

GOVERNMENT RESPONSE TO THE PARLIAMENTARY JOINT COMMITTEE ON LAW ENFORCEMENT'S INQUIRY INTO THE GATHERING AND USE OF CRIMINAL INTELLIGENCE

On 15 May 2013, the Parliamentary Joint Committee on Law Enforcement (PJC-LE) handed down the report on its Inquiry into the gathering and use of criminal intelligence.

The Government thanks the PJC-LE for its comprehensive examination of the gathering and use of criminal intelligence in Australia. The Government has agreed to six of the Committee's 12 recommendations, either in whole or in principle.

Overview

Combatting serious and organised crime is a key priority for this Government. Serious and organised crime is complex, global and ever-changing. The impacts are significant, and the harms are felt throughout Australia. It is imperative that the strategy for combatting serious and organised crime is collaborative, robust and puts to use all powers available to government. The development of consistent national criminal intelligence capabilities, enabling improved intelligence sharing between agencies and across jurisdictions and ensuring access to timely, accurate and relevant intelligence about criminal groups and activities, are key components to improving the response to serious and organised crime.

Criminal intelligence guides the actions of law enforcement and regulatory agencies and assists in developing policy responses and should be treated as a national asset. It is vital that law enforcement, intelligence, national security, policy and regulatory agencies collaborate and securely share intelligence.

In recent years, there has been substantial progress in improving intelligence, data and information sharing arrangements in Australia. This includes improving legislative provisions that relate to information sharing, such as the amendments made to the *Australian Crime Commission Act 2002* which allows the ACC to share information with private sector bodies in certain circumstances, as well as participation in ongoing cross-jurisdictional information sharing arrangements such as police-to-police partnerships and national taskforces.

The Australian Criminal Intelligence Model (ACIM) represents an important step forward in the development of a more effective and efficient national criminal intelligence landscape. The Australian Criminal Intelligence Forum (ACIF) brings together heads of intelligence and law enforcement agencies across all jurisdictions, including a representative from the national security community, CrimTrac and the Australian and New Zealand Policing Advisory Agency (ANZPAA) to oversight implementation of the ACIM framework and to provide the mechanisms to harness and share Australia's intelligence assets. The ACIM provides a framework to support a whole-of-enterprise approach to intelligence capability management.

The Government supports the implementation of the ACIM, as a framework of guiding principles to enable agencies to better exploit and manage criminal intelligence. As a national framework of capabilities, including those relating to people and skills, technology and processes, policies and legislation, the ACIM will facilitate better information sharing across agencies, including law enforcement, policy and regulatory agencies.

The successful implementation of the ACIM will enhance partnerships between policing, law enforcement, regulatory and national security agencies, ensure those agencies have the technical

capabilities to most effectively utilise intelligence holdings, and create consistent national standards for intelligence practitioners.

The ACIM establishes a national benchmark for facilitating the flow of criminal intelligence based on consistent standards, processes and protocols for the management of criminal intelligence nationally. Implementing the ACIM will result in more consistent, coordinated and collaborative collection and use of criminal intelligence, which in turn will build the national understanding of serious and organised crime.

Response to Committee Recommendations

Recommendation 1

The committee recommends that the Australian Crime Commission and the Australian Federal Police provide it with a detailed report on the findings and recommendations of the Australian Criminal Intelligence Database (ACID) and Australian Law Enforcement Intelligence Network (ALEIN) scoping study, National Information and Intelligence Needs Analysis, and assessment of the AFP's Project Spectrum. The report should provide details on:

- the recommendations regarding ACID and ALEIN and how they will be implemented including a timeframe;
- the outcome of the National Information and Intelligence Needs Analysis;
- the assessment of the AFP's Spectrum Program; and
- how the recommendations of each respective review and assessment will inform the development of the Australian Criminal Intelligence Model and maximise interoperability between existing databases and systems.

Agree

Interoperability at the business, information and technology levels is necessary to ensure strong collaborative partnerships between Australia's law enforcement and intelligence agencies into the future. The ACID/ALEIN Scoping Study, the National Information and Intelligence Needs Analysis (NIINA) and the AFP Spectrum program have all informed the development of options to improve technical interoperability in information sharing and, accordingly, align with the aims and strategic objectives of the ACIM. Enhancing analytical capabilities and greater collaboration among partner agencies would operationalise the ACIM. Improving national processes and capabilities to share information and intelligence assists in the creation of a 'decision advantage' by providing access to up-to-date information and intelligence to inform decision making processes.

The Government is pleased to provide the following information about the ACID/ALEIN Scoping Study, NIINA and AFP Spectrum Program.

ACID/ALEIN Scoping Study

The ACC initiated the ACID/ALEIN Scoping Study to identify future technological needs and business requirements to support an improved national criminal intelligence capability that can effectively meet the current and emerging requirements of Australian law enforcement agencies.

The Scoping Study report was finalised in January 2014. It explores building on existing capabilities and introducing new technologies to improve intelligence collaboration in the law enforcement community.

The ACC will advise Government on replacement options over the short, medium and long term, drawing on the options explored in the Scoping Study. One such option includes a fully networked system—the National Criminal Intelligence System.

National Information and Intelligence Needs Analysis (NIINA)

The NIINA was completed in July 2012 as part of the ACID/ALEIN Scoping Study to form a basis from which improvements to technical interoperability could be identified. It was a collaborative effort by the ACC, the National Counter-Terrorism Committee's (NCTC) Intelligence and Information Management System Working Group and CrimTrac. The NIINA centred on the business needs of the national criminal intelligence practitioners and managers. It reviewed the high-level user requirements of Australian intelligence systems and identified specific capabilities that would be required to meet the business needs of intelligence practitioners and managers.

Over 180 intelligence practitioners and managers, including representatives from state crime units, specialised squads, task forces, national units, regional coordination units and local areas, were consulted to provide an intelligence perspective across the strategic, operational and tactical domains. The analysis identified gaps between the national criminal intelligence needs and the national capability. The outcomes of NIINA were considered as part of the development of options to improve technical interoperability of ACID/ALEIN environment, and have informed discussions around which technologies are required to underpin the ACIM.

AFP Spectrum Program

The aim of the AFP Spectrum Program is to improve operational policing efficiency through the pursuit of business, policy and information technology system change. The program has provided proactive monitoring of information, improved productivity and simplified searching across law enforcement agency information.

A significant component of the Spectrum Program is the replacement of current AFP operating systems, including the AFP's case management system, PROMIS. It is anticipated the new system will be in operation by the start of 2018. Included in the specifications is the requirement to interface with a number of external systems, including ACID. This requirement would extend to any replacement system.

Recommendation 2

The committee recommends that the ACC as the lead agency on criminal intelligence and the Australian Criminal Intelligence Model (ACIM) provide it with a report on how the ACC will ensure that all current information technology systems are fully utilised and accessible under the ACIM.

Agree

The ACIF, ACC Board and the former Standing Council on Police and Emergency Management have acknowledged that technology is one of the critical success factors for implementing the ACIM across the Commonwealth, States and Territories. The ACIF has also agreed action items for ACIM that focus on pursuing technology solutions. Specifically, pursuing common technical and security architectures for

information and intelligence holdings, and maximising the value of fusion and technical analysis capabilities.

ACIF has acknowledged that a phased 'building block' approach will be required in order to accommodate new technologies as they arise and enable wider sharing of existing technologies. The information sharing arrangements under the ACIM remain a key consideration for the ACIF members.

ACIF will report to the ACC Board on the deliverables of the ACIM, as required. Details of the ACIM, including progress on reducing the technological barriers to intelligence sharing, are now included in the ACC Annual Report.

Recommendation 3

The committee recommends that the Australian Criminal Intelligence Forum (ACIF) develop for the endorsement of all 17 ACIM agencies an information management strategy. As a first step in developing the strategy, the ACIF should define key terms including a clear, working definition of criminal intelligence and provide descriptions of relevant concepts and processes.

Agree

The ACIF is developing an information management strategy as part of its work program. This will be delivered as part of the implementation of the ACIM. The information management strategy will provide the supporting business rules and common processes relating to the movement, security, quality, provisioning and use of information and intelligence contained within shared systems. As necessary, the information strategy will include a glossary of terms.

Once the ACIF agrees to the information management strategy, it will be provided to the ACC Board for endorsement.

Recommendation 4

The committee recommends that AGD conduct a review of disclosure of information procedures under Freedom of Information (FOI). The review should provide recommendations on any legislative, administrative or policy reforms required to achieve a consistent approach to FOI requests for information under the ACIM.

Noted

In 2013 Dr Allan Hawke AC conducted a review of the Commonwealth *Freedom of Information Act 1982* (FOI Act) and the *Australian Information Commissioner Act 2010* (the Hawke Review). The review examined the FOI Act and the effectiveness of the FOI system more generally.

Any consideration of disclosure of information procedures may occur within the context of the recommendations of the Hawke Review.

Recommendation 5

The committee recommends that AGD review law enforcement data security management practices, standards, principles and safeguards. The review should provide recommendations on:

- standards and uniform principles for the security and integrity of information contributed to the ACIM. These standards should detail how ACIM agencies are to hold, protect, secure and manage ACIM intelligence; and
- an accountability and oversight mechanism to monitor compliance with the uniform standards and principles.

Noted

The Government treats the issue of information security very seriously. It is important that users of a national repository have confidence in the security and usability of law enforcement data. As part of any sharing structure, appropriate security management practices will be integral to achieving successful intelligence partnerships.

Access and sharing limitations are key components of any secure information sharing system. As part of the development of the current intelligence sharing landscape, information security will remain a priority for Government and appropriate safeguards will be considered and integrated as part of any system development. Access requirements, portal security systems design and agencies' own security management requirements all comprise the suite of security management practices that will be inherent in any intelligence sharing system.

The ACIM recognises the importance of sharing information, and intelligence partnerships. A key objective of the ACIM is to consider the technical and security architecture necessary for information and intelligence sharing. Awareness and compliance with data security management practices, standards, principles, protocols and safeguards are being considered as part of the development of an information management strategy. The ACIM aligns with the ANZPAA information sharing protocols and sets out the common principles that are to guide the sharing of criminal intelligence. Like the ACIM, the ANZPAA protocols instil governance procedures to ensure security requirements are maintained, understood and compliant with legislative obligations.

Significant work has been done at the Commonwealth level in recent years to strengthen the practices, standards and safeguards that protect data and information. For example, significant reforms to the *Privacy Act 1988* that commenced on 12 March 2014 introduced new Australian Privacy Principles that apply to the collection, use, disclosure, integrity, access and correction of personal information. The Australian Privacy Principles must be considered by all Commonwealth agencies when handling personal information.

In addition, at a Commonwealth level, there are bodies and agencies already tasked with considering the retention, use and security issues associated with national information and systems. The Australian Signals Directorate (ASD), under the Department of Defence, provides advice and assistance on matters relating to security and the integrity of information. This involves a stocktake and review of the type of data being held, networks, detection mechanisms and protections in place. The ASD produces a number of guidance materials on information security (<http://www.asd.gov.au/publications/index.htm>), including the Australian Government Information Security Manual which provides the framework for how government secures its data, including Commonwealth law enforcement data.

Recommendation 6

The committee recommends the establishment of a national repository for criminal intelligence as part of the ACIM.

Recommendation 7

The committee recommends that a cost-benefit analysis be undertaken in relation to the options for a national repository. This analysis should take into consideration:

- the determining factors detailed in Chapter 6 of this report;
- the need to complement existing information technology initiatives such as the AFP's Spectrum Program;
- the need for interoperability and complementarity with current databases including the National Criminal Investigation DNA Database and the National Automated Fingerprint Identification System; and
- the intelligence sharing model used by the Australian intelligence community.

Agree in principle

The ACID/ALEIN environment is the current national repository for criminal intelligence and provides a secure network for sharing criminal information and intelligence between Australian law enforcement agencies and their partners. As outlined in the response to recommendation 1, the ACC initiated the ACID/ALEIN Scoping Study to identify future technological needs and business requirements to support an improved national criminal intelligence capability that can effectively meet the current and emerging requirements of Australian law enforcement agencies. The ACC will advise Government on replacement options for the existing ACID/ALEIN system over the short, medium and long term, drawing on the options explored in the Scoping Study.

Recommendation 8

The committee recommends the standardisation of security clearance processes. To this end, the committee strongly encourages all state and territory jurisdictions to align their security clearance processes with that of the Australian Government Security Vetting Agency.

Noted

The Australian Government's Protective Security Policy Framework (PSPF) provides the appropriate controls for the Australian Government to protect its people, information and assets, at home and overseas. The PSPF can be found at www.protectivesecurity.gov.au.

In addition to personnel security advice on vetting, the PSPF also provides policy advice on governance, information security and physical security that, when applied collectively, support the protection of all information – not just classified information – people and assets.

The Australian Security Government Vetting Agency (AGSVA) undertakes vetting for the Commonwealth in accordance with the PSPF. Australian Government agencies that are exempt from the centralisation of vetting (exempt agencies) also follow the PSPF when undertaking vetting. In accordance with the PSPF, AGSVA, exempt agencies and States and Territories recognise each other's clearances unless:

- the clearance has lapsed
- the clearance was granted based on an eligibility waiver, or
- the AGSVA or exempt agency has substantial prejudicial information that the incoming employee is no longer suitable to access security classified information at that clearance level.

States and Territories have taken one of two approaches with regard to the PSPF and its implementation. Some States and Territories have largely adopted the PSPF, with minor tailoring to ensure its relevance to their specific business needs. Others have adopted the principles of the PSPF which are founded, in most instances, on the relevant Australian or International standard.

The Australian Government also has a Memorandum of Understanding in place with State and Territory governments regarding the exchange of classified information based on the PSPF's predecessor, the Protective Security Manual. Under the Memorandum of Understanding States and Territories can undertake their own security clearances which will be recognised by the Commonwealth (and other States and Territories) if completed in accordance with the Protective Security Manual (now the PSPF) or if they use the services of AGSVA.

Recommendation 9

The committee recommends that the ACC in collaboration with AGD establish as part of a licencing requirement to the national repository or other administrative arrangement, a formal agreement which requires signatory agencies to declare a commitment to contribute information and intelligence to the national holdings.

Recommendation 10

The committee recommends the establishment of an accountability and oversight regime to ensure that agencies are accountable for their contribution to the national holdings. As part of this regime, the Senior Officers' Group on Organised Crime (SOG on OC) should provide an annual oversight report to the Ministerial Council for Police and Emergency Management—Police and Standing Committee of Attorneys-General on the contribution of each respective agency for review and remedial action where required.

Noted

There is a range of reporting regimes already in place that provide assurances and visibility over agencies' contribution to national intelligence holdings. Multi-agency bodies such as the ACIF and the ACC Board have regular reporting requirements and a relevant connection to all signatories. Forums such as these provide exposure to decision-makers and allow for the exchange of comprehensive advice on key issues that allow inputs and outputs to be monitored and agencies to be held accountable for their contribution to the national intelligence holdings. These forums also have an ongoing commitment to improving reporting and accountability and have implemented improved reporting requirements. For example, the ACC Board has initiated the following improved reporting structure for the ACIF:

- the ACIF reports biannually to the ACC Board
- the ACIF provides updates to relevant ministerial councils on the implementation of ACIM as and when required

- the ACC CEO updates the Minister for Justice on progress of ACIF and the ACIM
- the ACC reports on the ACIF and ACIM included in its annual report, and
- the ACIF continues to consider reporting formats, templates and opportunities to improve its reporting requirements.

The Government will consider whether any additional reporting and accountability or oversight mechanisms are necessary as part of its consideration of replacement options for ACIF/ALEIN.

Recommendation 11

The committee recommends that the feasibility of extending the jurisdiction of the Australian Commission for Law Enforcement Integrity (ACLEI) to include oversight of the Australian Securities and Investments Commission, AGD and the Australian Taxation Office be referred to the Parliamentary Joint Committee on ACLEI for inquiry and report.

Noted

On 6 March 2014, the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity initiated an inquiry into the jurisdiction of the ACLEI. In accordance with the terms of reference for this inquiry, the Committee will consider the desirability and feasibility of expanding ACLEI's jurisdiction to include ASIC, AGD and ATO.

The Government looks forward to reviewing the report of the Committee's inquiry.

Recommendation 12

The committee recommends that the ACC provide a detailed account of progress towards the ACIM in its annual reports.

Agree

The ACC included an update on the Australian Criminal Intelligence Model (ACIM) in its 2011–12 Annual Report. The annual reports of the ACC are published on its website at www.crimecommission.gov.au. The ACC will continue to report on the ACIM in future annual reports.