

Chapter 2

Overview of serious and organised crime in Australia

Organised crime is a phenomenon that has emerged in different cultures and countries around the world. Organised crime is ubiquitous; it is global in scale and not exclusive to certain geographical areas, to singular ethnic groups, or to particular social systems.¹

2.1 Perceptions of serious and organised crime frequently consider it occurring in, or exported from, discrete geographical regions. In reality, organised crime is widespread and impervious to cultural and geographic boundaries. Australia is no exception.

2.2 This chapter provides an overview of serious and organised crime in Australia. It outlines the broad features of organised crime including current illicit markets, the nature of organised crime groups and the impact of organised crime on Australian society.

2.3 This chapter also discusses some of the issues associated with responding to organised crime, including: defining serious and organised crime; quantifying serious and organised crime; and the trend towards preventing rather than reacting to serious and organised crime.

2.4 Lastly, during the course of this inquiry, the involvement of outlaw motorcycle gangs (OMCGs) in organised criminal activity in Australia gained prominence in the political and public domains. Accordingly, the committee sought to understand the extent of OMCG organised criminal activity.

Organised crime in Australia: a snapshot

2.5 There is a long history of organised crime in Australia² and, according to Dr Andreas Schloenhardt, an Associate Professor at the University of Queensland specialising in organised and transnational criminal law, it is widespread in its reach:

Organised crime can be found across the country and even regional centres and remote communities are not immune to the activities of criminal organisations.³

2.6 In its current manifestation, organised crime in Australia exhibits a number of features that largely reflect patterns in organised crime internationally. Unsurprisingly, an enduring feature of organised crime is that it is primarily motivated by financial

1 Dr Schloenhardt, *Submission 1B*, p. 12.

2 Dr Schloenhardt, *Submission 1*, p. 6.

3 Dr Schloenhardt, *Submission 1B*, p. 82.

gain.⁴ Further, it generally involves systematic and careful planning, the capacity to adapt quickly and easily to changing legislative and law enforcement responses and the capacity to keep pace with, and exploit, new technologies and other opportunities.⁵

2.7 The Australian Crime Commission (ACC) likens organised criminal 'enterprises' to conventional businesses in the kinds of measures they adopt to ensure good business outcomes – risk mitigation strategies, the buy-in of expertise (legal and financial for example), and remaining abreast of market and regulatory change. The principal difference is, of course, that their business activities and profits are illicit.⁶

2.8 The impact of organised crime on Australia is significant. The ACC concluded that at a conservative estimate organised crime cost Australia \$10 billion in 2008. These costs include:

- Loss of legitimate business revenue;
- Loss of taxation revenue;
- Expenditure fighting organised crime through law enforcement and regulatory means; and
- Expenditure managing 'social harms' caused through criminal activity.⁷

2.9 Serious and organised crime not only results in substantial economic cost to the Australian community but also operates at great social cost. Organised crime can threaten the integrity of political and other public institutional systems through the infiltration of these systems and the subsequent corruption of public officials. This, in turn, undermines public confidence in those institutions and impedes the delivery of good government services, law enforcement and justice. Along with this are the emotional, physical and psychological costs to victims of organised crime, their families and communities.⁸

Organised crime groups

2.10 Over time a number of criminal organisations have infiltrated or evolved within Australia – Asian triads, Colombian drug cartels, Italian and Russian mafia, and OMCGs.⁹

4 In its report, *Inquiry into the future impacts of serious and organised crime on Australian society*, September 2007, p. 5, the PJC-ACC notes that paedophile groups are an exception to this.

5 ACC, *Organised Crime in Australia 2009*, pp 5-6.

6 ACC, *Organised Crime in Australia 2009*, p. 5.

7 ACC, *Organised Crime in Australia 2009*, p. 5.

8 PJC-ACC, *Inquiry into the future impact of serious and organised crime on Australian Society*, September 2007, pp 38-39 & 40-41.

9 Dr Schloenhardt, *Submission 1*, p. 6.

2.11 In the committee's 2007 report on serious and organised crime it was reported that Asian organised crime groups continued to thrive in Australia with a broadening of their activities beyond their traditional involvement in extortion and protection rackets. The presence and expansion of Middle Eastern organised crime groups was also noted, with drug trafficking, property crime and vehicle rebirthing reported as their main activities. European crime syndicates, commonly of Romanian and Serbian origin were reported to be prominent in WA and to an extent in Queensland and Melbourne.¹⁰

2.12 The growing involvement of OMCGs in organised crime was further highlighted in the committee's 2007 report. This is discussed in more detail later in this chapter.

2.13 Whilst the presence of these identifiable organised crime groups was reported, the trend towards 'entrepreneurial crime networks' was also emphasised. The report discussed the shift from communally-based, strongly hierarchical crime groups that centre on a singular identity – a particular ethnicity for example – to more flexible, loosely associated networks.¹¹

2.14 This trend was emphasised in evidence to this inquiry. For example, Assistant Commissioner Tim Morris from the AFP informed the committee that:

The groups are more business driven and will enter into quick and ready partnerships with whoever may be able to do the type of crime business that they need to do. So the traditional models—and we have seen it in the past in documents categorising crime groups along strict ethnic lines—are becoming less and less relevant and are becoming more and more flexible. People are shifting around very, very quickly and flexibly into the most profitable crime types they can find.¹²

2.15 Making a related point, Mr Kevin Kitson from the ACC noted that increasingly, organised crime is moving out of the sphere of a powerful few at the head of tightly structured and hierarchical groups to entrepreneurial and relatively transient partnerships:

[W]e probably need to step away from the concept of a grand puppet-master somehow coordinating this activity nationally. There are undoubtedly people who, at the flick of a phone switch, can command resources and attention and support across the country and internationally, but I think we would characterise it as being much more entrepreneurial, much more available to anyone who really has the commitment to seek out

10 PJC-ACC, *Inquiry into the future impact of serious and organised crime on Australian Society*, September 2007, pp. 10-11.

11 PJC-ACC, *Inquiry into the future impact of serious and organised crime on Australian Society*, September 2007, p. 6.

12 Assistant Commissioner Morris, AFP, *Committee Hansard*, 6 November 2008, p. 32.

organised crime profits rather than necessarily being the domain of a select few.¹³

2.16 At a state level the same pattern was observed. Deputy Commissioner Ian Stewart from the Queensland Police Service (QPS) informed the committee that:

Whilst at one time an organised crime group membership was operated possibly on geographic or ethnic lines which reflected a long-term commitment, such membership or participation has migrated to more fluid and flexible approaches that may see a temporary union to execute crime within a thematic context—for example, black market web portals, a cyber based environment hosted and conducted for the express purpose of bringing criminals together to facilitate open trading of illegal commodities and services.¹⁴

2.17 The ACC reported that notwithstanding the increasingly 'diverse' and 'flexible' nature of organised crime groups, 'high-threat organised crime groups' tend to hold in common a range of characteristics. The ACC identified the following features:

- They have transnational connections;
- They have proven capabilities and involvement in serious crime of high harm levels including illicit drugs, large scale money laundering and financial crimes;
- They have a broader geographical presence and will generally operate in two or more jurisdictions;
- They operate in multiple crime markets;
- They are engaged in financial crimes such as fraud and money laundering;
- They intermingle legitimate and criminal enterprises;
- They are fluid and adaptable, and able to adjust activities to new opportunities or respond to pressures from law enforcement or competitors;
- They are able to withstand law enforcement interventions and rebuild quickly following disruption;
- They are increasingly using new technologies; and
- They use specialist advice and professional facilitators.¹⁵

Transnational crime

2.18 The committee notes, in particular, the increasingly transnational nature of organised crime, which the United Nations Office on Drugs and Crime (UNODC) has

13 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 10.

14 Deputy Commissioner Stewart, QPS, *Committee Hansard*, 7 November 2008, p. 18.

15 ACC, *Organised Crime in Australia 2009*, p. 6.

described as 'one of the major threats to human security'.¹⁶ During the course of this inquiry the committee become aware of the scale and destructive effects of serious and organised crime and transnational crime. Mr Antonio Maria Costa, Director General of the United Nations Office on Drugs and Crime (UNODC) outlined his concerns regarding the global crime threat:

I believe we face a crime threat unprecedented in breadth and depth...drug cartels are spreading violence in Central America, Mexico and the Caribbean. The whole of West Africa is under attack from narco-traffickers, that are buying economic assets as well as political power;

collusion between insurgents and criminal groups threatens the stability of West Asia, the Andes and parts of Africa, fuelling the trade in smuggled weapons, the plunder of natural resources and piracy;

kidnapping is rife from the Sahel to the Andes, while modern slavery (human trafficking) has spread throughout the world;

in so many urban centres, in rich as much as in poor countries, authorities have lost control of the inner cities, to organized gangs and thugs;

the web has been turned into a weapon of mass destruction, enabling cyber-crime, while terrorism - including cyber-terrorism - threatens vital infrastructure and state security.¹⁷

2.19 Mr Costa reasoned that the global growth of organised crime would be an ongoing trend, pointing to the current global economic crisis as a trigger for increased criminal activity.¹⁸

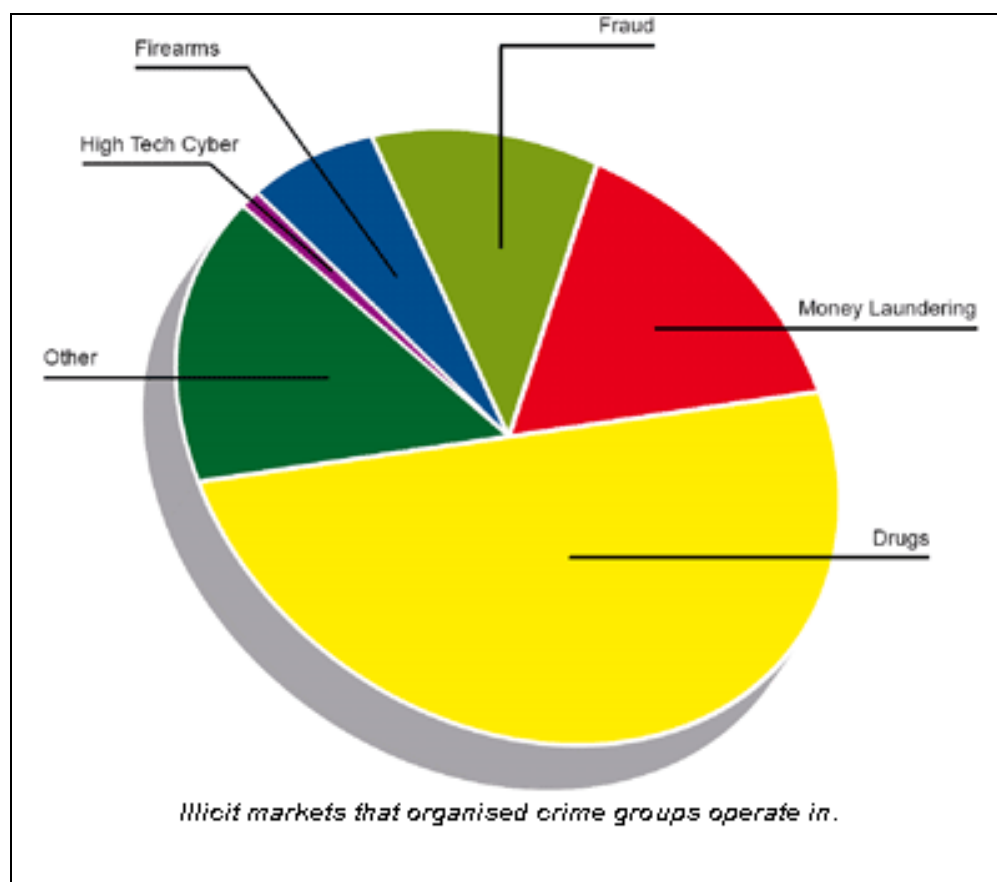
Organised criminal activity

2.20 The ACC's data on organised crime groups in Australia shows that organised crime groups operate in a range of illicit markets: drugs, money laundering, fraud, firearms trafficking, high-tech crime, and other activities (see Chart 1). Each of these is briefly discussed below.

16 UNODC website, www.unodc.org/unodc/en/organized-crime/index.html (accessed 16 June 2009).

17 Mr Costa, Director General, UNODC, *The global crime threat – we must stop it*, 18th Session of the Commission on Crime Prevention and Criminal Justice, Vienna, 16 April 2009, www.unodc.org/unodc/en/about-unodc/speeches/2009-16-04.html (accessed 16 June 2009).

18 Mr Costa, Director General, UNODC, *The global crime threat – we must stop it*, 18th Session of the Commission on Crime Prevention and Criminal Justice, Vienna, 16 April 2009, www.unodc.org/unodc/en/about-unodc/speeches/2009-16-04.html (accessed 16 June 2009).

Chart 1 – Illicit markets that Australian organised crime groups operate in¹⁹

Drugs

2.21 Illicit drugs are a primary market with significant organised crime group involvement in the importation, domestic production, and distribution of these drugs. This includes the production and supply of amphetamines and the supply of methylenedioxymethamphetamine (MDMA, also known as ecstasy), heroin, cannabis and cocaine.²⁰ Mr Kitson from the ACC explained that:

Very few things can give you the same kind of profit margin that illicit drugs can and the ratio between, if you like, the wholesale or manufacturing cost and the retail cost is so large that it is likely to remain for the foreseeable future as the major generator of criminal profit.²¹

Money laundering

2.22 Money laundering comprises a large percentage of organised criminal activity and is used to conceal the origin of criminal profits. This occurs through 'the

19 ACC, www.crimecommission.gov.au, 2009

20 ACC, *Organised Crime in Australia 2009*, p. 7.

21 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 15.

placement of illicit profits into the legitimate economy', which is achieved by a number of means including:

- 'transfers to financial institutions in countries where Australia has limited visibility;
- transfers to other asset types which cannot be easily traced;
- gambling;
- the use of money remitters.²²

2.23 Increasingly, criminal networks are exploiting technological opportunities to launder money – for example, through online transfers and identity fraud.²³

2.24 Money laundering impacts negatively on the Australian community in a number of ways. These include: 'crowding out of legitimate businesses in the market-place by money laundering-front businesses', influencing the volatility of exchange rates and interest rates through large-scale funds transfers and 'increasing the tax burden' on the community through tax evasion.²⁴

Financial sector crimes

2.25 There are a range of financial crimes including manipulation of the stock market, fraud against investors and tax crime. According to the ACC, new technologies and the globalised economy have provided further opportunities for organised crime - both in terms of new markets and new ways to undertake criminal activity. This has led to an increase in financial crimes.²⁵

Firearms trafficking

2.26 The ACC reports that 'firearms aid criminal activity and can be used to strengthen an organised crime group's market position'. As a result the movement of firearms across state borders continues to be of concern to law enforcement agencies.²⁶

High-tech crime

2.27 High-tech crime has been identified as an area of growth for organised criminal activity. As indicated above, there are two dimensions to high-tech crime: enabling and facilitating. Technology-enabled crime refers to new crime opportunities

22 ACC, *Organised Crime in Australia 2009*, pp 8-9.

23 PJC-ACC, *Inquiry into the future impact of serious and organised crime on Australian society*, September 2007, p. 22.

24 ACC, *Organised Crime in Australia 2009*, p. 8.

25 ACC, *Organised Crime in Australia 2009*, p. 9.

26 ACC, *Organised Crime in Australia 2009*, p. 11.

presented by new technologies. An example of this is 'phishing'. That is, email scams, where the sender endeavours to elicit private information from the user by pretending to be a legitimate enterprise. Technology-facilitated crime refers to the use of new technology to undertake traditional crimes. For example, money-laundering via online transfers.²⁷

Other crimes

2.28 The ACC has also reported an international growth in intellectual property (IP) crime, which includes counterfeiting of a range of products (DVDs, pharmaceuticals, car parts etc), trademark counterfeiting and illegal downloads. IP crime has high yields and low penalties, and is therefore a lucrative market for organised crime.²⁸

2.29 Environmental crimes such as wildlife trafficking, poaching and pearl thefts have all been targeted by organised criminals.²⁹

Future trends

2.30 Cultural, political and social changes all impact on the composition of organised crime groups, the way in which organised crime operates and the focus of organised criminal activity. New technologies, increasing globalisation, economic trends and the pace at which change occurs produce particular opportunities for criminal activity and particular challenges for those charged with the task of combating organised crime.³⁰

2.31 The rapid pace of technological change and, correspondingly, the 'dramatic' impacts of this change on organised criminal activity was commented on by several witnesses. It was seen to be an immediate and ongoing challenge for law enforcement agencies. For example, Mr Christopher Keen, Director of Intelligence of the Crime and Misconduct Commission (CMC) in Queensland observed:

I think that in three or five years a lot of the organised crime activity is going to be of a very different complexion to what we have now.³¹

2.32 The ACC reported that 'emerging areas of potential criminal exploitation' include financial sector fraud and primary industries.³² However, it was noted that

27 PJC-ACC, *Inquiry into the future impacts of serious and organised crime on Australian society*, September 2007, p. 17.

28 ACC, *Organised Crime in Australia 2009*, p. 11.

29 ACC, *Organised Crime in Australia 2009*, p. 11.

30 ACC, *Organised Crime in Australia 2009*, p. 12.

31 Mr Keen, CMC, *Committee Hansard*, 7 November 2008, p. 33.

32 ACC, *Organised Crime in Australia 2009*, p. 14.

illicit drugs will most likely remain the primary market for organised criminal activity.³³

Responding to serious and organised crime

2.33 In Australia a range of law enforcement and other government agencies work in partnership to respond to serious and organised crime. The agencies involved in responding to serious and organised crime, and the legislative tools available to them, are discussed in chapter 3.

2.34 At the Federal level, the Australian Crime Commission (ACC) was established to address federally relevant criminal activity, which section 4 of the ACC Act defines as:

- an offence against a law of the Commonwealth or a territory; or
- an offence against a law of a state that has a federal aspect.

In practical terms, federally relevant criminal activity generally equates to serious and organised crime.

2.35 The ACC contributes to the 'fight against nationally significant crime' through 'delivering specialist capabilities and intelligence to other agencies in the law enforcement community and broader government'.³⁴ The ACC works collaboratively with the AFP, state and territory law enforcement agencies, the Australian Attorney-General's Department and a range of Australian Government agencies such as the Australian Customs and Border Protection Service, the Australian Tax Office, the Australian Securities and Investments Commission, the Australian Security Intelligence Organisation and AUSTRAC.³⁵

2.36 Mr Kitson from the ACC emphasised the need for approaches to serious and organised crime to keep pace with developments in organised crime, including the changing nature of organised crime groups:

It is true to say that the criminal environment has become more complex and legislative tools will need to evolve to match the needs of the criminal environment. Our key intelligence reports show the changing nature of serious and organised crime. We know that groups are typically flexible and entrepreneurial and come together and disband as the needs and opportunities arise. They are increasingly using professional facilitators to blur the lines between legitimate and illegitimate sources of revenue.³⁶

33 ACC, *Organised Crime in Australia 2009*, p. 12.

34 ACC website, www.crimecommission.gov.au (Accessed 2 July 2009).

35 ACC, *Australian Crime Commission Annual Report 2007-08*, p. 10.

36 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 3.

2.37 Similarly, Dr Dianne Heriot from the Attorney-General's Department stated:

[M]any groups increasingly operate in fluid, loose networks that come together for specific activities, break and reform. To fight them, we need similar degrees of flexibility and innovation in our legislative framework and in our law enforcement.³⁷

2.38 The committee heard evidence throughout this inquiry about the difficulties that Australian law enforcement face in combating serious and organised crime. Key amongst them are the problems of collecting statistics about, and mapping trends in, organised crime due to the difficulties in defining and measuring organised crime.

Defining serious and organised crime

2.39 Whilst those in the business of monitoring, researching and combating organised crime share some broad observations about the incidence and parameters of serious and organised crime, there is limited agreement over how it should actually be defined. As Dr Schloenhardt submitted:

Despite the omnipresence of criminal organisations in the region, the concept of organised crime remains contested and there is widespread disagreement about what organised crime is and what it is not... Generalisations about organised crime are difficult to make and many attempts have been undertaken to develop comprehensive definitions and explanations that recognise the many facets and manifestations of organised crime.³⁸

2.40 Dr Schloenhardt went on to note that, in turn, the measures adopted to respond to organised crime are varied and are designed to meet the different jurisdictional concepts of serious and organised crime and the potentially different agendas of those in the position of analysing and combating serious and organised crime – that is, governments, law enforcement agencies and researchers.³⁹ In brief, how serious and organised crime is defined determines, to an extent, how serious and organised crime will be approached.

2.41 The Attorney-General's Department submitted that efforts to define serious and organised crime focus on four elements: 'defining the group; connecting the group to crime; determining the crimes to be captured; and the process for determining that the group is criminal'.⁴⁰

2.42 In summary, a 'simple definition' of group is generally employed that includes the structure of the group (such as minimum number of persons) and the

37 Dr Heriot, Attorney-General's Department, *Committee Hansard*, 6 November 2008, pp 35-36.

38 Dr Schloenhardt, *Submission 1B*, p. 12.

39 Dr Schloenhardt, *Submission 1B*, p. 12.

40 Attorney-General's Department, *Submission 16*, p. 6.

activities/objectives of the group. The activities/objectives of the group are what link the group to crime. The crimes to be included in the definition are ordinarily identified in three ways: 'crimes of a general type with a penalty of 'x' years imprisonment, listing specific offences, or a combination of these approaches'.⁴¹

2.43 Chapter 4 discusses the various legislative approaches which criminalise association in more detail and considers their respective merits. Appendix 4 provides a comparative overview of various international approaches to these definitional elements.

2.44 Serious and organised crime is defined in the *Australian Crime Commission Act 2002* as follows:

Serious and organised crime means an offence:

- a) that involves two or more offenders and substantial planning and organisation, and
- b) that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques, and
- c) that is committed, or is of a kind that is ordinarily committed, in conjunction with other offences of a like kind, and
- d) is a serious offence within the meaning of the *Proceeds of Crime Act 2002*, an offence of a kind prescribed by the regulations...⁴²

2.45 Mr Kitson from the ACC emphasised the challenges that defining serious and organised crime presents for the drafting and implementation of legislation:

I think one of the major challenges...is that there is very little consistency not only in Australia but internationally about how we define what serious and organised crime is. It is tremendously hard to define. We can characterise it as having a number of features: that it is involved in illicit profit; that it has a level of sophistication; and that there are elements of intimidation involved. But the drafting of any legislation to deal with something that is so ill-defined, and is likely to remain a problem that is challenging to define, will continue to frustrate us for some time.⁴³

2.46 Reflecting on the RICO legislation⁴⁴ in the United States, Mr Peter Brady, Senior Legal Adviser with the ACC, observed that the focus given to the concept of the 'organisation' within the legislation has diminished relevance within the current organised crime environment. The RICO Act enables law enforcement agencies to

41 Attorney-General's Department, *Submission 16*, pp 6-8.

42 Section 4(1).

43 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 9.

44 The *Racketeer Influence and Corrupt Organizations Act 1970* (RICO) provides for extended penalties and a civil cause of action for criminal acts performed as part of an ongoing criminal organisation.

'target an organising entity behind a crime' and not simply just the criminal activity itself.⁴⁵ However, as Mr Brady explained, this type of legislation does not easily accommodate the more informal, flexible and temporary association of individuals whose collaboration is driven by a 'business' opportunity:

...one of the difficulties with that type of legislation is that it revolves around the definition of an organisation. Given that we predominantly see an entrepreneurial environment for serious and organised crime, a lot of your attention is focused on defining something which may not exist. It also gives an opportunity for or reinforces that entrepreneurial coming and going.⁴⁶

2.47 Mr Brady's comments sought to respond to the merits of introducing RICO-style legislation in Australia (discussed in chapter 4). His remarks also touched upon the broader issue of the rapidly evolving nature of serious and organised crime and the importance of keeping pace with these changes. Legislative measures based on an outdated or otherwise insufficient definition of organised crime may become less effective or even redundant.

Quantifying serious and organised crime

2.48 The committee heard from a number of law enforcement agencies about the difficulties in measuring the level of organised crime in Australia to monitor changes over time and assess the effectiveness of new approaches to combating organised crime.

2.49 State and federal law enforcement agencies were only able to provide the committee with speculative figures or broad-range trends with respect to the degree of involvement of organised crime groups in criminal activity in Australia, and the percentage of organised crime undertaken by OMCGS. Chief Inspector Damian Powell from the South Australia (SA) Police commented:

In terms of the percentage of organised crime attributed specifically to OMCGs, I think it is a difficult task for anybody to put that into a percentage quantification, just as it is very difficult to some degree to cost the impact of organised crime on the community. You can get a best guess, but I think probably the best way to describe it is to say that outlaw motorcycle gangs are very prevalent in all levels of crime in South Australia.⁴⁷

2.50 Reflecting on the question of growth of organised crime, Mr Kitson and Mr Outram from the ACC explained that the increasing sophistication of Australian

45 CMC, *Submission 6*, p. 5.

46 Mr Brady, ACC, *Committee Hansard*, 6 November 2008, p. 18.

47 Chief Inspector Powell, SA Police, *Committee Hansard*, 3 July 2008, p. 11.

criminal intelligence means that benchmarking against data from previous years to determine trends does not produce accurate results.⁴⁸ Mr Kitson concluded:

I think it would be very easy to look at some of the data we have got, and to say, 'Yes, it has expanded quite significantly over the last five, 10 years, 15 years.' But I think what has actually happened is that we have got better at understanding where it is. Would we be in a position in another five years to say, 'Let's benchmark against 2008 and see where we stand?' I do not know because I suspect that, in the next five years, we will also increase our sophistication of understanding how organised crime is operating. We will get more data from our jurisdictional partners; we will get more data from the private sector that will help us to understand parts of it that are probably currently unrecognised as being organised crime activity.⁴⁹

2.51 Mr Kitson went on to note that an accurate picture of the scale of criminal activity was difficult to ascertain because, in part, private sector victims of organised crime were reluctant to present such information:

Private sector necessarily protects knowledge about its losses and might write off something as a bad debt, which we might understand to be the result of fraudulent activity.⁵⁰

2.52 Superintendent Desmond Bray from the SA Police explained that victims of organised crime were at times too afraid to report crimes because of intimidation by the perpetrators.

With extortions and blackmail we believe that what is reported specifically to the Crime Gang Task Force is very much the tip of the iceberg because the majority of people are fearful to report and resolve those issues themselves in other ways. I would suggest that in all or certainly the majority of victim related crime investigations, victims feel as though they are at significant threat from gang members if they report the matter.⁵¹

2.53 Mr Keen from the CMC in Queensland noted that the rather 'fluid' structure that tends to now characterise organised crime groups contributes to the difficulty in measuring the nature of organised criminal groups and the extent of their involvement in organised criminal activity:

You will find that people that we target may come from, for instance, having links with the Middle East or links to South-east Asia or it might be established criminal networks within Australia. They will be quite fluid and move across those boundaries. The fact of the matter is that it is a very hard thing to measure.⁵²

48 Mr Kitson and Mr Outram, ACC, *Committee Hansard*, 6 November 2008, p. 12.

49 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 12.

50 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 12.

51 Superintendent Bray, SA Police, *Committee Hansard*, 3 July 2008, p. 6.

52 Mr Keen, CMC, *Committee Hansard*, 7 November 2008, p. 29.

2.54 Mr Outram from the ACC informed the committee that the ACC are working with academics on the feasibility of conducting economic modelling. He explained that:

If you can get a handle on the size of the criminal economy, that of course may give you benchmarks over time to then estimate whether or not it is increasing or decreasing. That in itself is a challenging proposition but, as I say, we are engaging with some leading academics, talking to them about whether or not we can introduce economic modelling in and around AUSTRAC data, data from the banking sector and so forth. But there is the cash economy, and that is the challenge. We do not see how big the cash economy is.⁵³

2.55 Mr Terry O'Gorman from the Australian Council for Civil Liberties made the point that the difficulty in quantifying the extent and cost of serious and organised crime weakens arguments that more police powers are required to deal with it:

I do not accept that the organised crime problem is serious, let alone that it is out of control. Nor do I accept that any evidence has been put before you that the existing suite of police powers is inadequate to deal with it. The police can come along to a committee such as yours and throw figures of \$8 billion or \$12 billion or whatever around, and that attracts dramatic headlines. I ask myself often when I read it: where is the evidence that it is \$12 billion as opposed to \$1 billion and, particularly, where is the evidence that the existing powers are so inadequate that the police cannot go and do their job?⁵⁴

2.56 During the course of the inquiry the committee sought on several occasions to quantify criminal group membership in Australia. The committee was informed that data was not, as a matter of course, collected in regard to criminal group membership, and that Australia's federated law enforcement landscape further restricted the collection and consolidation of this data to build a national picture.

2.57 The need to quantify accurately the extent of organised crime, and in particular, to quantify the numbers of criminal groups and those individuals involved is critical.⁵⁵ In quantifying the size of the problem, to develop a national picture of criminal groups and group membership, legislation and policy can be accurately developed, and resources appropriately allocated.

53 Mr Outram, ACC, *Committee Hansard*, 6 November 2008, p. 12.

54 Mr O'Gorman, Australian Council for Civil Liberties, *Committee Hansard*, 7 November 2008, p. 41.

55 The committee notes the current program supported by the United Kingdom's Association of Chief Police Officers to identify and map all organised crime groups operating in the United Kingdom. See: *The Parliament Of the Commonwealth of Australia, Report of the Australian Parliamentary Delegation to Canada, the United States, Italy, Austria, the United Kingdom and the Netherlands, June 2009*, p. 34.

http://www.aph.gov.au/Senate/committee/acc_ctte/laoscg/delegation_report/delegationfinal.pdf

Recommendation 1

2.58 The committee recommends that the ACC work with its law enforcement partners to enhance data collection on criminal groups and criminal group membership, in order to quantify and develop an accurate national picture of organised crime groups within Australia.

A 'harm reduction' approach

2.59 Committee members were told by Mr Bill Hughes, the Director General of the UK's Serious and Organised Crime Agency (SOCA), that UK law enforcement faces similar difficulties in terms of measuring the success of various measures to combat organised crime. In response, SOCA has developed a focus on harm reduction. The committee was told that this focus was established for several reasons:

- Firstly, it is difficult to measure the effectiveness of law enforcement against serious and organised crime, and there are few meaningful performance indicators. A focus on harm and harm reduction is seen as a method which allows the performance of law enforcement to be measured.
- Secondly, the law enforcement response to organised crime is shared over a number of agencies. The different focus and activities of these agencies have not readily allowed a coordinated response to serious organised crime. A harm reduction focus has allowed the various agencies to develop specific agency approaches to a shared target. Mr David Bolt, Executive Director Intelligence at SOCA, told the committee that agencies often tend to focus on areas which are known. A focus on harm reduction allows agencies to look outside these known areas of expertise and provides a common focus for multiple agencies.
- Thirdly, a focus on harm reduction allows law enforcement to actively target serious and organised crime and to intervene before a crime is committed.

Preventative approaches

2.60 Australian law enforcement agencies, along with many of their international counterparts have begun to recognise the importance of reducing harm and preventing serious and organised crime from occurring.

2.61 Assistant Commissioner Anthony Harrison from the SA Police said:

...traditionally law enforcement has adopted very much an investigative approach to the commission of serious and organised crime and serious offences more generally. Throughout the reform process within this state we have really tried to be more innovative and to look at prevention opportunities. As you would probably be aware, police agencies around the world in the last 15 years in particular have tried to move away from a reactive approach to servicing their local communities to a more proactive crime prevention focus.⁵⁶

56 Assistant Commissioner Harrison, SA Police, *Committee Hansard*, 3 July 2008, p. 2.

2.62 A number of different legislative solutions to this traditionally 'reactive' law enforcement role have been mooted and implemented, along with supporting administrative and policy measures. The fourth and fifth chapters of this report consider the main legislative models that have been adopted to prevent serious and organised crime, and discusses the effectiveness of the different models.

Outlaw motorcycle gangs (OMCGS): a growing concern?

2.63 The committee noted in its 2007 report on serious and organised crime a growth of OMCG membership and participation in illegitimate activities across Australia.⁵⁷

2.64 Reflecting on the involvement of OMCGs in serious and organised crime, Assistant Commissioner Morris from the AFP made the following observation:

We have also started to see a very small element of the outlawed motorcycle gangs becoming corporatised and using more sophisticated business structures in their transactions.⁵⁸

2.65 Directly preceding and during the course of the inquiry, significant legislative developments and other events occurred around the country, which brought the issue of serious and organised crime more prominently in the political and public domain. More specifically, the common theme in these developments was the alleged involvement of motorcycle clubs in serious and organised crime.

2.66 The following is a brief history of recent events:

- February 2008 – the South Australian Government introduced *the Serious and Organised Crime (Control) Bill 2007*
- September 2008 – the *Serious and Organised Crime (Control) Act 2008* came into effect in SA. Under the Act, a group or club can be declared an 'organised crime group', which enables various orders to be made to restrict the movement and associations of the group's members. The legislation was introduced to specifically suppress motorcycle clubs, which are viewed by the South Australian Government to present a major organised crime threat in SA. Responses to the legislation were divided with a number of motorcycle clubs, academics, legal organisations and individuals strongly opposed to the legislation, which has been described as 'draconian' and restricting human rights.⁵⁹
- March 2009 – a violent confrontation between members of the Hells Angels and Comancheros Motorcycle Clubs on 22 March resulted in the murder of

57 PJC-ACC, *Inquiry into the future impacts of serious and organised crime on Australian society*, September 2007, p. 8.

58 Assistant Commissioner Morris, AFP, *Committee Hansard*, 6 November 2008, p. 32.

59 See for example, *Submissions 8, 10, 12, 21, 22 and 23*.

Anthony Zervas at Sydney Airport. His brother, Hells Angel member Peter Zervas was shot and seriously injured in an attack a week later. These events were seen to be a culmination of escalating OMCG violence in New South Wales (NSW), which has included drive by shootings and the bombing of an OMCG club house.⁶⁰

- April 2009 - *The Crimes (Criminal Organisations) Control Act 2009* came into effect in NSW. The legislation was introduced as a direct response to OMCG violent criminal activity and provides a mechanism for declaring an organisation a 'criminal organisation' and strengthens the 'capability of the New South Wales Crime Commission to take the proceeds of crime from these organisations and their associates'.⁶¹
- April 2009 – The Standing Committee of Attorney-Generals (SCAG) discussed 'a comprehensive national approach to combat organised and gang related crime and to prevent gangs from simply moving their operations interstate' in response to public concern about the violent and illegal activities of outlaw motorcycle gangs.⁶²
- June 2009 – On 18 June the Western Australia (WA) Police Minister, the Hon. Rob Johnson MP, announced his intention to take a proposal to cabinet to introduce legislation that would be based on SA's and NSW's 'tough' anti-organised crime laws.⁶³
- June 2009 – The Attorney-General, the Hon. Robert McClelland MP, introduced the *Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009* into Parliament on 24 June. The Bill provides for measures agreed to by state and territory Attorneys-General at their April meeting. The Attorney-General stated that the measures will: 'target the perpetrators and profits of organised crime and will provide our law enforcement agencies with the tools they need to combat the increasingly sophisticated methods used by organised crime syndicates'.⁶⁴

2.67 The Attorney-General's Department provided a summary of the national response to this increase in OMCG organised criminal activity:

- November 2006 – the ACC Board approved the establishment of the Outlaw Motorcycle Gangs National Intelligence Task Force (the OMCG Task Force)

60 See for example, the Hon Michael Gallacher, *NSW Legislative Council Hansard*, 2 April 2009, p. 14331.

61 The Hon Tony Kelly, NSW Minister for Police, *NSW Legislative Council Hansard*, 2 April 2009, p. 14331.

62 Standing Committee of Attorney-General's, 'Communiqué', 17 April 2009.

63 ABC News, *New WA laws aimed at crime gangs*, 18 June 2009, www.abc.net.au (accessed 23 June 2009).

64 The Hon Robert McClelland MP, Attorney-General for Australia, 'Commonwealth Legislation to Combat Serious and Organised Crime', media release, 24 June 2009.

under the High Risk Crime Groups Determination. The OMCG Task Force superseded the ACC Intelligence Operation that concluded on 31 December 2006 after it identified a significant expansion in the activities of OMCGs in 2005-06. The OMCG Task Force developed national intelligence on the membership and serious and organised criminal activities of OMCGs to better guide national investigative and policy action.

- June 2008 - the ACC Board elected to close the OMCG Task Force and replace it with a new Serious and Organised Crime National Intelligence Task Force (SOC NITF), which was to remain in force until 30 June 2009. The SOC NITF will retain a focus on high risk OMCGs for at least the first 12 months, but will also allow the ACC to have a broader focus on organised crime occurring outside the structure of an OMCG.
- June 2007 - the Ministerial Council for Police and Emergency Management – Police (MCPEMP) agreed to establish a working group to examine the issue of OMCGs (the OMCG Working Group). The Final Report of the OMCG Working Group was completed in October 2007, and made 23 recommendations to enhance a national approach to combating the problem of OMCGs. The Final Report of the OMCG Working Group was noted by MCPEMP at its November 2007 meeting.⁶⁵

2.68 Within the South Australian context, the South Australian Government submitted that OMCGs present the greatest serious and organised crime threat in that state.⁶⁶ It was argued that a high proportion of organised criminal activity was attributable to OMCGs and that organised criminal activity was increasing.

2.69 The South Australian Government identified the following threats presented by OMCGS to SA and other jurisdictions:

- Illicit drug manufacturing, trafficking and distribution;
- Infiltration into legitimate industry and partnerships with professional personnel;
- Increased sophistication and resourcefulness, making it more difficult for police to carry out successful investigations;
- Expansion amongst the greater criminal community, particularly organised crime syndicates;
- Inter and Intra gang violence, including blackmail, trafficking and use of firearms and other weapons;
- OMCG expansion, including size, scope and influence.⁶⁷

65 This summary is taken directly from the Attorney-General's Department, *Submission 16*, p. 3.

66 Government of South Australia, *Submission 13*, p. 6.

67 Government of South Australia, *Submission 13*, p. 16.

2.70 OMCG organised criminal activity in SA involves:

- a broad range of criminal activities including the organised theft and re-identification of motor vehicles; drug manufacture, importation and distribution; murder; fraud; vice; blackmail; assaults and other forms of violence; public disorder; firearms offences; and money laundering ;
- the recruitment of street gangs by OMCGS to undertake 'high risk aspects of their criminal enterprise'; and
- a reliance by OMCGS on professionals, such as lawyers and accountants, 'to create complicated structures to hide the proceeds of their crimes'.⁶⁸

2.71 Assistant Commissioner Harrison from the SA Police outlined the growing connection between street gangs and motorcycle clubs:

We have certainly seen the linkage [between motorcycle clubs] with street gangs and youth gangs in this state, and I think that has also been seen in other jurisdictions around Australia. We are now seeing individual members of street and youth gangs graduating to nominees or prospects of outlaw motorcycle gangs, and we are also seeing some of them made full members of outlaw motorcycle gangs. We know that there is a direct correlation between some outlaw motorcycle gangs and some street gangs.⁶⁹

2.72 Consistent with the trends in organised crime groups outlined above, Assistant Commissioner Harrison further observed that the boundaries between motorcycle clubs and other organised crime groups were no longer rigid with groups forming previously unlikely alliances:

We are finding that there is diversification and interrelationships between outlaw motorcycle gangs and the more traditionally based ethnic serious and organised groups of the past.⁷⁰

2.73 The perceived prevalence of OMCG criminal activity was not, however, consistent across all jurisdictions, with some states – Victoria for example – presenting a picture of organised crime in which OMCGs played a less central role. Detective Superintendent Paul Hollowood from Victoria Police stated:

I think we have regained something like \$77 million in assets from Tony Mokbel. That is serious organised crime. I do not see those types of assets with guys riding bikes—nowhere near that. It is where the money is and where it is being derived that is the best indicator for us as to where organised crime is sitting.⁷¹

68 Government of South Australia, *Submission 13*, pp 16-17.

69 Assistant Commissioner Harrison, SA Police, *Committee Hansard*, 3 July 2008, p. 12.

70 Assistant Commissioner Harrison, SA Police, *Committee Hansard*, 3 July 2008, p. 5.

71 Detective Superintendent Hollowood, Victoria Police, *Committee Hansard*, 28 October 2008, p. 13.

2.74 Reflecting on motorcycle club members, Detective Superintendent Hollowood commented that:

Some are genuine motorcycle enthusiasts I suppose. They are not at the serious end of our organised crime problem in Victoria. I appreciate that the South Australian and Western Australian situations are different. It appears that it is a larger threat to them in those states. However, from a Victorian perspective, we have bigger fish to fry with what we are doing and focusing on. The whole OMCG argument can be an unhealthy distraction. I do not think it is just law enforcement agencies that talk about it; there seems to be a real preoccupation in the media with the subject as well.⁷²

2.75 In Queensland, witnesses from the Queensland Police Service (QPS) observed that there is OMCG involvement in organised criminal activity but warned against concentrating efforts on 'traditional' crime groups. Deputy Commissioner Stewart from the QPS stated:

The service is also mindful of the dangers inherent in focusing too intensively on what may be seen as traditional organised crime groups that are both visually observable and publicly familiar such as outlaw motorcycle gangs, or OMCGs.⁷³

2.76 Consistent with the trends in criminal group activity discussed earlier in the chapter, Deputy Commissioner Stewart went on to point to the increasingly fluid and temporary nature of criminal networks.⁷⁴

2.77 Mr Keen from the CMC in Queensland informed the committee that in view of the relatively flexible nature of organised crime groups the CMC has adopted a 'market-based' approach to dealing with serious and organised crime. He explained that:

We are looking at the crime markets and from there we go and look at the groups that may be perpetrating those crimes. We look at things like illicit drug markets, we look at property crime, we look at money-laundering, and from there it is really a matter of whoever is actually involved in that they will be the subject of our intelligence and investigation action. I put that in context to show that we are looking very much of the actual activities and the markets when we target any particular group.⁷⁵

2.78 Reflecting on the participation of OMCGs in organised crime, Mr Kitson from the ACC observed:

72 Detective Superintendent Hollowood, Victoria Police, *Committee Hansard*, 28 October 2008, p. 11.

73 Deputy Commissioner Stewart, QPS, *Committee Hansard*, 7 November 2008, p. 18.

74 Deputy Commissioner Stewart, QPS, *Committee Hansard*, 7 November 2008, p. 18.

75 Mr Keen, CMC, *Committee Hansard*, 7 November 2008, p. 28.

Outlaw motorcycle gangs...are more structured, enduring and more easily identifiable than many other groups that we deal with. However, they are not typical of the majority of organised crime entities that attract national law enforcement attention. While other syndicates or networks may share a common ethnicity or ethos, these are rarely defining characteristics. In reality there is little if any public self-identification by the majority of the key criminal syndicates which we target.⁷⁶

2.79 Whilst not disputing the participation of OMCGs in organised crime in Australia, Mr Kitson was clear that this was not the issue on which the ACC currently believes it should focus its efforts. Mr Kitson explained that the ACC's strategy is to 'identify serious criminal targets through identification of criminal business structures and money flows'. Correspondingly, the ACC's focus from a legislative perspective is on ways to 'improve and tighten legislation' in order to facilitate the interruption of the financial affairs of suspected criminals.⁷⁷

Organised crime groups and groups with organised crime involvement

2.80 A number of witnesses made the distinction between the involvement of groups in organised crime and the involvement of individual group members in organised crime. Mr Kitson from the ACC stated:

OMCGs continue to feature in the Australian criminal landscape; of that there is no question. We would make a distinction between the operation of those groups as networked entities and the criminal enterprises of a number of the significant individuals within those groups. There is no doubt that in some instances those individuals operate entirely as individuals.⁷⁸

2.81 Mr Kitson went on to explain that in some cases those OMCG members operating criminally as individuals carried 'the threat of menace that goes with the OMCGs. He further stated that:

It is true to say that in any analysis of some of the nationally significant crime figures you will find people who have associations with outlaw motorcycle gangs, but I do not know that that would necessarily mean that you would characterise the outlaw motorcycle gangs themselves as being the primary criminal threat in this country.⁷⁹

2.82 Similarly, Detective Superintendent Hollowood from Victoria Police informed the committee that:

You generally find it is the individuals within the gang who are actually engaged in organised crime activity. However, the stated charter or the mandate of the OMCG is to be like a brotherhood, to be very protective of

76 Mr Kitson, ACC, *Committee Hansard*, 6 November 2009, p. 3.

77 Mr Kitson, ACC, *Committee Hansard*, 6 November 2009, p. 3.

78 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 18.

79 Mr Kitson, ACC, *Committee Hansard*, 6 November 2008, p. 18.

the members and not to inform on other members. Because of that it is very easy for criminal individuals to operate.⁸⁰

2.83 The same point was made by Superintendent Gayle Hogan from the Queensland Police:

There are people within the groups who work independently. They work as a group within the group and they align themselves with other areas. So there are all ambits of that sort of criminality, but it does not necessarily mean the entire club is involved. They sometimes use being part of that criminal entity as a means of extortion or threat or to be able to stand over potential witnesses or victims.⁸¹

Motorcycle clubs: an unfair target?

2.84 The committee received evidence from a number of individuals and motorcycle clubs arguing that motorcycle clubs were being unfairly targeted. The involvement of some individual bikers in criminal activity was not disputed. However some witnesses alleged that motorcycle clubs had no involvement in organised crime while others contested the extent of this involvement and expressed the view that motorcycle clubs were being unjustly maligned.

2.85 Mr Errol Gildea, President of the Hells Angels Motorcycle Club Queensland, refuted suggestions that motorcycle clubs were involved in organised crime.⁸² Similarly, Mr Gary Dann, Road Captain of the Bandidos MC, commented:

The club does not break the law, as a rule. If individuals do, that is their business. They should be dealt with. But we are not an organised crime outfit.⁸³

2.86 Mr Edward Hayes, a member of the Longriders Christian Motorcycle Club (Longriders CMC) in South Australia observed:

Our own members and many recreational riders have noticed a marked increase in the past couple of years in the public's and uniformed police officers' attitude towards them. They (The public and average cop on the street) can only go on what they've been told and the past six years of the politics of fear has done its job.⁸⁴

2.87 Similarly, reflecting on South Australia Dr Arthur Veno and Dr Julie van den Eynde in their submission characterised that state's attitude to bikers as the 'Great South Australian Biekie Moral Panic'. They argued that a 'politics of fear' was in

80 Detective Superintendent Hollowood, Victoria Police, *Committee Hansard*, 28 October 2008, p. 3.

81 Superintendent Hogan, QPS, *Committee Hansard*, 7 November 2008, p. 23.

82 Mr Gildea, Hells Angels MC, *Committee Hansard*, 7 November 2008, p. 6.

83 Mr Dann, Bandidos MC, *Committee Hansard*, 7 November 2008, p. 7.

84 Mr Hayes, Longriders Christian MC, *Submission 12*, p. 3.

operation which presented OMCGs as the 'enemy within' and underpinned the recent introduction of 'draconian' legislative measures.⁸⁵

2.88 The perception that motorcycle clubs are publicly demonised was discussed within the Queensland context. Mr Gildea recounted an instance of alleged unfair treatment from the Queensland Police and stated: 'We are under a barrage of attacks from everywhere'. He went on to remark:

I would love to see the day when parliamentarians can come out to the clubhouse and have a look and make up their own minds and meet us on an individual basis, because we are not the monsters that you guys think we are. We are as human as everybody else. We bleed the same colour as everybody else.⁸⁶

2.89 Mr Edward Withnell, a long-term member of the 'Outlaw Motorcycle Community' in WA, argued that bikers have been 'stereotyped' and 'de-humanized'. He submitted:

We Bikers are not homogeneous, we are heterogeneous. Like yourselves, we have differences within ourselves, as well as between ourselves...We are not driven by drug wars or any of the fanciful creative writings of the media or 'secret police'.⁸⁷

2.90 Mr Adam Shand, a journalist who has worked on organised crime for a number of years, including the Victorian 'Underbelly' era and more recently SA motorcycle club involvement in crime, contrasted organised crime during the 'Underbelly era' with the kind of criminal activity undertaken by some motorcycle club members in South Australia:

You are talking about serious organised crime there [Victoria]. What we are seeing here [SA motorcycle groups] is disorganised crime. We are seeing a lot of street level stuff—assaults, small extortion cases and drug manufacture and supply. Where are these massive convictions? Where are these massive seizures that we keep hearing about?

2.91 Mr Shand argued that the connections between motorcycle clubs and serious and organised crime are overstated. He informed the committee that:

There are some clubs that are completely free of crime. There are others that have some chapters that are riven with crime. Others have some criminals in them. There is an attempt at regulation, certainly in recent years. The clubs are not without some sensitivity towards community attitudes. There have been attempts by more moderate members in clubs to bring others to heel because they want to continue their lifestyle, as well.⁸⁸

85 Dr Veno and Dr van den Eynde, *Submission 10*.

86 Mr Gildea, Hells Angels, *Committee Hansard*, 7 November 2008, p. 7.

87 Mr Withnell, WA, *Submission 14*, p. 10.

88 Mr Shand, *Committee Hansard*, 3 July 2008, p. 42.

2.92 Pursuing a related theme, Mr Gildea, Hells Angels Motorcycle Club Queensland, observed that club membership 'is about love and respect; it is not about hate' and confirmed that any person interested in motorcycles and the values of love and respect would likely be welcomed into a club 'if they were a good Australian person'.⁸⁹ However, the committee was informed that this culture is predominantly masculine and women are largely excluded.⁹⁰

2.93 Mr Edward Withnell from WA claimed that OMCGs and other 'minority' groups were being used as scapegoats for the real participants in serious and organised crime:

Outlaw motorcyclists and many other ethnic and minority groups and individuals have been 'set-up as fall-guys', persons on whom to shift the focus away from the level of crime and corruption that the ACC is best suited to investigate.⁹¹

2.94 Several witnesses noted that the 'code of silence' adopted by motorcycle clubs contributed to the negative perceptions of the clubs and made it difficult for law enforcement officers to bring individual bikers engaged in criminal activity to justice. For example, Mr Withnell informed the committee that 'immoral journalists' and 'dishonest police officers' perpetuated 'lies' about motorcycle clubs and it was the bikers decision not to engage with this unfair representation that had resulted in the poor public perception of bikers.⁹²

2.95 Mr Hayes, Longriders Christian MC, explained that the 'code of silence' had arisen from a deep distrust of the police, of politicians and of the media:

From a social kind of aspect, when we have a look at the profile of the average man in a club, he has probably got a whole life history of believing that society is against him. Why should he trust a politician; why should he trust a police officer? That is the background to the code of silence—it is the distrust. That goes for the media as well. Often clubs will not talk to the media because they have tried it in the past and they have been represented in a different way to what their intention was.⁹³

2.96 Biker witnesses emphasised positives aspects of motorcycle club membership noting the pleasure of riding, the commitment to rules and values, the importance of the social support network provided through club membership and a 'sense of belonging for individuals who often believe that society has rejected them'.⁹⁴

89 Mr Gildea, Hells Angels, *Committee Hansard*, 7 November 2008, p. 13.

90 Mr Gildea, Hells Angels, *Committee Hansard*, 7 November 2008, p. 13.

91 Mr Withnell, *Submission 14*, p. 4.

92 Mr Withnell, *Committee Hansard*, 4 July 2008, p. 29.

93 Mr Hayes, Longriders Christian MC, *Committee Hansard*, 3 July 2008, p. 53.

94 Mr Hayes, Longriders Christian MC, *Submission 12*, p. 4.

2.97 Mr Shane 'Shrek' Griffiths, a 'proud Australian biker', submitted:

In my journeys through out our great nation I have met many a Colourful biker from all walks of life. These gentlemen as individuals were just like me with the same love for motorcycling. I have also had the pleasure of Associating with many of them as a guest of their motorcycle club, weather it be a fund raising ride, a Poker run, Bike and Tattoo show or just as a guest on a club run.⁹⁵

2.98 Mr Robbie Fowler, President of the Outcasts Motorcycle Club Australia, presented an account of a troubled early life and concluded:

I never respected or liked my self I hated Authority and I resent woman, I was released in 1990 went to the Bike club, got married and had five children. ... One must understand the club saved my life and my liberty, as my actions positive or negatives, reflects as you know on my Brothers in the club. I have not been convicted of an offence in 10 years yet I fought men every day since I was eight. The Brotherhood the code of ethics and the old Australian Values is what has taught me respect and how to love. I am happy that I now have respect for my peers; blessed to have learned how to love, and have the pleasure of helping my five kids grow up with the values that made Australia once the greatest free country of people from all over the world.⁹⁶

2.99 Mr Gildea argued that these positive aspects of motorcycle clubs tended to be overlooked:

You never get to hear about the good things we do or all the charity events that we raise money for either; it is always about the drugs and stuff. Yes, there are individuals who have been caught and do drugs.⁹⁷

2.100 However, evidence from other witnesses was at odds with the views outlined above. Assistant Commissioner Harrison from SA Police was adamant that biker involvement in serious and organised crime in South Australia has grown in recent years. He argued that individual bikers and/or motorcycle clubs are implicated in a high proportion of organised criminal activity.⁹⁸

2.101 Concurring with his colleague's observations Chief Inspector Powell commented:

...it is fair to say from a South Australian perspective that outlaw motorcycle gangs are involved at all levels of crime, from the street-level public violence that causes community concern through to sophisticated

95 Mr Shane 'Shrek' Griffiths, *Submission 22*, p. 1.

96 Mr Fowler, Outcasts, *Submission 19*, p. 2.

97 Mr Gildea, Hells Angels, *Committee Hansard*, 7 November 2008, p. 10.

98 Assistant Commissioner Harrison, SA Police, *Committee Hansard*, 3 July 2008, pp 10-11.

drug manufacture and distribution which extends not just within the South Australia but across jurisdictions within Australia.⁹⁹

2.102 In the NSW Parliament, The Hon. Michael Gallacher outlined a history of 'violent outlaw motorcycle gang crime' in that state and quoted the NSW Police Force Assistant Commissioner Nick Kaldas's 2006 observation that:

Just because bikies deliver teddy bears to children's hospitals once a year doesn't mean they're not criminals the other 364 days.¹⁰⁰

2.103 Detective Superintendent Hollowood from the Victoria Police Force, whilst questioning the level of involvement of OMCGs in organised crime and describing them as an easy target was, nonetheless, forthright in his appraisal of OMCGs:

I think sometimes it is easier to jump to the OMCGs. It is very easy to portray organised crime and the threat of it by looking at OMCGs. They exist in every state in Australia. I will not go as far as saying that they have become a scapegoat, because by no means are they sitting there as church choir groups.¹⁰¹

2.104 The level of OMCG involvement in serious and organised crime is difficult to clearly establish. The committee acknowledges that it varies across the states. However, the committee is persuaded by the ACC that OMCGs are a visible and therefore prominent target in both the political and public arenas, and that serious and organised crime often involves a level of sophistication or capacity above that of many OMCGs.

CHAIR—...What relationship is there between motorcycle clubs and organised crime, if any?

Mr Gildea—None.

Mr Dann—'Disorganised', if anything.¹⁰²

2.105 However, the committee also notes that if OMCG members wish to challenge public and media perceptions of them, bikers must take an active role in that process, including by proactively assisting police by clearing from their ranks any criminal elements.

Conclusion

2.106 Organised crime is undoubtedly a widespread phenomenon in Australia and internationally. There are a number of broad features that can be said to characterise

99 Chief Inspector Powell, SA Police, *Committee Hansard*, 3 July 2008, p. 11.

100 The Hon Michael Gallacher, *NSW Legislative Council Hansard*, 2 April 2009, p. 14331.

101 Detective Superintendent Hollowood, Victoria Police, *Committee Hansard*, 28 October 2008, p. 11.

102 Senator Hutchins, Mr Gildea and Mr Dann, *Committee Hansard*, Brisbane, 7 November 2008, pp. 6-7.

organised crime – most notably, organised criminal activity is driven principally by the promise of financial gain and is generally well-planned, progressively more sophisticated, and increasingly traverses geographic and demographic boundaries.

2.107 In spite of these common characteristics, jurisdictional differences and the historical choices that the various states have made to deal with these differences means there is no single approach to serious and organised crime in Australia. Nor is there necessarily any one right approach. Notwithstanding this, the committee believes that current trends – in particular the increasingly multi-jurisdictional and transnational character of serious and organised crime – mean that greater legislative consistency, enhanced administrative arrangements and law enforcement capabilities are required. These issues are discussed in the following chapters.

2.108 Overwhelming, evidence on the changing character of organised crime groups from tightly structured, hierarchical, enduring groups to flexible, market-driven networks signals, the committee believes, the need for a strategic response that targets in the first instance the criminal market or activity. This is considered further in the chapter 3 which outlines the legislative responses of the different jurisdictions to serious and organised crime.