

Chapter 3

Intelligence and Cooperation

Overview

3.1 Over the course of this inquiry, following discussions with law enforcement agencies around Australia, the committee has come to the view that the use of intelligence is vital in directing operations targeting organised criminal activity generally, and specifically in the aviation and maritime sectors.

3.2 Secondly, the coordination of the law enforcement response, including the conduct of investigations, operations and policing are also important. Intelligence and information-sharing is a necessary part of such coordination. This chapter examines the current intelligence collection and sharing approaches, as well as the specific agency coordination arrangements in the aviation and maritime environments.

3.3 The following sections describe the evidence heard and the committee's findings in relation to law enforcement models at Australia's airports and ports. This involves two separate but related elements. The first is the coordination of policing and security: the physical presence provided at ports and airports and elsewhere in the aviation and maritime sectors, either in the form of uniformed officers or private security. The second relates to the coordination of information; the mechanism by which relevant stakeholders are able to share information in order to inform the response to criminal threats.

Coordination of law enforcement agency activity to combat serious and organised crime

3.4 Australia's law enforcement response to the threat of serious and organised crime involves a number of agencies and requires that they work together. At the Commonwealth level, the AFP and ACC work as key partners, with both agencies working collaboratively on investigative and intelligence responses to organised crime.¹ Given the international nature of organised crime, the Customs and Border Protection Service naturally has a key role to play in preventing the movement of illicit goods across national borders.

3.5 Commonwealth agencies must also work together with state and territory police. Given the different jurisdictions of the various police forces, it is important to coordinate activity so as not to cause any gaps or significant overlaps in police activity. As Mr Richard Janeczko noted, the different powers and focus between agencies requires the close cooperation of each to ensure that those powers and skills complement one another, stating:

1 Australian Federal Police, *Submission 19*, p. 2.

Customs no longer has some of the powers that it used to have—things like executing a three year warrant under the Criminal Code. Customs does warrants in its own jurisdiction and, if there is enough evidence, in discussion with the DPP it will become a criminal prosecution. Customs does not have the ability to access TI, telecommunications intercept, material. Customs is an armed investigative body as well as a border protection body, yet it has a restriction on how well an investigation can be carried out, because it has to go to other agencies to get the normal tools that people doing that kind of work should have. You would have to go to the AFP or the Crime Commission to continue an investigation.

Liaising is getting better and it is important, but the trouble is that a lot of the agencies we are talking about are overstretched anyway. It was not unusual in most of my years in investigation that, if I asked another agency if they would like to help me, they would say, ‘Come back in three weeks time, on Monday week or a month’s time and then we will help you.’ That does not help you much if the container is leaving. We will use the state police if we can. We get a lot of cooperation but, at the end of the day, other agencies’ priorities are not ours.²

3.6 These issues have been raised by the committee before, and continue to be addressed through a number of cooperative arrangements. The focus of this inquiry has been on the specific coordination mechanisms in place in the aviation and maritime sectors. The current arrangements are described below.

Airport law enforcement coordination arrangements

3.7 Major airports have had a uniformed police presence for many years, given the high volume of people passing through the facilities and the resulting need for community policing services. Similarly, in the post-September 11 environment, there has been a need for a counter-terrorism response. However, the exact nature of policing at airports has changed over those years.

3.8 In recent times, airport policing arrangements at the major airports have been significantly influenced by both the Wheeler Review and the Federal Audit of Police Capabilities, conducted by Mr Roger Beale AO (Beale Audit).³ The Wheeler Review specifically identified three areas of concern relating to airport security and policing culture at major airports. These included:

- a marked inhibition about sharing information with those who need it to make evidence-based decisions;
- a lack of clarity, consistency and alignment between authority and responsibility in decision-making; and

2 Mr Richard Janeczko, *Committee Hansard*, 17 February 2011, p. 18.

3 Mr Roger Beale AO, Federal Audit of Police Capabilities, June 2009, http://www.ema.gov.au/www/agd/agd.nsf/Page/Publications_FederalAuditofPoliceCapabilities (accessed 10 June 2011).

- an undue reliance on 'after the event' compliance auditing, rather than 'pre-event planning' as the basis for accountability.⁴

The Universal Policing Model

3.9 Following the 2005 Wheeler Report, the Commonwealth Government instituted a 'Unified Policing Model' (UPM) at Australia's 11 major airports. The UPM involves a mix of federal, state and territory police being responsible for policing at airports in a cooperative framework. The UPM is delivered through a centrally coordinated command structure using both AFP and seconded state and territory police.⁵ Under the UPM, the unified policing presence includes:

- Airport Police Commanders;
- Police Aviation Liaison Officers;
- Airport Uniform Police (which include state and territory police seconded to the AFP);
- Joint Airport Intelligence Groups (JAIGs);
- Joint Airport Investigation Teams (JAITs); and
- a Counter-Terrorist First Response (CTFR) capability.⁶

JAITs and JAIGs

3.10 A key feature of the UPM was the establishment of, Joint Aviation Intelligence Groups (JAIG) and Joint Aviation Investigation Teams (JAIT) at major airports. Membership of these groups could potentially include officers of the AFP, state or territory police, Customs, Australian Quarantine Inspection Service (AQIS) and the ACC. As Mr Jeff Buckpitt, Customs, explained:

The role of the JAITs and JAIGs at the airports is to investigate matters, whether they be criminal or otherwise, of concern to law enforcement. The teams that we are talking about are typically fairly small, of the order of 10 people. Typically, you are looking at representation from the AFP, state police and Customs. Sometimes there is participation from other agencies on an as-required basis. The JAIT function is investigative. The JAIG function is an intelligence support role. Both teams are quite small. I think it is in five international airports that we have the JAITs and JAIGs. Their role is certainly a key role in terms of organised crime and issues of infiltration.⁷

4 Wheeler Review, p. 33.

5 AFP, *Submission 19*, p. 3.

6 AFP, *Submission 19*, p. 3.

7 Mr Jeff Buckpitt, Australian Customs and Border Protection Service, *Committee Hansard*, 17 February 2011, p. 4.

3.11 Mr Richard Janeczko informed the committee they had at least improved the flow of information between the agencies, stating:

I am not sure whether the committee is aware that the model as it was introduced did not have any impact apart from the beneficial interchange of intelligence to the operations of Customs investigation and prosecution. The airport model does not mean that Customs then stepped away and the AFP conducted its investigations into whether it was child pornography, tobacco smuggling, firearms or whatever. That continues and I think it works very well. The airport model did provide a greater forum for the interchange of intelligence and a better way to create taskforces.⁸

3.12 Mr Michael Phelan, Deputy Commissioner of the AFP, informed the committee that the UPM, together with the JAIT/JAIG model had improved the policing response to organised crime in airports, stating:

In addition to the provision of law and order and general security, the unified policing model provides multijurisdictional investigative capabilities to the joint airport investigation teams and the joint airport intelligence groups. This affords a policing response to airport based organised crime that is linked to broader law enforcement activities focused on related criminality external to the aviation environment.⁹

3.13 The committee gained a generally favourable impression of the JAIG/JAIT model. In particular, it would seem to provide a useful mechanism for the sharing of intelligence at a tactical or operational level within the airport environment. It is, however, limited to five major airports.

3.14 However, not all witnesses believed that current arrangements were working. Mr Michael Carmody, who appeared before the committee in 2009, commented on the confusion that continued to arise from the multitude of law enforcement organisations operating at the airport, stating:

One of the exercises that fall out of this is that you go to Sydney airport and you have Customs, who have certain powers, you have AQIS, who have certain powers, you have the airport operator, who under the aviation act has certain powers, you have Qantas, who have certain powers as the aircraft operator, you have the Qantas security force, which actually has no power, you have New South Wales Police and you have the Federal Police. They are all in amongst this mix with no-one truly overarching that in control with respect to the management of that function. Yes, there are security programs constructed at each airport and, yes, the airport operators have a responsibility with respect to the coordination of that exercise but it is a monster beyond belief. And of course you have got Customs, who did not wish to do or share, you have got AQIS, who do not wish to do or share, you have got the airlines and airport operators, who have their agendas, you

8 Mr Richard Janeczko, *Committee Hansard*, 17 February 2011, p. 14.

9 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, p. 38.

have got New South Wales Police, who have been overworked from day one, and you have got the Federal Police, who have a role associated with Customs and AQIS but will step into the breach if necessary. I just do not understand it and never have.¹⁰

3.15 The committee notes that since Mr Carmody's appearance, the policing model has changed to consolidate more responsibility under the AFP.

Movement to an 'All-in' model

3.16 In December 2009, the Minister for Home Affairs, in response to the Beale Audit's examination of the AFP's capacity to meet future needs, announced a move to an AFP-led 'All-in' policing model. The Beale Audit had recommended the Commonwealth:

...vigorously pursue the replacement of the existing Unified Policing Model with an 'All In' model under which the Commonwealth accepts the responsibility of funding and staffing nationally coordinated airport security and policing services, noting that this will likely take several years before being fully operational. It should take any legislative action, or pursue the renegotiation of arrangements in a number of states and territories, to ensure that the powers of AFP members policing airports are clear and adequate to the task.¹¹

3.17 The All-in approach will see the AFP becoming responsible for staffing airport policing services at the 11 major airports. This entails a staged move over five years to a fully-sworn AFP capability instead of the current mixed Commonwealth and state policing model.¹²

Use of private security

3.18 In addition to the uniformed police and customs presence at major airports, private security arrangements remain an important element of airport security. Private security forces are responsible for screening passengers entering 'sterile' secure areas as well as maintaining perimeter security in restricted areas.

3.19 Both union submissions and Mr Michael Carmody expressed concern that the continued outsourcing of private security, based on a least-cost tendering, contributes to overall security vulnerability. The Transport Workers Union informed the committee that high turnover of security guards meant that up to 25 per cent of operated using a Visitor Identification Card, rather than a full background-checked

10 Mr Michael Carmody, *Committee Hansard*, 18 February 2010, p. 10.

11 Mr Roger Beale AO, Federal Audit of Police Capabilities, June 2009, p. 12.

12 The Hon. Brendan O'Connor, 'Australian Federal Police to Lead Airport Security Across Australia', *Media Release*, 29 December 2009.

Aviation Security Identification Card.¹³ This particular concern is addressed in Chapter 5.

3.20 The TWU were also investigating allegations that a lack of sufficient training of contract baggage handlers was resulting in a proportion of baggage not being X-rayed prior to placement on aircraft. Mr Anthony Sheldon, TWU, particularly singled out the issue of subcontracting by security firms as a risk to security, stating:

The last count we had we could identify 12 private security companies out at the airport. Those are the ones we can identify, because, even though they are subcontracted twice or three times down, they will be wearing the same shirt from the principal contractor. We have raised it on numerous occasions. When you have high staff turnover, you have not only a lack of vigilance, but poor training. Mature age training involves not only training in a training room but also of course involves experience on the job from well-trained mentors. If you have a high turnover that does not involve any training, that does not have a mentor system because of the high turnover, then you will have staff that are poor performers. It also means, of course, that at our airports with those different contracting levels, because the wages are low, the conditions are poor, there is a high turnover and with high turnover means higher risk.¹⁴

3.21 This point was echoed by Mr Mark Padget, WA Police, who stated:

One of the subcontracting issues that we came across was the ability of, say, the major contractor to devolve parts of his contract obligations to a subcontractor while not passing on the obligations of his original contract. There is some blurring of the lines in terms of levels of service and levels of commitment to what level they screen, what training they have and even down to the types of people that have the ability to hold a security agent's licence.¹⁵

3.22 High turnover places stress on training structures, while increasing the number of new people flowing through the aviation sector. As the Australian Services Union (ASU) described:

In summary, our view is that a happy, long-term, well-paid workforce is going to be a significant factor in how security is dealt with at airports. We certainly believe that and that has been our experience. High turnover and casualisation, adds further complexities to the workforce and also exposes security concerns.¹⁶

13 Mr Anthony Sheldon, Transport Workers Union of Australia, *Committee Hansard*, 18 February 2010, p. 61.

14 Mr Anthony Sheldon, TWU, *Committee Hansard*, 18 February 2010, p. 55.

15 Mr Mark Padget, Western Australia Police, *Committee Hansard*, 10 November 2010, p. 12.

16 Ms Linda White, Australian Services Union, 17 Feb 2010, p. 8.

3.23 Mr Stephen Jackson, Qantas, informed the committee that it never allowed subcontracting by the security companies it hired, stating:

The only time that we would permit subcontracting under contract is if the primary contractor—which would be ISS, MSS or SNP Security—sought out permission to do so. They have in the past sought out permission and we have denied that permission. I want to be very clear and say that there are no subcontracted security officials on any Qantas location in any airport in Australia.¹⁷

3.24 Mr Kim Langton, Chameleon Associates (Australia), expressed a strong preference for a government-run security force at airports, similar to the Aviation Security Service (Avsec) model used in New Zealand. Mr Langton commented that the Avsec model benefited from having staff employed under a single umbrella, with harmonised training, high pay and very low turnover. By contrast, contracted private security faced a number of issues, as Mr Langton explained:

As a contractor working for either the airport or the airlines, you have to remember the contractor has to make money. To do that means that the training he supplies and the level of service he supplies will not be as good as they would be if it were run by a government body. If you look at the airports at the moment and the civilian contractors that are there, your turnover is massive. They have major problems with sick days, people working double shifts and it has even got to the point with some of the contractors that we have [subcontractors] working for the contractors. I just do not think that is the way to go.¹⁸

3.25 Mr Langton noted that through the transition to the All-in policing model, a number of trained AFP Protective Service Officers would become redundant. He was of the opinion that this body of officers could form a competent government-run security force at airports.¹⁹

It always beggars belief, in my view, that with respect to Customs and AQIS the government has no hesitation or limitation in taking full control and management of those functions within the national interest. They are staffed by government employees, they have good technology and infrastructure in place, airports and ports are built around the function, and the staff are reasonably well-paid and reasonably motivated. The exact opposite exists in aviation security, and I do not understand that. Why does the government step back from the third leg of that stool of border protection, and yet the focus on AQIS and Customs is a given. I do not understand.²⁰

17 Mr Stephen Jackson, Qantas, *Committee Hansard*, 18 February 2011, p. 31.

18 Mr Kim Langton, Chameleon Associates (Australia), *Committee Hansard*, 18 February 2011, p. 54.

19 Mr Kim Langton, Chameleon Associates (Australia), *Committee Hansard*, 18 February 2011, p. 59.

20 Mr Michael Carmody, *Committee Hansard*, 18 February 2010, p. 4.

3.26 Mr Carmody elaborated on the privatisation of federal airports since the days of the Federal Airport Corporation, stating that while security had not been 'spectacular' under that system, it was stable and suitable. In Mr Carmody's words, following privatisation:

In that shift to privatisation, of course, the new owners came in and airport operators immediately devolved that responsibility to airlines and got out of the security game because it was just too expensive. Airlines said, 'We're not going to wear this,' so they immediately outsourced it to a private security company and, generally, to the company that provided the tender at the lowest cost. Everyone simply transitioned the risk through that process, so what you have now, be it at regional airports or at domestic airports, including international, is private security companies at the absolute end of the chain bearing the risk for the entire profile of aviation security.²¹

3.27 The committee is deeply concerned by the potential for security lapses as a result of the high turnover of staff, particularly security guards. The committee is therefore agrees with arguments that private security at airports should be replaced with a government security force, as has occurred in some other countries.

3.28 Accordingly, the committee recommends that the security at the 11 major airports be undertaken by a suitably trained government security force. In implementing this recommendation, the committee suggests that the Commonwealth government be informed by both the American and New Zealand aviation security models.

Recommendation 2

3.29 The committee recommends that security at major airports be undertaken by a suitably trained government security force.

Airport security committees

3.30 Sydney Airport Corporation Limited (SACL) informed the committee that since the Wheeler Review, airport security committees had been established at major airports. This committee was the leading body at the airport for the organisation of security measures, and included agencies such as the ACC, ASIO and other law enforcement or intelligence agencies.²² The airport operator had a leading role on that committee, as explained by Mr Grant Woods, SACL, who stated:

We chair that committee. It is there primarily to share intelligence on various activities that may be going on with a Federal Police operation or an Australian Crime Commission operation. It has a format that reviews, for example, the full risk register that is applied across the airport, which is

21 Mr Michael Carmody, *Committee Hansard*, 18 February 2010, p. 8.

22 Mr Grant Woods, Sydney Airport Corporation Ltd., *Committee Hansard*, 18 February 2010, p. 13.

obviously intelligence based on the vulnerabilities that we see at the airport itself.²³

3.31 Later in the same hearing, Mr Woods elaborated further, stating:

That committee... reviews the risks for the airport every two months. If the Crime Commission or the police state that there is an issue that they are dealing with, we will discuss that at that table and we will develop measures and plans to deal with that issue as a risk.²⁴

3.32 The airport security committee model is established through the ATSA legislation discussed in Chapter 2. As such, it is geared towards the prevention of a terrorist attack. The JAIT and JAIG model however focuses on all serious and organised crime.

3.33 As a consequence of the committee's first recommendation that ATSA be expanded to include consideration of the threat of serious and organised crime, airport security committees would take on an enhanced role. By considering both terrorist and criminal threats, the role of the airport security committee would become more meaningful and involve key airport stakeholders in the mitigation of organised criminal threats.

Port law enforcement arrangements

3.34 In marked contrast to the airport environment, port security is generally a private concern, with little in the way of a permanent police presence. Individual companies are responsible for contracting private security guards, in line with an agreed maritime security plan. This results in a number of separate, private security forces on the waterfront. Some submitters and witnesses have suggested that the establishment of a single, centralised security force may improve overall security outcomes.

3.35 The Australian Customs and Border Protection Service (Customs) also maintains a presence at major ports, in the form of randomised patrols,

Our environment encompasses the maritime domains of our exclusive economic zones, seaports, airports, international mail centres and cargo depots and warehouses. The Customs and Border Protection Service does take a leading role in combating serious and organised crime at the border, through targeting, detecting and interdicting illegal cross-border movements of people, goods, vessels and aircraft. We investigate border offences and regulate certain entities operating in the border environment through licensing depots, warehouses and customs brokers.²⁵

23 Mr Grant Woods, SACL, *Committee Hansard*, 18 February 2010, p. 13.

24 Mr Grant Woods, SACL, *Committee Hansard*, 18 February 2010, p. 21.

25 Mrs Marion Grant, Deputy Chief Executive Officer, Customs, *Committee Hansard*, 17 February 2011, p. 2.

3.36 Customs officers also board all 'high to medium risk' commercial vessels arriving from overseas within one hour of their arrival.²⁶

3.37 As most major ports are state corporations and ports are generally a state jurisdiction, the burden of formal policing falls to state police forces. However, the AFP notes that it is involved in the investigation of a range of criminal groups that may exploit maritime security. The majority of AFP involvement in ports relates to the use of legitimate sea cargo to import or export illicit goods.²⁷

3.38 The Australian Federal Police Association remarked upon the apparent confusion regarding responsibility for policing at major ports in Australia. As Mr Jonathan Hunt-Sharman observed:

I can assure you that, in regards to a permanent police presence at key maritime ports, there are no Australian Federal Police there. In fact, a number of us who have worked over the years in drug investigations have been quite amused by that comment because we have hardly been on the cargo ports themselves. There is clearly a gap that is sitting under the radar that has not been addressed. Some people think there are state police there, but when the state police give their statements they say, 'No, it is the Australian Federal Police.'²⁸

3.39 The Australian Federal Police Association (AFPA) argued in favour of replicating the 'All-in' policing model currently under development at airports in the maritime environment.

The AFPA believes that the Commonwealth government should pursue the replacement of the existing maritime security structure with an all-in model under which the Commonwealth would assume responsibility for the coordination of maritime security and policing services at key maritime general cargo ports such as Sydney, Melbourne, Brisbane and Fremantle. In the event of such a change, the expansion of the AFP to include responsibility for maritime security and policing would make sense as a natural flow-on from its jurisdiction of Australia's major airports. Many of the recent recommendations arising from the federal audit of police capabilities conducted by Mr Roger Beale AO, which are partly aimed at streamlining the aviation security structure, could equally be applied in the context of the maritime industry.²⁹

3.40 The AFPA also recommend the use of AFP Protective Service Officers to supplement private security guards, establishing a permanent uniformed presence at major ports. Mr Jonathan Hunt-Sharman elaborated on this proposal, explaining:

26 Customs, *Submission 13*, p. 9.

27 AFP, *Submission 19*, p. 6.

28 Mr Jonathan Hunt-Sharman, Australian Federal Police Association, *Committee Hansard*, 17 February 2011, p. 30.

29 Mr Jonathan Hunt-Sharman, AFPA, *Committee Hansard*, 17 February 2011, pp 25–26.

The important thing in regard to the AFP Protective Service officers is the fact that they are sworn officers that are under the full AFP integrity regime and they are highly trained. What it would do is that, whilst they are playing a role of protecting the security of the area, they would become the eyes and ears and the conduit for information to be passed through to the AFP.³⁰

3.41 AFPA put the cost of providing for providing 30 PSOs at a single port, plus supply costs, at approximately \$5.1 million per annum, while replicating the JAIG/JAIT model at a port was estimated to cost \$6.1 million per annum.³¹

3.42 The AFP noted a distinction in the requirement for community policing between the airport and seaport environment. Mr Phelan explained:

The maritime space is a different environment to those that we have at the airports, because the airports are about people. There are lots and lots of people moving through an airport, and normal criminal offences occur to them. The seaports are a different kettle of fish. There it is about commodities, with sea containers and so on. Most of the people that are there are the employees who are working on the docks. In terms of normal criminal activity, it is difficult to ascertain what is being reported and underreported. There would be more criminal activity in terms of volume at an airport, probably, simply because of the volume of people that go through, than there would be at a port. There I am talking about normal criminal activity, not serious and organised crime, because we are well and truly aware of the vulnerability of the ports given that they are one of the major avenues where illegal goods come in.³²

3.43 Customs also noted that the differing needs of the port and airport environment meant that a simple replication of the airport unified policing model at a seaport would not be straightforward.³³ Mrs Grant noted that, while difficult in practice due to the needs of busy seaport, there was perhaps potential for strengthening the legal framework surrounding ports, stating:

But we would say that the legal framework around the seaports is less robust than in the international airport environment. Take Customs controls around seaports. We gazette, under section 15 of the Customs Act, a seaport and then that becomes a Customs-controlled area. But if you look at the provisions within that section of the Customs Act, you see we do not have huge powers within that act to do many things apart from set some parameters about what can and cannot be done with cargo in the area. They do not necessarily give us the same level of control that we have over access to areas in international airports. From that point of view from the

30 Mr Jonathan Hunt-Sharman, AFPA, *Committee Hansard*, 17 February 2011, p. 27.

31 Mr Jonathan Hunt-Sharman, AFPA, *Committee Hansard*, 17 February 2011, p. 27.

32 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, pp 41–42.

33 Mrs Marion Grant, Deputy Chief Executive Officer, Customs, *Committee Hansard*, 17 February 2011, p. 3.

framework of stronger controls, we would certainly see that there is scope technically to do something.³⁴

3.44 Mr Richard Janeczko was of the opinion that rather than giving responsibility to a single agency, the key was the cooperation of the multitude of agencies involved, stating:

At the end of the day it is all about cooperation, sharing of intelligence and setting up taskforces when they need to operate. I do not think that just creating a structure that is called a unified policing model is necessarily the answer even though that is a good way to encapsulate it. The airport model works mainly because of the cooperation between the agencies involved and the fact that a number of agencies contribute to it. I think you have to be very careful of putting a sort of umbrella organisation in charge of everything, I think we need to understand what that means before we try to do that in a maritime environment.³⁵

3.45 Recently, the AFP, Customs, ACC and the NSW Police announced the establishment of the Port Crime Task Force, which will initially focus on crime in the NSW maritime sector.

Operational members from the AFP serious and organised crime portfolio occupy senior positions within joint taskforces the remit of which includes criminality at the ports. Working closely with colleagues from the ACC and Customs and the New South Wales Crime Commission, these members focus on the nexus between organised crime entities and the maritime port environment in New South Wales. These taskforces have enjoyed a number of operational successes and have contributed to a better understanding of the criminality in Australia's ports.³⁶

3.46 The AFP were of the opinion that information sharing between agencies working at seaports, particularly of intelligence, had improved significantly over the last two years. Mr Phelan noted:

We have been directly related to this over the last couple of years, and I do not think I have ever seen the intelligence exchange between the agencies more joined up than it is now at our seaports, particularly the relationship between the AFP and the Customs and Border Protection Service, as well as the state police... [S]ince the submission was first done, in 2009, we have come a mile and a half in terms of working with our state partners, particularly in the sharing of intelligence.³⁷

34 Mrs Marion Grant, Deputy Chief Executive Officer, Customs, *Committee Hansard*, 17 February 2011, p. 3.

35 Mr Richard Janeczko, *Committee Hansard*, 17 February 2011, p. 15.

36 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, p. 39.

37 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, p. 42.

3.47 Mr Phelan also informed the committee that the AFP hoped to establish the New South Wales Port Crime Taskforce model to other states:

There are protocols that exist between the Australian Federal Police and Customs and each of the state police agencies about the sharing of intelligence within the seaports, and we are actively working with our other partners at the moment, in states other than New South Wales, to form joint task forces at the seaports similar to the arrangements that exist at the airports around the Joint Airport Investigation Teams and the Joint Airport Intelligence Group but, quite frankly, far more robust—in other words, with more people and better resourced to meet the threat. That is the key thing, in our view, around the seaports. Intelligence is the key.³⁸

3.48 The committee took the opportunity at hearings to explore the potential for mirroring the JAIG and JAIT structures in the seaport environment, to facilitate the sharing of information and intelligence, thereby strengthening investigative and analytical functions. Mr Jeff Buckpitt, Customs, noted that the creation of taskforces such as the NSW Port Crime Taskforce were in fact intended to achieve similar aims, albeit for a particular period of time and for a particular purpose.³⁹ Mr Buckpitt elaborated on the potential for a formal structure copying the JAIT and JAIG functions, stating:

I think that there would be pros and cons. The fact that the port environment is so physically different from an airport's is part of the consideration that makes the question fairly complex. Take just the issue of accessing containers. Most of the containers are accessed away from the actual port environment. There are exceptions to that, of course, but for the most part there is the fact that they are accessed away from the port environment. If you were to have a JAIT type of operation at a seaport, you would have to think carefully about what their role would be, because they would not be doing the sorts of things that Customs is currently doing in terms of opening up containers at our container examination facilities.⁴⁰

3.49 The AFPA supported the introduction of a JAIT/JAIG model at maritime ports, stating:

[A] model similar to the JAIT's and the JAIG's could work very well with the state police. It gets around a lot of the jurisdiction issues. Those models in aviation have been very successful and can quite easily be replicated, we would argue.⁴¹

3.50 The committee is firmly of the view that a specific agency coordination model is required at ports. The committee's preferred model emulates the functions of the

38 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, p. 42.

39 Mr Jeff Buckpitt, Customs, *Committee Hansard*, 17 February 2011, p. 4.

40 Mr Jeff Buckpitt, Customs, *Committee Hansard*, 17 February 2011, p. 4.

41 Mr Jonathan Hunt-Sharman, AFPA, *Committee Hansard*, 17 February 2011, p. 30.

JAIGs and JAITs at Australia's major airports. The committee recommends that permanent taskforces mimicking the intelligence sharing and investigation functions undertaken by JAIGs and JAITs be established in every state. The taskforces should properly focus on those ports assessed as being of highest risk by the ACC. Nevertheless, taskforces should be familiar with other elements of the maritime sector, including minor ports, as necessary.

3.51 These joint taskforces should include officers of the AFP, state or territory police, Customs and the ACC at minimum. The taskforces would necessarily work closely with state and federal police organised crime units.

Recommendation 3

3.52 The committee recommends that joint maritime taskforces, mirroring the functions of the Joint Aviation Investigation Teams and Joint Aviation Intelligence Groups in the maritime sector be established in every state and the Northern Territory. These taskforces should include officers of the Australian Federal Police, state or territory police, the Australian Customs and Border Protection Service and the Australian Crime Commission.

3.53 In addition, the work of the state-based squads will need to be coordinated nationally. In part, this will be achieved through the participation of Commonwealth officers, who will be responsible for bringing the corporate knowledge of their home agencies to the joint maritime taskforce.

3.54 However, the committee is of the opinion that the work of the state-based taskforces should be supplemented by Commonwealth maritime crime taskforce arrangement. The national taskforce would comprise leaders of the state taskforces and could meet on a regular basis to ensure that knowledge was not siloed in any particular state.

3.55 The committee also recommends that this national coordinating body be assigned a cross-agency group of officers that could act as a national maritime 'flying squad'. The term 'flying squad' refers to a mobile group of officers who are able to move to areas requiring attention as needed. In this case, a Commonwealth maritime flying squad, led by the AFP, could concentrate expertise on particular ports in response to particular intelligence, assisting state-based taskforces. Additionally, a flying squad could conduct randomised audits of maritime security. This would provide an additional layer of scrutiny and a further disincentive to criminal activity in the form of a heightened risk of detection, even in smaller ports.

Recommendation 4

3.56 The committee recommends the formation of a Commonwealth maritime crime taskforce that would act as a national Australian Federal Police led 'flying squad', responding to specific intelligence and also conducting randomised audits of maritime and seaport security.

Port Security Committees

3.57 The MTOFSA legislation provides for the establishment of a Port Security Committee, which includes most relevant port stakeholders, such as the AFP, state police, terminal operators, the Navy, Customs and AQIS.⁴²

3.58 The primary role of the committee is to discuss the implementation of maritime security plans, which are based on preventing terrorism.⁴³ As a result, in their current form they do not fulfil the same function as the JAIG/JAIT model at airports which focus more broadly on serious crime.

Intelligence-led policing

Introduction

3.59 The sharing of information, specifically intelligence, goes hand in hand with a cooperative approach to policing and law enforcement. The various policing models, either current or proposed, outlined above aim to ensure coordination of action and the necessary flow of information between agencies.

3.60 Intelligence can be used in two distinct ways. Firstly, intelligence about criminal activity can be used at a tactical level, to inform law enforcement operational responses. Examples of this in action include the many drug seizures resulting from tip-offs and other intelligence sources.

3.61 However, intelligence can also be used at a strategic level, using analysis to identify criminal patterns, thereby informing the policy response and high-level agency approaches. Examples of this type of work can be found in the ACC's various intelligence products. By analysing the full range of existing intelligence, governments can address systemic vulnerabilities, reducing criminal opportunity.

Intelligence-led operations

3.62 The committee notes that many successful operations that significantly disrupt organised criminal activity, such as large drug seizures or the dismantling of particular networks rely on quality intelligence. All law enforcement agencies before the committee noted the importance of intelligence in this regard, and the importance of information sharing as a result.

3.63 The AFP explained that cooperation between partner agencies allowed combined targeting of groups in response to intelligence, submitting:

The AFP maintains close working relations with various government agencies including Australian Fisheries Management Authority (AFMA), Customs and Border Protection, [the Australian Maritime Safety

42 Mr Shane Hobday, Sydney Ports Corporation, *Committee Hansard*, 18 February 2010, p. 41.

43 Mr Shane Hobday, Sydney Ports Corporation, *Committee Hansard*, 18 February 2010, p. 42.

Authority], and AQIS for example. In particular, the AFP maintains a close relationship with Customs and Border Protection in respect to strengthening border controls and increasing detections of illicit goods; sharing intelligence derived from investigations and identifying organised crime syndicates for joint or individual targeting.⁴⁴

3.64 Mr Michael Phelan, Deputy Commissioner of the AFP, elaborated further at a committee hearing, explaining that the use of intelligence increased the effectiveness of the law enforcement response, stating:

Criminal intelligence is used to inform, prioritise and plan all AFP operations. The active gathering of intelligence on organised crime groups improves investigational effectiveness and efficiency and allows law enforcement to be both proactive and opportunistic, targeting vulnerabilities in criminal groups and their methodologies. The AFP works closely with partner law enforcement agencies, including the ACC with its coercive powers, to develop an increasingly detailed intelligence picture of organised criminality, including at air and sea ports.⁴⁵

3.65 Customs expressed a similar view, highlighting the necessity of information sharing. Deputy CEO of Customs, Mrs Marion Grant, informed the committee that intelligence sharing was key, stating:

In our experience, the most successful outcomes are achieved when intelligence is shared between partners such as the Australian Crime Commission, the Australian Federal Police, counterpart state and territory police and crime commissions and particularly when we set up joint operational responses.⁴⁶

3.66 Mr Richard Janeczko, a private security consultant with an extensive background in customs agencies, also noted the importance of targeting operations through the use of intelligence, stating:

A lot of successful seizures of narcotics and tobacco, and other seizures, around Australia go down to very good intelligence, targeting and information sharing with other agencies.⁴⁷

3.67 An example of this in practice was the October 2010 seizure of 464 kg of cocaine in Brisbane. Intelligence from the United States Drug Enforcement Administration, referred to Australian law enforcement agencies through the Australian Federal Police international network (discussed below), led to a successful, directed joint operation by the AFP and the Australian Customs and Border Protection

44 AFP, *Submission 19*, p. 7.

45 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, pp 38–39.

46 Mrs Marion Grant, Deputy Chief Executive Officer, Customs, *Committee Hansard*, 17 February 2011, p. 3.

47 Mr Richard Janeczko, *Committee Hansard*, 17 February 2011, p. 17.

Agency.⁴⁸ The committee considers that the interception of such an importation, using the small boat methodology, would have been unlikely in the absence of intelligence, as Mr Phelan noted in relation to that case:

Of course one of the vulnerabilities, as we have seen with our major seizures this year, is that it does not always happen at the major seaports. It is coming through small craft that meet mother ships outside. That is the whole coastline. It is simply not practical to have people at every one of those and checking every pleasure craft that comes [in]. It is all about intelligence.⁴⁹

3.68 The committee is firmly of the view that the continuing success of law enforcement operations combating serious and organised crime in the aviation and maritime sectors will require the timely and effective use of criminal intelligence. As noted by the agencies, the effective use of intelligence requires sharing and cooperation between law enforcement partners.

The importance of international intelligence

3.69 Serious and organised crime is increasingly a transnational affair, with criminal 'networks of opportunity' operating across international borders. A national response to organised crime therefore requires coordination with international partners. The importance of international cooperation is recognised in the Commonwealth Organised Crime Strategic Framework, which states:

Given the growing geographical reach of organised crime and the increasing globalisation of financial markets, international cooperation and engagement is a vital part of dismantling organised criminal activities and networks.

The successful understanding of, and intervention against, organised criminal activity, including prosecution, is dependent on effective frameworks for international cooperation. Particularly important are the tools of information and intelligence sharing and police to police assistance to build a comprehensive understanding of the networks. International cooperation, including through mutual assistance and extradition, will be critical to prevent perpetrators from evading sentencing, or concealing the proceeds of crime by crossing international borders. Dedicated and ongoing effort to improve the capacity of regional and developing countries is also integral to preventing and disrupting organised criminal activity before it reaches Australia's borders. The Commonwealth is responsible for

48 AFP, 'Drug syndicate smashed, 464kg of cocaine seized', Media release, <http://www.afp.gov.au/media-centre/news/afp/2010/october/drug-syndicate-smashed-464kg-of-cocaine-seized.aspx> (accessed 8 March 2011).

49 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, p. 43.

delivering international law enforcement cooperation and engagement and has developed a range of mechanisms for this purpose.⁵⁰

3.70 From the evidence provided to the committee, the primary source of overseas criminal intelligence used to combat serious and organised crime appears to be the Australian Federal Police International Network.

3.71 The International Network consists of more than 85 AFP officers based in 30 countries. These AFP International Liaison Officers serve as the Australian Government's law enforcement representatives overseas.⁵¹

3.72 In addition to the international liaison officer network, the AFP submission also noted wider international engagement strategies by the agency, including capacity building projects such as the provision and training of foreign law enforcement agencies, operational deployments overseas and cooperation through involvement in international crime centres and multinational policing organisations.⁵²

3.73 Through these functions, the AFP conducts enquiries on behalf of all Australian State, Territory and Federal law enforcement agencies and cooperates with other Australian Government departments domestically and abroad. This is intended to facilitate a 'whole-of-government' approach to fighting crime at its source.⁵³

3.74 The AFPA noted the value of the AFP liaison network in particular, stating:

[O]ur understanding from our members is that the AFP has a somewhat extraordinary international network that works extremely well with various countries. So, again, we have got the structure in place for dealing with trans-national crime and organised crime and terrorism.⁵⁴

3.75 In addition to the AFP network, other agencies maintain their own links with overseas partner agencies and organisations. For example, Customs sources intelligence from the World Customs Organisation and its subsidiaries, and a long list of foreign customs and border protection agencies.⁵⁵ Similarly, many other agencies may have their own overseas partner agency sources.

50 Australian Government, Commonwealth Organised Crime Strategic Framework, p. 7.

51 AFP, 'International network', <http://www.afp.gov.au/jobs/current-vacancies/international-liaison/international-liaison-information.aspx> (accessed 12 April 2011).

52 AFP, *Submission 19*, p. 2.

53 AFP, 'International network', <http://www.afp.gov.au/jobs/current-vacancies/international-liaison/international-liaison-information.aspx> (accessed 12 April 2011).

54 Mr Jonathan Hunt-Sharman, AFPA, *Committee Hansard*, 17 February 2011, p. 37.

55 Customs, answer to written question on notice, 9 May 2011 (received 25 May 2011).

3.76 Intelligence and information sharing is also facilitated through international law enforcement organisations, most notably Interpol and Europol.⁵⁶

3.77 The committee accordingly considers the AFP international network to be a valuable asset. It is therefore keen to ensure that the information obtained through the network continues to be used effectively in coordinating domestic law enforcement efforts.

Agency level sharing arrangements

3.78 As noted at the outset of this section on intelligence-led policing, the sharing of intelligence is critical to its effective use. For this reason, the committee would like to see enhancements to current intelligence sharing mechanisms.

3.79 There are several main institutional criminal intelligence sharing mechanisms within the Australian law enforcement community.

3.80 The ACC manages the Australian Criminal Intelligence Database (ACID) and the Australian Law Enforcement Intelligence Network (ALEIN). ALEIN is a secure extranet that facilitates access to services including ACID. ACID itself allows federal, state and territory law enforcement and other regulatory authorities to securely store, retrieve, analyse and share criminal information and intelligence on a national basis.⁵⁷

3.81 The ACC provided information to the committee about ACID and ALEIN, stating:

ACID and ALEIN provide law enforcement with the tools to assist with identifying, analysing and sharing critical pieces of information including new criminal trends, emerging methodologies and links between criminal activities and criminal targets. The ACC draws on the criminal intelligence holdings in ACID to develop national criminal intelligence.⁵⁸

3.82 Of particular interest for this inquiry is the dissemination of ACC information reports involving organised crime in the aviation and maritime sectors via ACID. As part of the special investigations conducted by the ACC into those sectors, over 500 individual information reports were uploaded to ACID for the use of federal and state law enforcement partners.⁵⁹

56 Customs, answer to written question on notice, 9 May 2011 (received 25 May 2011).

57 Australian Crime Commission, 'ACID/ALEIN' http://www.crimecommission.gov.au/our_work/acid_alein.htm (accessed 13 April 2011).

58 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

59 ACC, *Submission 8*, pp 3–4.

3.83 The Australian Crime Commission also houses the Criminal Intelligence Fusion Centre, which was formally established in July 2010.⁶⁰ The Fusion Centre consists of collocated officers from key agencies including the Australian Taxation Office, the AFP and Centrelink to allow 'faster, more accurate and more effective exchange of intelligence between agencies.'⁶¹

3.84 The ACC informed the committee that officers in Fusion Centre work collaboratively to provide a more comprehensive picture of the targets, risks, threats and vulnerabilities associated with criminal activity, explaining:

This means that the data can be fused in near real-time, the results analysed and fed back to agencies to act upon. The ACC believes that the fusion capability will have a strong response to, and impact on, serious and organised crime.⁶²

3.85 A number of committees and other forums facilitate high level information sharing between law enforcement agencies. These include the ACC Board itself, made up of the heads of key Commonwealth agencies and state and territory police commissioners, the Australia New Zealand Policing Advisory Agency Crime Forum and the Serious and Organised Crime Coordination Committee.⁶³

3.86 Additionally, the Heads of Commonwealth Operational Law Enforcement Agencies is the government's primary consultative mechanism for law enforcement issues and plays a role in discussing the outcomes of criminal intelligence.⁶⁴

3.87 The Tripartite Operations Group acts as a management-level committee that provides ongoing liaison at a national level between the ACC, AFP and Customs in relation to operations and intelligence.⁶⁵

3.88 The ACC also informed the committee that law enforcement agencies regularly liaised on a bilateral basis, facilitating the sharing of intelligence.⁶⁶

3.89 In its submission to the inquiry, Customs described its liaison officer network, through which it maintained communication with other state and federal law enforcement and regulatory agencies. Customs informed the committee that in the 12

60 ACC, 'Fusion Centre', <http://www.crimecommission.gov.au/media/faq/fusion.htm> (accessed 13 April 2010).

61 The Hon. Brendan O'Connor MP and the Hon. Robert McClelland MP, 'Additional \$38.5 million to Combat Serious and Organised Crime', *Joint Media Release*, 11 May 2010.

62 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

63 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

64 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

65 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

66 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

months prior to November 2009, strong results had been achieved as a result of cross-agency communication and interaction through the liaison officer network.⁶⁷

3.90 Customs also noted that intelligence was shared on a number of levels, under the umbrella of Memoranda of Understanding (MOUs), subject to requirements of the *Customs Administration Act 1985*.⁶⁸

3.91 The committee received some information about the growing relationship between national security agencies and the law enforcement community. The ACC noted that the Australian Intelligence Community provides to it national security intelligence on an as-needs basis and vice versa.⁶⁹

3.92 Since the then Prime Minister's inaugural National Security Statement in 2008, an expanded national intelligence community had been created to reflect changed global, strategic and threat environments, including serious and organised crime. At its broadest level, this effort is coordinated by the National Intelligence Coordination Committee (NICC). The NICC consists of all national intelligence, security and law enforcement agencies and is the most senior mechanism for whole-of-government strategic coordination of national intelligence.⁷⁰

3.93 The committee was not able to fully explore the state of information sharing mechanisms between Commonwealth, state and territory agencies, however it did receive mixed evidence on the subject. The Western Australian Police, submitted that the provision of intelligence from federal to state agencies was cumbersome, explaining:

Interoperability between State and Federal law enforcement agencies in Western Australia is adequate with intelligence and technical sharing available on a consistent basis. Of recent times, diminished resources on the part of the ACC and AFP in Western Australia has left WAPOL in a better position to contribute human resources. The process of intelligence sharing from State to Federal remains simple and unhindered by process.

In reverse, however, the flow of intelligence remains cumbersome and administratively slow. On occasions, the processes involved are an impediment to dynamic and spontaneous operational environments. The ACC Act does enable direct dissemination under critical circumstances but these provisions are rarely utilised. All agencies operate intelligence databases in isolation, uploading to ACID and ALEIN as central databases... A streamlined, accountable process of accessing National

67 Customs, *Submission 13*, p. 11.

68 Customs, answer to written question on notice, 9 May 2011 (received 25 May 2011).

69 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

70 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

intelligence holdings would further benefit frontline serious and organised crime investigators.⁷¹

3.94 Victoria Police also noted that there was scope for improvement in intelligence sharing mechanisms, submitting:

Intelligence is vital to informing decisions with respect to response options to organised crime in Australia's airports and port. Improvements can be made in relevant agencies' capacity and capability to collect timely and relevant intelligence with respect to airports and ports. This would include greater collaboration, interoperability between intelligence systems (where appropriate), better coordination of resources against agreed priorities, broadening the scope of intelligence and information collection and enhancing analytical capability.⁷²

3.95 The committee encourages agencies at the state and Commonwealth levels to continue to develop information sharing capability.

3.96 In addition to agency level sharing mechanisms, there are a number of established taskforces or joint intelligence operations based around specific crime types, targets, environments or criminal methodologies. The next section describes how these taskforce approaches have been applied specifically in the aviation and maritime sectors.

Sectoral sharing arrangements

3.97 Earlier in this chapter, the committee described the need for permanent taskforce approaches to the coordination of law enforcement activity in the aviation and maritime sectors. These same structures can be, and are used to improve the flow of information and intelligence between officers working within those sectors.

3.98 At airports, the JAIG model, supplemented by JAITs, brings together officers of the key law enforcement agencies in order to collaborate on the collection and sharing of relevant intelligence. As noted above, this appears to have been relatively successful.

3.99 Within the port environment, various taskforces have been established including the NSW Port Crime Taskforce, also described above. The committee has also observed, during site visits, close cooperation between state and Commonwealth officers, resulting in successful operations.

3.100 The degree to which such arrangements succeed appears to the committee to rely on the establishment of a positive, information sharing culture. This varied across the jurisdictions visited by the committee. For this reason, the committee reiterates

71 Western Australia Police, *Submission 3*, pp 2–3.

72 Victoria Police, *Submission 10*, p. 2.

recommendations above that more permanent maritime taskforce arrangements be established in each state and territory.

3.101 The establishment of the NSW Port Crime Task Force is an example of how agencies can enhance collaboration, and follows other successful joint-agency special investigations. Continual improvement of agency cooperation and information sharing will no doubt be required to keep pace with developments in organised crime networks. Given the international nature of organised crime, the need for law enforcement cooperation is likely to extend to overseas counterparts.

Continual improvement of strategic and tactical use of intelligence

3.102 Information, particularly intelligence, is a precious commodity in the law enforcement environment. For this reason, the committee strongly encourages the law enforcement community to continue to improve the flow of information between agencies.

3.103 The committee is pleased to observe that information sharing does appear to have improved, particularly over the last two years. The implementation of the committee's recommendation to establish taskforce models in each state and at the national level will ensure that tactical use of intelligence is maximised by teams working within each sector. Intelligence-led operations are effective and efficient and are strongly supported by the committee.

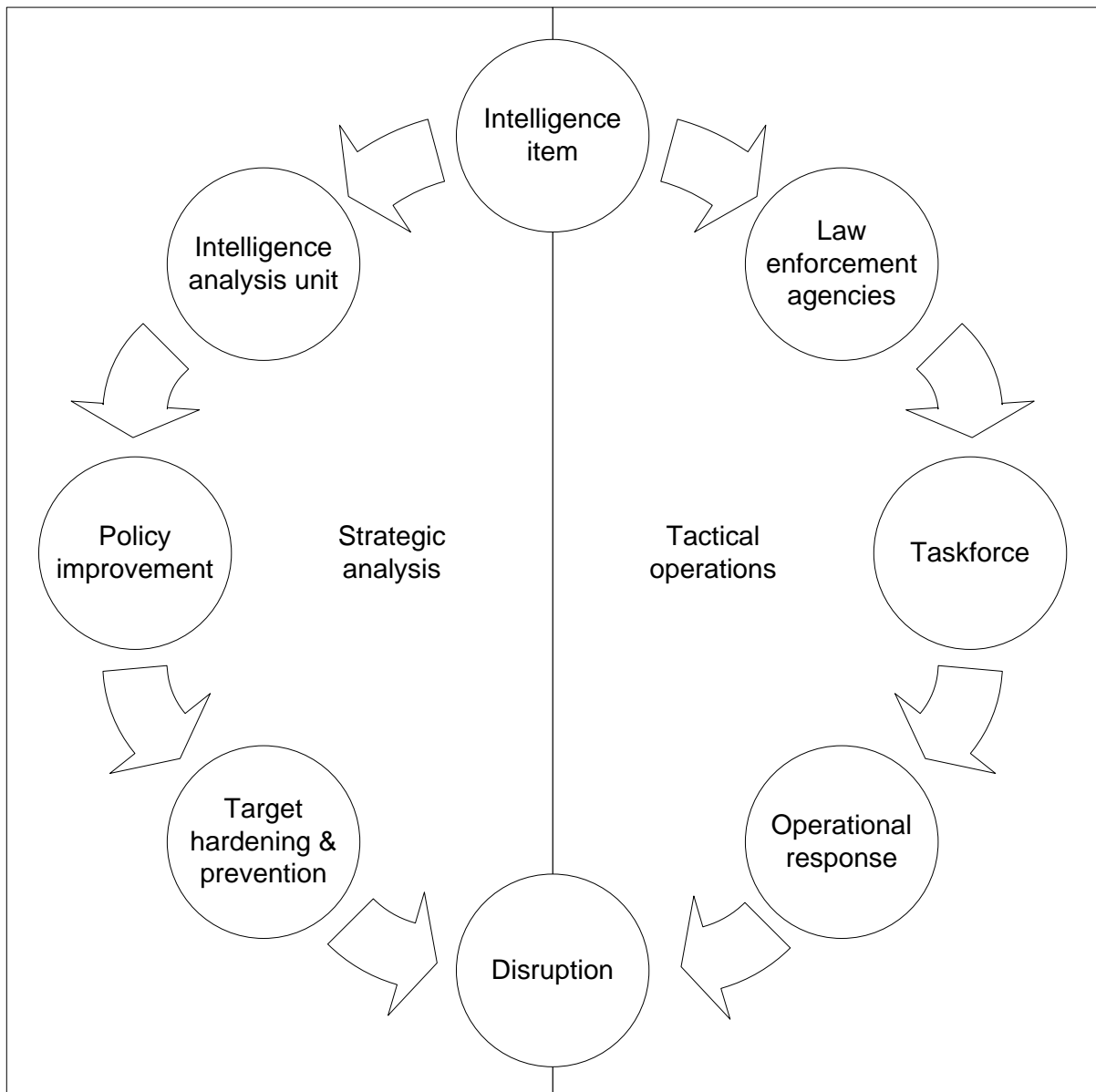
3.104 It is important to also improve upon the strategic use of intelligence, by continuing to build a picture of criminality that can be used to remove future criminal opportunities. Mr Phelan noted the importance of the strategic approach, stating:

While Australia's air and sea ports remain vulnerable to infiltration by organised crime, especially for the import and export of illegal goods and proceeds of crime, our national responses to organised crime need to remain holistic and open-minded. A strategic response to organised crime will naturally incorporate links to the broader environment, including potentially all sea and air ports, but must remain conscious of the wider networks and implications both domestically and internationally.⁷³

3.105 The strategic and tactical uses of intelligence are depicted in figure 3.1, which indicates how both approaches seek to disrupt criminal activity.

73 Mr Michael Phelan, Deputy Commissioner, AFP, *Committee Hansard*, 17 February 2011, p. 38.

Figure 3.1: The two-track use of received intelligence



3.106 In the context of aviation and maritime security, the broad contours of both approaches are already in place. On the tactical side, dedicated taskforces in the aviation sector, and gradually developing taskforces in the maritime sector, are bringing together the intelligence and information held by individual agencies. Strategic analysis is undertaken by the ACC, with reports provided to law enforcement partners and policy groups.

3.107 The ACC identified a number of areas for future enhancement of information sharing. These included:

- the need to develop consistency across Australia in the collection, analysis and exchange of intelligence;

-
- opportunities for the improved use of ACID and ALEIN;
 - continued development of the criminal intelligence fusion capability; and
 - further improving the timely exchange of information between both law enforcement and national security agencies.⁷⁴

3.108 The committee encourages the law enforcement community to continue to remove barriers, whether cultural or organisational, in order to enable the appropriate flow of information for both strategic and tactical purposes.

Private sector involvement

3.109 Successfully combating the threat of serious and organised crime in the aviation and maritime sectors will require the engagement and involvement of the private sector groups operating in those environments.

3.110 A large amount of information that could be used by law enforcement agencies is held by private sector organisations including passenger details, cargo manifests and employment records. Much of this information is properly subject to privacy laws and other protections. Nevertheless, within these constraints, the continual development of a good relationship between law enforcement agencies and private organisations is valuable.

3.111 One of the main areas where this issue arose was in the provision of passenger information by airlines. Given the importance to law enforcement agencies of the ability to track the movement of 'persons of interest', airlines are subject to a number of requests for such information each year. Mr Stephen Jackson, Qantas, explained that unlike some other industries, it was Qantas to policy to provide such information free of charge, stating:

In any one year, on average we service law enforcement inquiries up to the number of 6,000. We do not charge for those. The example was given in relation to the telecommunications industry. My knowledge of interaction with Telstra in the sense of information for court record analysis six or seven years ago is that it was \$35 an inquiry. Last night my security controller on duty spent 70 per cent of his shift dealing with law enforcement inquiries.⁷⁵

3.112 Mr Jackson informed the committee that Qantas sought to comply with such requests to the best of their ability, commenting:

In terms of the generic answer, as long as we operate within the bounds of the law in terms of our compliance with privacy legislation and the agencies comply with their own respective secrecy provisions, my instruction to my

74 ACC, answer to written question on notice, 9 May 2011 (received 25 May 2011).

75 Mr Stephen Jackson, Qantas, *Committee Hansard*, 18 February 2011, p. 28.

staff is that they are to provide full and unfettered access to whatever information is requested.⁷⁶

3.113 However, the committee also understands that the timely provision of such information often relied on the relationship an agency could build with a private company. The committee notes that many of the private organisations that provided evidence desired a closer relationship with law enforcement agencies in order to deliver better and more informed company security policies. For example, Qantas made the following comment:

To enable the aviation sector in partnership with law enforcement agencies to effectively counter current and next generation criminal threats, it is critical that an information and intelligence sharing system is embedded that ensures the flow of timely and accurate information between parties. Such information would enable Qantas to more effectively identify vulnerabilities that may be subject to exploitation now or in the future... The precedent already exists in the national security environment, where the rapid sharing of that information enables Qantas to react in advance to any identified threat issues.⁷⁷

3.114 As Mr Michael Carmody observed, current information sharing arrangements are ad-hoc and could benefit from a formal framework that involved database access of some description, stating:

Yes, airlines, particularly, do maintain connections with other airlines and, in some cases, other governments with regard to high-profile threat so that, if someone is identified boarding a Qantas aircraft in London, that name may trigger if those connections are in place. Fundamentally, though, we have no framework in place to react to this. It really is reliant at the lower level on the airline network to plug in mate-to-mate, for want of a better term, to try to access certain data and pull it in. It is a very rough system when you consider that one mistake at that screening point could cause the deaths of 400 people.⁷⁸

3.115 There are no doubt barriers to the sharing of information between law enforcement agencies and the private sector. For example, from a purely logistical perspective, CrimTrac noted that its current operating mandate did not extend to non-government bodies. Mr Douglas Smith, CrimTrac, stated:

The mandate that is given to CrimTrac comes from an intergovernmental agreement which was first signed back in 2000. That is, if you like, the contract that brings together the various jurisdictions. The short answer to your question is that we have no mandate to deal with private companies. If we were to deal with private companies in providing that sort of capability,

76 Mr Stephen Jackson, Qantas, *Committee Hansard*, 18 February 2011, p. 34.

77 Qantas, *Submission 5 (supplementary)*, p. 6.

78 Mr Michael Carmody, *Committee Hansard*, 18 February 2010, p. 4.

there are a whole raft of privacy, legislative and other practical issues that would have to be negotiated.⁷⁹

3.116 The issue of information sharing is again raised in the context of passenger profiling in Chapter 4 and ASIC and MSIC cardholder information held by AusCheck, discussed in Chapter 5.

3.117 The committee has had the opportunity to discuss the issue of private sector and law enforcement agency cooperation in detail during site visits around Australia. The committee is accordingly convinced of the need to improve the information sharing relationship to both aid law enforcement investigations and allow private organisations to play an enhanced role in security.

3.118 Such an initiative could build on the existing Trusted Information Sharing Network (TISN) which provides an environment where business and government can share vital information on national security issues relevant to the protection of critical infrastructure and the continuity of essential services in the face of 'all hazards'.⁸⁰

3.119 The TISN supports the Australian Government's Critical Infrastructure Resilience Strategy, which aims to support the continued operation of infrastructure critical to Australia's national defence and national security. As such, the TISN has a different purpose to the information sharing arrangements desired by the committee. It therefore recommends that the Attorney-General's Department develop a possible model for the enhanced provision of information between public and private entities for the purpose of strengthening the response to serious and organised crime.

Recommendation 5

3.120 The committee recommends that the Attorney-General's Department conduct a review of current information sharing arrangements between law enforcement agencies and private organisations in the aviation and maritime sectors.

79 Mr Douglas Smith, CrimTrac, *Committee Hansard*, 18 February 2011, p. 48.

80 Attorney-General's Department, 'Critical Infrastructure Resilience', http://www.ag.gov.au/www/agd/agd.nsf/Page/Nationalsecurity_CriticalInfrastructureProtection?open&query=TISN (accessed 21 April 2011).

