Hansard*, Canberra, 7 October 2005, p. 68

explore that in a criminal environment that has meaning for our readership is really rather limited.³⁸

7.41 The Committee commends the ACC for these initiatives and is satisfied that the issues raised are being addressed.

Use of ACC intelligence products

7.42 An area of concern to the Committee is the limited extent to which the core ACC products, such as ACID/ALEIN are being adopted for use by other state and federal agencies.

7.43 While information from State police was generally not available, Detective Superintendent Stephan Gollschewski from the Queensland Police Service told the Committee:

We are a little different from most other jurisdictions in that we use the Australian Criminal Intelligence Database, ACID, as our primary intelligence database. We are in fact the only jurisdiction that does that. So the ACC's role in maintaining that database and in collecting intelligence is pivotal to how we do business.³⁹

7.44 It is unclear why only one state has adopted ACID as its principle database, and whether it is due to a lack of faith on the part of the other states in the information contained in ACID – although Queensland appears quite satisfied – or whether the other states have their own well established systems. In either case, it appears to the Committee to be a matter that warrants further inquiry.

7.45 Of greater concern to the Committee though, is the willingness of the other jurisdictions to contribute information to the ACC's intelligence systems. The AFPA submission observed that: 'A number of Board agencies have been remiss in not providing information on which they are the Australian experts to the ACC'⁴⁰ and that the quality of the information contained on ACID may have suffered because:

The ACC has been unsuccessful in convincing most law enforcement agencies to contribute meaningfully [sic] data in an ongoing capacity to [ViCLAS and ACID]⁴¹

7.46 This problem appears to reflect the earlier difficulties experienced by the Australian Bureau of Criminal Intelligence. According to Mr Lenihan:

38 Mr Kevin Kitson, *Committee Hansard*, Canberra, 7 October 2005, p. 65

39 Detective Superintendent Steve Gollschewski, *Committee Hansard*, Brisbane, 19 August 2005, p. 21

40 AFPA, *Submission 16*, p. 3

41 Australian Federal Police Association, *Submission 16*, p.4

The Bureau's greater difficulty ... was that most forces would not give it current information and intelligence, so that it was nearly always a long way behind the game.⁴²

7.47 He notes further that;

Some jurisdictions do not contribute to the serial sexual and violent offenders database (ViCLAS). There can hardly be any operational considerations preventing such contributions – as there may be in other areas – and the unwillingness to share such information is puzzling and disturbing.⁴³

7.48 Mr Bob Bottom also identified a lack of willingness to share information on the part of some agencies:

I think it is a bit of jealousy between agencies and the like. But this is why this organisation is so important. Police forces are like that; they are territorial.⁴⁴

... a lot of the things the royal commissions recommended and police chiefs promised et cetera are not being delivered.

7.49 It seems self-evident to state that the capacity of the ACC to fulfil its statutory role as a national criminal intelligence agency depends on the willingness of its partner agencies to place their own information holdings in the shared national databases. The Committee is concerned that the reluctance of most jurisdictions to use these shared databases as their principal systems may be a symptom of a persisting reluctance to engage fully with a national approach. If this is the case, it is extremely disappointing that this remains a problem three years after the inception of the ACC, particularly given the participation of each of the police commissioners on the ACC Board.

7.50 So long as individual jurisdictions maintain their own hermetically sealed information streams, any effective national response to organised crime will continue to be hamstrung by criminals that operate freely across jurisdictional boundaries. The Committee considers this to be a matter deserving close scrutiny in the coming year.

Investigations

7.51 In the almost three years of the ACC's operations, there has been significant investigative work done through the formation of task forces and joint investigations. Mr Milroy told the Committee that:

The integration of intelligence functions with the ACC's investigative capability through national taskforces and joint tactical operations has been

42 Mr Denis Lenihan, *Submission 20*, p. 3

43 Mr Denis Lenihan, *Submission 20*, p. 3

44 Mr Bob Bottom *Committee Hansard*, Brisbane 19 August 2005, p. 5

instrumental in disrupting the criminal activities of some of the country's key organised crime syndicates and individuals. The strategic placement and unique role of the ACC's criminal intelligence investigative functions, supported by its coercive powers, have allowed the commission to develop informed positions on nationally significant criminal matters beyond the capacity of single law enforcement agencies.⁴⁵

7.52 Detective Superintendent Gollschewski explained the significance of this operational activity for Queensland:

With respect to operational collaborations, to date the QPS has conducted 21 joint investigations with the Australian Crime Commission. The majority of the investigations have been complex, long-term, protracted investigations resulting in significant criminal networks being disrupted, numerous persons being arrested and charged with serious criminal offences and the seizure and restraint of assets valued at multimillions of dollars. Over this period 332 coercive examinations have been conducted and 221 notices to produce have been issued for jointly investigated matters.⁴⁶

7.53 The ACC Annual Report gives further details of a number of other significant investigations that have operated across areas of drug trafficking, money laundering and illegal firearms. The ACC concludes that it has 'made a significant impact, particularly on serious and organised crime groups ... through its investigative role'. Evidence of this claim is provided by a table summarising operational results since 2003.⁴⁷

Measuring performance

7.54 The final consideration in this chapter is to return to the issue of how to measure performance. This has been a matter of perennial interest to most of the ACC's governance bodies and the ACC itself. The Intergovernmental Committee directed the ACC through its board, to conduct further work on refining and improving the ACC performance reporting measures, while this Committee discussed issues relating to performance measurement at some length in its report on the last ACC Annual Report.⁴⁸

7.55 At that time, the Committee warned of the dangers of a focus on the wrong performance measures, which can create perverse incentives that drive the organisation in the wrong direction.

45 Mr Alastair Milroy, *Committee Hansard*, Canberra, 7 October 2005, p. 61

46 Detective Superintendent Steve Gollschewski, *Committee Hansard*, Canberra, 19 August 2005, p. 19

47 ACC & ACC Board, *Submission 14*, p. 10

48 PJC on the ACC, *Examination of the Annual Report of the Australian Crime Commission 2003-04*, para 2.42 et seq

7.56 According to Mr Keelty, these matters have been the subject of considerable efforts by the ACC, such that performance reporting is 'one of two key areas where the ACC has really moved beyond our expectations.'⁴⁹ This work has involved collaboration and comparison with other agencies to incorporate the best elements of all these systems into the ACC model.⁵⁰

7.57 The difficulties inherent in performance reporting for an organisation such as the ACC, were addressed by the Families and Friends for Drug Law Reform (FFDLR). The submission suggests that the performance criteria for the ACC should not be activity focused, but should instead assess effectiveness by measuring the 'extent to which law enforcement effort reduces the quantity of drugs needed to satisfy the demand of the Australian market.'⁵¹ Pointing to a wider range of indicators of supply and demand factors such as price, purity and availability, they argue that much more accurate measures of the effectiveness of law enforcement activities directed against the drug trade are possible.

7.58 The submission discusses this extensively, providing illustrations and examples, including a 1996 study which states that interdiction and reduction in availability are important measures of effectiveness in dealing with illicit drugs.

7.59 The Committee agrees with much of this submission, however does not wholly agree with its conclusion. A full assessment of all the variables raised by the FFDLR is certainly appropriate and necessary to permit a sensible understanding of the illicit drug problem in Australia and should underpin the assessment and ongoing refinement of Australia's anti-drugs policies.

7.60 Applying these measures to the ACC as performance criteria is more problematic. The ACC's tasks are set by government policy, and the agency has little scope to vary that policy. Measures such as those proposed by the FFDLR – while of great relevance to policy formulation – are largely outside the control of the agency. As such, the agency can only be judged on their success in carrying out government policies, and their use of public resources to do so. To that extent, activity levels summarised by the numbers of arrests, prosecutions, seizures, etc, are a relevant performance measure.

7.61 Nevertheless, the analysis proposed by the FFDLR should be done and published, and – as the FFDLR suggest – the ACC may be an ideal agency to perform this task in the context of its intelligence assessments and the Illicit Drug Data Report.

7.62 The Committee commends the agency for the work it has done on developing performance measures and will continue to monitor the evolution of performance indicators for the ACC.

49 Mr Mick Keelty, *Committee Hansard*, Canberra, 7 October 2005, p. 30

50 Mr Mick Keelty, *Committee Hansard*, Canberra, 7 October 2005, p. 33

51 *Submission 15*, p. 1

Conclusion

7.63 The three years since the establishment of the ACC have seen extensive changes in the criminal law environment, and there is no evidence that this will alter in the near future. The challenge for the ACC is to keep the medium to long term future well within view, as its continuing effectiveness will be determined in large part by its ability to anticipate future trends in organised criminal activity and position itself accordingly.

7.64 The ACC has shown itself to be a flexible and responsive organisation of rapidly developing capabilities that seems well placed to meet these challenges.

