

Australian Federal Police Submission

**Parliamentary Joint Committee on the Australian
Crime Commission
(PJC-ACC)**

**Inquiry into the future impact of serious and
organised crime on Australian society**

TABLE OF CONTENTS

1	Introduction	1
1.1	AFP role and functions in serious and organised crime	1
1.2	AFP relationship with the ACC and ACC Board	2
2	Overview of Organised Crime and Impact on Society	2
3	Terms of Reference	3
3.1	AFP position on the structure, function and powers of the ACC	3
3.2	Future trends in serious and organised crime activities, practices and methods and their impact on Australian society	4
3.3	Strategies for countering future serious and organised crime.....	5
3.4	The economic cost of countering future organised crime at a national and state and territory level	7
3.5	The adequacy of legislative and administrative arrangements, including the adequacy of cross-jurisdictional databases, to meet future needs ...	7

1 Introduction

1.1 AFP role and functions in serious and organised crime

1. The *Australian Federal Police Act 1979* (the AFP Act) provides the framework under which the AFP's responsibilities and priorities are established.

2. Section 8 of the AFP Act clearly specifies the functions of the AFP to be the provision of police services in relation to:

- a. the laws of the Commonwealth;
- b. the property of the Commonwealth, Commonwealth places, and property of authorities of the Commonwealth;
- c. the safeguarding of Commonwealth interests; and
- d. anything else that is incidental or conducive to the provision of these services.

3. Within this context, section 37(2) of the AFP Act provides for Ministerial Directions that establish the Government's priorities and expectation of the AFP. Under the current Direction the Government expects the AFP to give special emphasis to areas such as:

- a. preventing, countering and investigating terrorism under Commonwealth legislation;
- b. preventing, countering and investigating transnational and multi-jurisdictional crime, illicit drug trafficking, organised people smuggling (including sexual servitude and human exploitation), serious fraud against the Commonwealth, 'high tech' crime involving information technology and communications, and money laundering;
- c. the identification, restraint, seizure and confiscation of assets involved in or derived from the above activities;
- d. providing an effective contribution to the implementation of the Government's Tough on Drugs strategy;
- e. ensuring its strategic directions in relation to the above activities appropriately complement priorities set for the ACC at Board level, particularly in the area of national criminal intelligence; and
- f. continuing to develop its capacity in technology and skills to deal with new forms of criminal activity.

4. Within this framework the AFP delivers a range of law enforcement services specifically aimed at investigating a broad range of crime types.

5. Further, the AFP undertakes a wider range of activities that while not focussed on specific crime types have consequential, but not insignificant, benefits in terms of preventing crime (these include offshore capacity building, restoration of law and order offshore, and policing at airports).

6. This work is principally done in collaboration with partner law enforcement bodies, and regulatory agencies at the state/territory, national, and international level.

7. The AFP employs a structured and comprehensive system (the Case Categorisation and Prioritisation Model) for allocating, on a case by case basis, its investigative resources across its responsibilities and priority areas according to the impact of that specific activity. The Government sets targets for the AFP to achieve in terms of addressing high and very high impact crime through the agency's Portfolio Budget Statement.

8. The AFP notes that the ACC has a legislated definition of 'serious and organised crime' that provides a focus for their activities. The AFP has a broader focus than just organised crime and does not have a legislated definition for that aspect of it. However, under any reasonable definition, such crime would be the focus of the vast majority of the AFP's investigative activities against high and very high impact targets.

1.2 AFP relationship with the ACC and ACC Board

9. The AFP has a close relationship with the ACC of all its partner agencies. This relationship involves the role of the AFP Commissioner as Chair of the ACC Board, tactical, operational and strategic engagement on intelligence and investigations, and administrative cooperation (currently including co-location on AFP premises in some locations).

10. As a member of the ACC Board the AFP has considerable opportunity to engage with the ACC on issues surrounding the impact of serious and organised crime in Australia. This includes informing the National Criminal Intelligence Priorities set by the ACC Board and contributing to the development of Board-endorsed ACC strategies (including structured sets of Determinations and Task Forces) for addressing nationally significant organised crime.

11. The AFP and ACC undertake activities, albeit from different aspects, on a range of nationally significant, serious and organised crimes. These include, but are not limited to, drug trafficking, identity crime, money laundering, tax fraud, and aviation security.

12. The AFP is therefore an active participant in a wide range of the ACC's operational activities addressing serious and organised crime. This participation includes the provision of AFP secondees for ACC determinations and taskforces, the provision of technical assistance, and collaboration on various intelligence sources.

13. Similarly the ACC and AFP are partners in or collaborate closely through several broader operational arrangements, some of which are led or hosted by the AFP, such as the Joint Asian Crime Group, National Identity Crime Task Force, Australian High Tech Crime Centre, Joint Airport Investigation Teams, Joint Airport Intelligence Groups, and Identity Security Strike Teams.

14. The AFP and ACC collaborate on corporate and administrative matters where appropriate. This includes co-location of offices in some states and the sharing of a principal case management and intelligence system called PROMIS.

15. While the AFP and ACC retain a close relationship it is important to note the two agencies are distinct in their focus and responsibilities. The AFP has a clear mandate to pursue the Commonwealth's policing interests. The ACC collaborates with investigative agencies in addressing nationally significant organised crime. Nationally significant organised crime may touch on areas of Commonwealth interest but can be areas of greater common concern to the states and territories¹ (although often with peripheral interest for the Commonwealth).

16. The ACC can therefore undertake, within established and approved frameworks, specific activities with the states and territories aimed at addressing issues specific to one or more of those jurisdictions. The AFP however has a clear direction from Government to address transnational crime and has an extensive international network and engagement strategy to support this role.

2 Overview of Organised Crime and Impact on Society

17. Crime has always been present, in one form or another, in society. It is committed for a variety of motives. It is committed by individuals and by groups – sometimes working with a collective purpose but with no organisation or connection and sometimes working in a structured, organised manner.

18. The principal motive of the vast majority of organised crime groups, including those operating in Australia, has traditionally been financial return. Without address, this often limitless pursuit of financial return has, in its extreme, the potential to result in organised

¹ This may include, for example, outlaw motorcycle gangs and amphetamine production.

crime groups affecting the delivery of good government, government services and effective law enforcement and justice.

19. This pursuit of financial return has ensured that while the many aspects of society have changed, organised crime has adjusted to exploit new opportunities or enhance its activities in new ways.

20. Organised crime has been no less adept at integrating technology and its capabilities than other parts of society. Secure and satellite supported communication and navigation are being exploited in drug trafficking, individuals/groups/commodities can now be transported significant distances in short time frames, true identities can be concealed and false identities created and exploited more rapidly, and financial returns can be made without the physical exchange of cash.

21. In addition, these and similar developments have increased the capacity and capability of groups to expand and operate over large distances. Where geographical distances, and in particular borders, may once have acted as some limit to such activities, crime is now increasingly inter-jurisdictional and transnational.

22. More recent history has seen the significant growth of another principal motive for organised criminal activity with significant economic and societal impacts – philosophical beliefs². The activities of these groups have led to a growing and active role for police agencies in national infrastructure and national security matters. These groups may also rely on other criminal connections, more motivated by financial returns, to access funds, equipment, and resources.

23. The impact on society of these developments in organised crime has been an expansion in the number of risks being faced, including ones with personal implications³. While organised crime continues to operate in traditional areas such as drug trafficking and people smuggling, there has been a considerable increase in the economic and social impacts arising from new activities involving identity crime, electronic crime, corporate fraud, money laundering, and/or tax evasion.

24. While the social and economic impacts of activities like drug trafficking and people smuggling cannot be understated, some research suggests that economic crime, which predominately involves organised activity, now has the largest financial impact on Australian society.

25. History has shown, all other things being equal, that it is difficult to exactly predict changes in the level, impact and priority for specific criminal activities over extended periods of time. However, the uptake of technology, increased mobility, and greater social interaction and reliance on electronic financial and information systems can be expected to continue. The pursuit of economic returns will remain the key driver behind organised crime's exploitation of these developments, except for a number of groups of national security interest who will continue to pursue other agendas.

3 Terms of Reference

3.1 AFP position on the structure, function and powers of the ACC

26. The AFP has previously commented in detail on the ACC's structure, function and powers in its August 2005 submission to the PJC-ACC's Review of the ACC Act. Those comments equally apply to the ACC's ability to address serious and organised crime.

² For example, political or ideological motivations.

³ For example, whereas drug trafficking may have an impact on users, with broader social implications, new e-crimes and identity fraud allow organised crime to target, sometime en-masse, unwilling participants and steal their bank accounts or other assets.

27. In that submission the AFP noted that the ACC was a demonstrably effective national law enforcement agency, responsive to its partner agencies and Board-endorsed priorities. The AFP retains this view and notes that the ACC has continued to actively seek to strengthen the processes and procedures it uses to establish national criminal intelligence priorities and manage its suites of operational activity.

28. The AFP retains the view that the ACC should continue to strengthen its role as an operational domestic criminal intelligence agency. The ACC has had significant success in focussing its considerable intelligence collection capabilities in support of jurisdictional partners' direct investigative responsibilities (examples include firearms trafficking, amphetamines and other synthetic drugs, and crime in the transport sector).

29. The AFP acknowledges that the ACC should, and does, maintain an investigative capacity necessary to support these intelligence activities and other determinations authorised by the Board. Board member agencies already commit significant investigative resources to organised crime investigations and ACC's efforts can be best directed at informing how those resources may be targeted or in providing focussed support (such as coercive powers) for agencies' activities. The ACC Board, given its membership, is well placed to ensure the work of all agencies is complementary (not duplicated) in authorising the ACC's work. It is incumbent on the ACC to ensure the Board remains informed in this regard.

30. The AFP recognises that the Board has well established processes that ensure the ACC is well placed to identify and respond to priority and emergent threats as part of a holistic response to the broader nationally significant organised crime environment. The AFP acknowledges that the Board's mandate to set national criminal intelligence priorities, informed by the *Picture of Criminality in Australia*, has been particularly beneficial in establishing a collective view of these threats and their respective priorities.

31. The AFP is cognisant that some of these domestic organised crime threats will have transnational aspects and works closely with all agencies, including the ACC, to ensure these are addressed. Ensuring international agencies are approached, and the subsequent flows of intelligence and cooperation, are managed in a coordinated, structured manner is vital in maximising the efficiency and effectiveness of Australian law enforcement's interactions offshore. The AFP provides this capability through its International Network (IN).

32. The AFP strongly supports the ACC's collaboration with the AFP, including the ongoing use of the IN, to pursue any international aspects arising from its domestic work on nationally significant serious and organised.

3.2 Future trends in serious and organised crime activities, practices and methods and their impact on Australian society

33. Serious and organised criminals have demonstrated an enduring ability to identify and exploit commodities (real and intangible) and markets (including financial systems). The ongoing strengthening of a wide range of regulatory and security systems through enhanced policing and law enforcement activity is likely to heighten the risks for organised crime and require continuous re-assessment of potential areas of exploitation or manipulation.

34. Organised crime groups will continue to exploit technology, particularly information and communications technology, to enhance and secure their operations. Increasing digitisation provides some significant opportunities for law enforcement to process greater amounts of appropriate information but can present some significant challenges in terms of collection compared with methods used for analogue technologies.

35. Further, the increasing integration of technology into social activities and interactions has provided greater opportunities for organised crime to directly target individuals. Such activities may include phishing attacks or the theft and exploitation of electronically stored personal and financial information. It has provided avenues for groups to pursue other

agendas with wider target groups (such as the creation and distribution of harmful computer viruses) or those with common interests (such as on-line child sex activities).

36. Technology has borne its own forms of currency and trade outside the national systems and this represents particular challenges in monitoring financial activities. Organised crime will continue to exploit financial, taxation, and legal systems for their advantage. These crimes will continue to have the potential to have by far the greatest economic impact on society.

37. Globally, organised crime can be expected to take advantage of opportunities presented by locations, including nations, with poor governance and justice systems and social conditions. Such environments both mitigate the risks of operation for organised crime groups and provide ready access to potential members.

38. The AFP expects that Australian organised crime will remain heavily involved in its traditional domestic, nationally significant activities such as drug production and trafficking and firearm trafficking. However, law enforcement and regulatory activity will change the nature and specific activities of these groups and continuous monitoring will be required⁴.

39. The AFP notes that the ACC currently produces a range of intelligence products that inform law enforcement's collective thinking on the current and emerging crime environment in Australia, including the *Picture of Criminality in Australia* and other more targeted assessments of the strategic criminal environment. The trends and issues identified in these documents are accounted for in the Board's setting of the National Criminal Intelligence Priorities and endorsement of the areas of focus and activity for the ACC's determinations.

3.2 Strategies for countering future serious and organised crime

40. The AFP continues to actively pursue a strategy of establishing partnerships in addressing its law enforcement responsibilities. These partnership activities include:

- a. provision of direct operational, technical and forensic support;
- b. enhancing the number and nature of formal relationships with domestic and international police services and regulatory bodies;
- c. establishing joint strike teams on a range of crime types, involving the ACC, state/territory police, and/or regulatory agencies;
- d. actively engaging with partner agencies in working groups on key issues;
- e. hosting collaborative arrangements such as the Australian High Tech Crime Centre (AHTCC) and managing Australia's Interpol and Europol interactions;
- f. providing capacity building (resources, training, and mentoring) to regional agencies to assist in strengthening their intelligence, investigative, forensic, and technical capabilities; and
- g. funding and contributing to transnational crime and cooperation centres in key Asia-Pacific locations.

41. Given the nature of transnational crime, the AFP has developed an International Engagement Strategy that provides a strategic framework and direction for the AFP's interaction with its international partner agencies. International engagement has been a key focus for the AFP as it enhances the opportunities to prevent offshore organised crime groups with Australian interests from actually impacting on Australia. Under the strategy the AFP will strengthen existing relationships and seek to build new ones as the criminal and broader global environment develops.

42. The AFP's International Network is a key element of this strategy and now spans 26 countries, with over 86 liaison officers. The Network is a key capability for ensuring a structured and managed flow of intelligence between Australian and international law

⁴ This may include changes in the threats posed by specific drugs for example.

enforcement agencies, and is utilised by the ACC to address international issues or facilitate international contacts.

43. The AFP will continue to actively strengthen key systems through enhanced law enforcement involvement and capacity building programs. This includes reactive and proactive deployments offshore in support of other nation's justice and governance systems, and enhanced policing arrangements at critical infrastructure points such as airports.

44. This work will remain vital in reducing the opportunities available for criminal groups to exploit. It highlights the necessity for law enforcement to continue to operate in partnership with the wider range of agencies as a part of whole of Government approaches (such as *Tough on Drugs* and the Regional Assistance Mission to the Solomon Islands) and with industry and its governing bodies.

45. The AFP acknowledges that the ACC has a variety of strategies for targeting nationally significant serious and organised crime, including targeting criminal methodologies, specific groups or commodities.

46. The ACC's special powers, especially its coercive regime, will remain vital in ensuring law enforcement bodies can break the codes of silence and misdirection upon which organised crime relies. These powers are especially powerful in providing valuable intelligence support for direct operational activities by partner agencies (examples include the determinations in relation to human trafficking, crime in the transport sector, and firearms trafficking).

47. The AFP notes in this context that the ACC's special intelligence operations, in particular, remain a powerful strategy through which law enforcement informs itself of the underlying methodologies supporting organised criminal activity in various areas. The Amphetamine and Other Synthetic Drugs Determination serves as a good example of the effective use of ACC's coercive powers at a strategic level to deliver high-value intelligence product on methodologies across the whole industry (including key facilitators such as chemical and equipment suppliers).

48. The AFP recognises the value of the ACC's development of the Picture of Criminality in Australia and the Board's endorsement of national criminal intelligence priorities. The AFP supports both processes as a key mechanism through which Australian law enforcement, through the Board, can both stay responsive to the nationally significant organised crime environment and identify the areas where the ACC can support their efforts.

49. The AFP acknowledges that the ACC Board plays a key role in ensuring the ACC's menu of work (including determinations) complements member and other agencies' direct investigative and intelligence operations. The Board must be well-informed in this regard and the AFP strongly supports ACC efforts to ensure this is the case. Similarly, the AFP commends the ACC's ongoing development of tools to inform the Board of the linkages across its determinations to ensure these operational activities are also complementary.

50. In this context, the AFP supports the capacity for the ACC Board to authorise inter-jurisdictional task-forces, with each agency actively contributing its own intelligence and investigative resources appropriate to their needs and operating environments. The AFP notes this is a key mechanism through which broader, multi-agency response to the threats posed by nationally significant organised crime can be strategically coordinated.

51. There are several key benefits in this task-force approach including the strong oversight and governance frameworks, ability for agencies to contribute resources commensurate with the threat faced in each jurisdiction, and the ability for jurisdictions to manage related investigative activities in accordance with their priorities, while the ACC focuses on intelligence support.

3.4 The economic cost of countering future organised crime at a national and state and territory level

52. In examining the potential economic costs of countering the future serious and organised crime environment it is important to recognise law enforcement activities:

- may be directed broadly against crime types which may involve organised crime and/or individuals/opportunists;
- may not necessarily be focussed on specific criminal activities but can have significant benefits in limiting organised crime opportunities or activities; and
- should often be complemented by broader government regulatory, health or security activities to ensure organised crime opportunities are systemically reduced.

53. For example, a proportion of the AFP's budget relates to broader policing activities and not specifically to investigating serious and organised crime. However each of these functions plays a vital role in preventing criminality. For example, international policing deployments can be in response to broader social and justice issues but help ensure those offshore locations do not become open to widespread organised crime exploitation. Conversely, dedicated capabilities (such as the JAITs) provide mechanisms for the AFP (often with partner agencies) to address organised crime in specific environments.

54. As another example, while the AFP receives substantial funding for a range of initiatives under the National Illicit Drugs Strategy (*Tough on Drugs*), this work should be seen in the context of the whole of Government response (including demand and harm reduction) that systemically addresses the broader social impact of drugs.

55. The breadth of policing responsibilities, the necessary ongoing uptake of information management and other technologies, the need to maintain strong technical and mobility capabilities (including sustained offshore deployments), and the increasing need to engage legal and other specialists could all have practical impacts on the ongoing economic costs of delivering modern policing services.

56. Balancing these costs are the economic benefits of deterring organised criminal exploitation of the nation's economic and social structures and maintaining a safe and secure quality of life for the Australian community.

57. The AFP's ongoing development and refinement of its performance measurement model reflects the need to demonstrate the economic and social benefits of its activities. The AFP has developed measures that demonstrate the overall economic benefit and return on investment (dollars of economic benefit for every dollar provided to the AFP) for some of these activities⁵ and is actively pursuing the development of others. As an example, the Drug Harm Index⁶ provides a single measure that encapsulates the value to the Australian community of AFP drug seizures and is reported in the AFP's Annual Report.

58. The AFP notes that the ACC is developing its own performance measurement framework, with the assistance of Macquarie University. The AFP has shared its performance measurement methodologies with the ACC during this process.

3.5 The adequacy of legislative and administrative arrangements, including the adequacy of cross-jurisdictional databases, to meet future needs

59. While each agency's legislative program is constantly being updated to reflect changes in their operating environment, the AFP is not aware of any significant legislative or

⁵ See http://www.afp.gov.au/_data/assets/pdf_file/3930/rn8.pdf for examples of this work in terms of drug, fraud, and protection activities.

⁶ See http://www.afp.gov.au/_data/assets/pdf_file/3927/rn5.pdf for detail information on the Index. Note the Index does not capture the deterrent benefits of AFP seizures – there are also benefits for the community in reducing the capacity of organised crime to import additional quantities of drugs.

administrative impediments limiting its collaboration with the ACC. The AFP is also not aware of any systemic failings in the ACC's legislative or administrative regimes that fundamentally prevent it from countering nationally significant organised crime.

60. Similarly the AFP is not aware of any significant administrative issues which undermine cooperation with the ACC or the ACC's identification and response to nationally significant organised crime. In fact, the AFP acknowledges that the ACC, including the Board, has developed and progressively refined an effective set of processes to support these activities.

61. The AFP does however reiterate that the ACC's current access to the AFP's special member provisions should be seen as an interim measure. While the AFP acknowledges activities against organised crime can carry significant personal risk for ACC members performing some functions and access to special powers is appropriate (upon assessment), it would be more effective for this access and associated management regime to be enshrined in the ACC's own legislation.

62. The AFP has not identified any significant issues with the current intelligence sharing arrangements that would undermine either agency's capacity to respond to the current or future nationally significant organised crime environment.

63. The AFP recognises that the ACC's ACID and ALEIN systems are key national criminal intelligence systems. While there are appropriate limits⁷ on the uploads the AFP makes to these systems from its own case management system, the AFP is actively examining opportunities to enhance its contributions.

64. The current case management system, PROMIS (the Police Real Time On-line Management Information System), is developed and maintained by the AFP and also provided to the ACC. While the two agencies' systems are not identical (each is modified to suit their own operating environment), the ACC version does generally benefit from ongoing AFP enhancement programs. Further both agencies benefit from a common understanding of each others underpinning intelligence and case management processes and systems maintenance is more cost efficient.

65. The AFP notes that extensive information and intelligence sharing arrangements exist amongst Australian law enforcement agencies, including outside any formal task force or joint agency teams. From an AFP perspective this includes direct access to other agencies' systems and the provision of PROMIS access to other agencies. These arrangements somewhat mitigate the need for wide-scale cross-jurisdictional databases while allowing agencies to develop, operate and maintain intelligence and case management systems and processes appropriate to their own operating environments.

⁷ These may include the associated security classification of the systems or intelligence, and differences between case information and intelligence.