

Identity fraud and Proof of Identity processes

6.1 As part of their audit, the ANAO:

... reviewed various aspects of PoI [Proof of Identity] administration, including:

- risk management;
- PoI fraud;
- quantitative analysis;
- the ATO Internal Audit report on PoI;
- OECD member state management of PoI; and
- ATO management of PoI.¹

6.2 During the course of the Committee's inquiry, this issue proved to be of particular community concern. The Committee heard from financial institutions, government agencies including law enforcement agencies, and individuals about the problems of identity fraud and theft in relation to the use of tax file numbers and more broadly.

6.3 In considering Proof of Identity (PoI) issues, the Committee has focussed on those issues that flow from a consideration of PoI in the context of TFNs. While this has resulted in consideration of a broad range of issues, the Committee has not undertaken a comprehensive appraisal of the issue of identity fraud as it confronts the Australian community.

6.4 The Committee is aware that there are a number of processes currently underway that are looking at the issue of identity fraud – both within the Commonwealth and at a broader level. This includes strategic consideration of the issue of identity fraud by the Office of Strategic Crime

¹ ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

Assessments², a PoI working group chaired by AUSTRAC³, consideration by the Australian Registrars Conference of strategies to reduce the fraudulent use of birth certificates⁴, and initiatives of the Heads of Fraud Conference⁵ and work by the Australian Bureau of Criminal Intelligence to develop a national fraud analytical capacity that will include information on identity fraud⁶. The Committee's comments on the issue of identity fraud are designed to contribute to this current debate and development of solutions.

Extent of the problem

- 6.5 In their report, the ANAO noted the ease with which false identity documents can be obtained, and the difficulties this poses for government departments in terms of their PoI processes.
- 6.6 It is clear from the Committee's enquiries, that identity fraud is a significant issue for the Australian community. As stated by the ABA:
- Identity fraud is not only an issue for industry and government, but also for the whole community that is affected by the impact of criminal activity.⁷
- 6.7 As noted by Federal Agent Gordon Williamson from the Australian Federal Police (AFP), the concerns about false identity:
- ... essentially revolve around the ease of availability of some documents which can then be used to prove identity and the ease with which technology permits the falsification of documents.⁸
- 6.8 With improvements in technology and their increased availability through reduction in cost, this issue is a growing concern. The move to greater use of electronic commerce is likely to further increase the level of identity fraud and the difficulty of uncovering perpetrators – a point highlighted

2 Transcript, p.200.

3 Transcript, p.88

4 Transcript, p.83

5 Transcript, p.164.

6 Transcript, p.166.

7 ABA, Submission No.10, p.1.

8 Transcript, p.164.

by Dr Smith from the Australian Institute of Criminology (AIC)⁹ and Federal Agent Williamson¹⁰.

6.9 Indications of the extent of this problem include:

- ‘the estimate would be that approximately 25 per cent of reported frauds to the AFP involve the assumption of false identities’¹¹;
- Federal Agent Williamson observed that ‘when I was a fraud investigator, most fraud offenders had multiple identities available to them, whether they were used or otherwise’¹²;
- that ‘identity kits’ consisting of a set of fabricated documents for a false identity are ‘increasing in availability, particularly due to the ability of modern technology to generate forged documents of very high quality’¹³;
- ‘that identity documents of various types are available for the payment of money – either forged documents or genuine documents which have been stolen and otherwise dealt with’, including via the Internet¹⁴;
- **that in a pilot conducted by Westpac and the NSW Registry of Births, Deaths and Marriages of a Certificate Validation Service, that in ‘the particular instances where a birth certificate was tabled to the bank as part of the identification documentation, some 13 per cent were found to be false’¹⁵;**
- Centrelink detected ‘about \$12 million worth of fraud from identity’ in 1999¹⁶; and
- the National Crime Authority’s (NCA) concern about the ease ‘with which false identities may be established and used to facilitate organised criminal activity’¹⁷.

9 Dr Smith, Submission No.6, p.2.

10 Transcript, pp.164 & 169.

11 Transcript, p.164.

12 Transcript, p.172.

13 Transcript, p.165.

14 Transcript, p.165.

15 Transcript, p.101.

16 Transcript, p.109.

17 NCA, Submission No.31, p.1.

Quantifying identity fraud

- 6.10 As stated by Dr Smith from the AIC, 'the figures do not exist' when it comes to considering the significance and cost of identity related fraud for the Australian government and the community. The lack of national statistics on identity fraud was confirmed by the ANAO in their report¹⁸, by the NCA¹⁹ and the AFP²⁰.
- 6.11 In their report, the ANAO state that:
- One commercial estimation is that PoI fraud costs 0.1 per cent of overall transactions. However one American agency has seen a growth in PoI fraud in dollar terms from \$442 million (USA) in 1995 to \$745 million (USA) in 1997.²¹
- 6.12 The ABA was able to advise that anecdotal evidence gathered during the proceedings of their fraud working group suggests that identity fraud is increasing²². Similarly, Dr Smith advised the Committee that 'major fraud groups around the country have indicated that almost all serious fraud in Australia involves the use of false identity documents in some form or another.'²³
- 6.13 The Committee is concerned at the lack of figures available on the extent and cost of identity fraud. Quantifying the economic impact of identity fraud would be a powerful step towards ensuring support for reform across all levels of government, business and the community.
- 6.14 As noted by the ANAO, 'the measurement of the incidence and cost of PoI fraud is a difficult area of public administration'²⁴. At the most basic level, there is a difficulty in defining 'identity fraud'. For example, as noted by Dr Smith, when considering state police fraud statistics, each jurisdiction has multiple and different offences relating to fraud which means that it is difficult and time intensive to get consistent information²⁵.
- 6.15 There are also commercial sensitivities about releasing identity fraud data, based on the perception that this can be damaging for business and consumer confidence.

18 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

19 NCA, Submission No.31, p.1.

20 Transcript, p.163.

21 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

22 Transcript, p.103.

23 Transcript, p.34.

24 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.46.

25 Transcript, p.38.

- 6.16 Despite these difficulties, the Committee considers that there is value in pursuing this issue.
- 6.17 The Committee does not consider that it is in a position to offer a firm suggestion on how this work should proceed, however it does wish to offer the following comments. Regarding the timeframe for recording, while ongoing recording on an annual basis would be the ideal, a useful first step may be doing a point in time estimate of identity fraud. Using an independent body, such as the Australian Bureau of Statistics (ABS) or a contracted consultant, and filtering data through industry associations may help in protecting the identity of individual businesses. In addition, while the Committee considers that the Commonwealth government should drive this proposal, there is scope for shared funding across levels of government and industry.
- 6.18 The ATO have suggested to the Committee that ‘a joint independent research project may be a way forward’, being a project conducted jointly between an Australian bank and the ATO²⁶.
- 6.19 Dr Smith advised the Committee of a study that the AIC is to undertake which he considers may be a good pilot study for recording identity fraud. The six month study involves:
- ‘a stocktake of serious fraud investigations around the country, looking at each state and territory. One issue is to see whether identity fraud is a part and to what extent it has occurred in cases which have been dealt with over the past two years.’²⁷

Recommendation 18

- 6.20 **That the Commonwealth Government work with other levels of government and industry to develop national statistics on the extent and cost of identity fraud in Australia.**

26 ATO, Submission No.30, p.3.

27 Transcript, p.37.

Administrative responses

ATO internal processes

The ANAO found that the ATO could better manage the risks associated with the verification of an applicant's claims as to their identity. The ATO might not have sufficient expertise in the verification of the large variety of Proof of Identity (PoI) documents that it may need to examine in connection with TFN applications²⁸.

- 6.21 In addition to this criticism of the ATO's PoI procedures, the ANAO also found:
- instances where PoI fraud had continued undetected for some time;
 - that 'the ATO does not systematically examine the practices and procedures that permitted the occurrence of PoI fraud in the first case'²⁹; and
 - that 'no use is made by the ATO of quantitative analysis of PoI information'³⁰.
- 6.22 PoI fraud does occur through misrepresentations to the ATO and through the misuse of falsely obtained TFNs. The Committee heard from a number of witnesses about cases of PoI fraud that involved the misuse of TFNs.
- 6.23 The NCA provided the Committee with information about a:
- ... joint NCA/ATO investigation, conducted under the Swordfish National Task Force, [where] false identification has been used by overseas born criminals to establish false bank accounts and companies, enabling large-scale tax evasion and the offshore remittance of substantial proceeds of crime.³¹

28 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.17.

29 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.47.

30 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.52.

31 NCA, Submission No.31, pp.2-3.

- 6.24 While the AFP advised that they deal with a very small number of TFN frauds, they did comment that :
- ... Examples where they have been relevant have included people applying for benefits through Centrelink using as part of their identification false tax file numbers, and some employment fraud whereby people seek to have the amount of tax deducted from their pay reduced through the use of a false tax file number.³²
- 6.25 Mr Baker provided the Committee with a case study where the offender used ATO Group Certificates from fictitious employers, and went on to advise the Committee that:
- Although taxation documents do not have photographs of the holders of the items, it is a particularly powerful piece of identification for offenders. This is because it is believed that the Australian Taxation Office does not issue TFNs easily and mere possession of a TFN is a strong document of identification.³³
- 6.26 The ANAO recommended a series of steps that the ATO could take to improve its internal PoI processes³⁴. The Committee is impressed by the ATO's enthusiasm for searching for broad solutions to the PoI problem. However, despite this, the ATO does not appear to have matched this enthusiasm with a commensurate commitment to understanding how this issue is impacting on the ATO or with satisfactory implementation action on internal reform.
- 6.27 Essentially, the ATO faces two types of PoI fraud: that which relates to people born in Australian, and that which relates to people born outside Australia. The ATO must develop short and long term strategies that deal with these potential areas for fraud. As noted by the ANAO, a significant step towards reducing identity fraud in both of these areas would be through improving TFN registration processes – through the SEP with regard to people born in Australia and through establishment of comprehensive arrangements with DIMA in the case of those people born outside of Australia. Based on evidence before the Committee, the ATO is failing to respond in a strategically adequate way to both of these areas of identity fraud risk.
- 6.28 The Committee also considers that the ATO has not adequately evaluated the extent and cost of identity fraud being perpetrated against the organisation, nor the risks and impact of such fraud. Anecdotal comments from ATO officers varied widely as to the level of false identification they

32 Transcript, p.163.

33 Mr Baker, Submission No.26, p.2.

34 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.47.

had uncovered. The Committee has also yet to see a full analysis of the duplicate and excess TFNs identified by the ANAO, despite the fact that this is clearly a potential risk area for identity fraud and was brought to the ATO's attention over a year ago.

- 6.29 One possible means of gaining a better insight into the extent of this problem for the ATO may be to trial the NSW Registry of Births, Deaths and Marriages' Certificate Validation Service to determine the level of fraudulent NSW birth certificates being presented as identification to the ATO. While NSW is the first to run this trial, other States are expected to adopt this service in the future³⁵.
- 6.30 While the Committee is aware that the ATO's 'Internal Assurance Branch undertook an audit of Proof of Identity of ATO Clients during 1998'³⁶, it has not seen any evidence of an improvement to internal processes nor were any proposals resulting from this audit mentioned in the ANAO's report. Similarly, while the ATO has conducted internal workshops on the standard of PoI documentation to 'feed into a Commonwealth Agency workshop'³⁷, it does not appear that these, or similar workshops have been used to improve internal processes. The Committee considers that the ATO should give greater priority to improving their internal processes through adopting the ANAO's recommendations and through improving its registration processes, as outlined in Chapter 4, in order to respond to this very basic, very real PoI challenge.

Recommendation 19

- 6.31 **That the Australian Taxation Office improve its internal processes for establishing identity and preventing identity fraud. This should include investigation of the extent of the problem within the Australian Taxation Office, including a trial of the New South Wales Registry of Births, Deaths and Marriages' Certificate Validation Service.**

35 Transcript, p.87.

36 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.48.

37 ATO, Submission No.37, p.3.

Commonwealth processes

- 6.32 The need to correctly establish the identity of individuals is one that exists across Commonwealth service provision. Similarly, the difficulties in PoI processes and identity fraud also extend across Commonwealth agencies. Added to this is the interdependence of agencies' identity processes, with agencies being highly reliant on the integrity of each other's documents for establishing individuals' identities.
- 6.33 The ANAO recommended that the ATO work with other agencies to address the issue PoI processes and identity fraud³⁸.
- 6.34 The ATO has been highly proactive in generating discussion on PoI issues across government. This has included a series of forums on PoI in each state, with representatives invited from all levels of government, as well as a series of meetings with other Commonwealth agencies. The Committee commends the ATO on these activities, and considers that they have had a significant impact on raising the profile of this issue amongst Commonwealth agencies and more broadly.
- 6.35 The ATO, in conjunction with Centrelink and the HIC have developed a hierarchy of solutions for the PoI issue across Commonwealth agencies³⁹. A process of cross-agency efforts to improve PoI processes was also supported by the Department of Family and Community Services (FaCS)⁴⁰, the CSA⁴¹, the Department of Veterans' Affairs (DVA)⁴², the Department of Health and Aged Care (DHAC)⁴³ and AUSTRAC⁴⁴ in their comments to the Committee.
- 6.36 A number of these solutions are in line with ANAO recommendations. In considering the options in the hierarchy, the Committee agrees with DHAC's assessment that there is a 'need to maintain community confidence, including privacy concerns'⁴⁵.

38 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, Recommendation 2.

39 ATO, Submission No.17, p.13.

40 FaCS, Submission No.21, p.1.

41 CSA, Submission No.24, p.2.

42 DVA, Submission No.22, pp.1-2.

43 DHAC, Submission No.36, Att A, p.3.

44 Transcript, p.97.

45 DHAC, Submission No.36, Att A, p.2.

6.37 DHAC's assessment of this hierarchy is that:

... latter steps in the proposed hierarchy ... present higher risks in terms of public acceptance and the costs of implementation.

Earlier steps in the hierarchy ... will be easier for agencies to agree to and implement in the short term. Issues of cost and public acceptance are also likely to be more manageable.⁴⁶

6.38 While the Committee agrees that a full assessment is needed before a decision is able to be made on options such as a Client Service Number (CSN) and a Commonwealth Identity Data Agency, it does consider that there is value in the process of considering options for addressing identity fraud.

6.39 In particular, the Committee strongly supports moves to improve data quality, to strengthen data matching and to reach some level of consistency in PoI processes across Commonwealth agencies. This should include consideration of which documents will be accepted as PoI, and commitment by agencies whose documents are being used as identity documents to ensure the integrity of those documents.

6.40 While the Committee acknowledges that the ATO is a key player in this area, it does not consider that it is the agency that should be leading PoI reform across the Commonwealth. Leading a Commonwealth response to PoI fraud is not core business for the ATO, and is also not an area of its expertise. The Committee considers that an agency in the Attorney-General's portfolio should be tasked with this responsibility and notes the ABA's comments that it considers that AUSTRAC should be the leading agency⁴⁷. The Committee considers that there is a strong case for tasking the Attorney-General's Department with responsibility for leading PoI reform across the Commonwealth, given their responsibility for Commonwealth fraud control policy⁴⁸, their strategic work in relation to identity fraud⁴⁹, and their existing links and forums for dealing with both law enforcement agencies and administrative agencies such as the ATO and Centrelink.

46 DHAC, Submission No.36, Att A, p.2.

47 Transcript, p.99.

48 Transcript, p.199.

49 Transcript, p.200.

Recommendation 20

- 6.41 **That the Commonwealth Government instigate a formal process for assessing Proof of Identity risks and reform across the Commonwealth, drawing on relevant policy and administrative departments and agencies.**

A broader response

- 6.42 The issue of identity fraud is not just a problem for government administration. It is a much more pervasive problem effecting many businesses and the wider community.
- 6.43 As part of their client surveys, the accounting firm KPMG has 'identified that the use of fabricated documents and so-called false identities is an ongoing problem and concern for large businesses throughout Australia'⁵⁰.

In February 1999, KPMG carried out a survey of over 1,800 of Australia's largest businesses. Of the 367 replies received, some 7,280 incidents of fraud were reported in the two years preceding the survey with fifty-seven per cent of respondents reporting at least one incident during that period. 9.6 per cent of incidents committed by managers involved the use of false documentation. Of the incidents committed by persons outside organisations, 11.9 per cent involved the use of false documentation while 13.7 per cent related to forgery of cheques.⁵¹

- 6.44 While individual agencies can take steps to improve their internal processes, as highlighted by the ANAO in the case of the ATO, there is a need for a wider solution across the public and private sectors.
- 6.45 This is particularly the case due to the interdependence between these sectors for identification documents. As noted by Mr Woods from the ABA:

Our research on the types of documents that are produced by customers or potential customers of financial institutions suggest that at least 75 per cent or more of those cases involve government authority issued documents.⁵²

50 Transcript, p.32.

51 Exhibit 1. Smith, R.G. 'Identity Related Economic Crime: Risks and Countermeasures'. *Trends and Issues in Crime and Criminal Justice*. No.129. Canberra, Australian Institute of Criminology, pp.2-3 - based on KPMG 1999, *1999 Fraud Survey*, KPMG, Sydney.

52 Transcript, p.99.

- 6.46 Similarly, Commonwealth agencies are heavily dependent on State and private sector issued documents for PoI. For example, the ATO provided 'statistical data on current usage of identity documents for new registrants'.⁵³ This data showed that the ATO uses bank account statements for 11 per cent of registrants and an Australian or overseas birth certificate in 20 per cent of cases; similarly for NSW Centrelink registrations, 16 per cent involved a credit card as PoI, 15 per cent a driver's licence and 8 per cent a birth certificate.
- 6.47 The need for a broader approach to combat identity fraud was supported by the NCA, which submitted that:
- ... the development of integrated national and international strategies to improve the detection, investigation and prevention of identity fraud must be pursued as a high priority.⁵⁴
- 6.48 The ABA has drawn attention to two areas of identity verification where it considers there is a need for reform. These are the issuing of identity documents and the verification of documents with issuers. They have called on the government to develop both national standards for the production and issue of identity documents, and a national secure electronic gateway for the verification of documents.
- 6.49 These steps, it is claimed, would build on existing and community accepted identification processes. In the Committee's discussions with financial institutions, this process was also strongly supported by Mr Chapman from Westpac⁵⁵ and Mr Holgate from Colonial State Bank⁵⁶.
- 6.50 The negotiation of national standards for identity documents across the Commonwealth and State governments could improve PoI processes by simplifying the range of documents that counter staff must identify. The Committee considers that there would be value in cross government discussions on this issue.
- 6.51 The Committee also considers that the ABA's proposal for a national electronic gateway for document verification has strong merit.

53 ATO, Submission No.17, p.17.

54 NCA, Submission No.31, p.3.

55 Transcript, p.105.

56 Transcript, p.106.

- 6.52 The criteria that the ABA suggest for evaluating document verification proposals is that it 'should be done at a reasonable cost and provide a timely response'⁵⁷. They have suggested operation of a gateway as follows:
- ... Authorised users would enter the identification document details into the gateway which, would then be directed to the relevant document issuers. The issuers could respond on an exception basis. That is, if the details do not correspond then the issuer could confirm that the document with the details provided, was not issued by that authority. ...⁵⁸
- 6.53 The ABA have advised that this proposal has strong support amongst its members. 'The survey response ranked the introduction of a national electronic gateway verification process for government issued documents as the most important component in reducing identity fraud'⁵⁹.
- 6.54 While this proposal does not address the issue of identity theft, the effectiveness of on-line verification of documents in uncovering identity fraud was demonstrated through the pilot by Westpac and the NSW Registry of Births, Deaths and Marriages of their Certificate Validation Service. As mentioned earlier, this pilot found 13 per cent of birth certificates presented as proof of identity were in fact fraudulent.
- 6.55 The Committee notes Mr Woods comments that 'the banking industry would expect to pay for the services provided'⁶⁰. Similarly, Mr Lovney from Credit Union Services Corporation (Australia) Ltd (CUSCAL) considered that:
- ... if we could derive benefits in terms of fraud reduction, then I think we would certainly make a decision to participate and wear the cost of that if it were able to demonstrate significant benefits for us⁶¹.

57 ABA, Submission No.10, p.2.

58 ABA, Submission No.10, p.2.

59 ABA, Submission No.10, p.3.

60 Transcript, p.103.

61 Transcript, p.103.

6.56 The Committee also notes that electronic verification is part of the hierarchy of PoI solutions developed by the ATO, Centrelink and the HIC⁶². When questioned on this proposal, the DHAC also considered that:

The proposal put forward by the Australian Bankers' Association has much merit and warrants further exploration. ... The Department would support further examination of on-line verification, in conjunction with other elements of this [ATO] hierarchy being put in place.⁶³

Recommendation 21

6.57 That the Commonwealth Government formalise a process for working with other levels of government and industry to develop options for reducing and preventing identity fraud. This should include investigation and development of a national electronic gateway for document verification.

Other PoI techniques

6.58 In addition to the steps outlined above, there are a range of more advanced methods of establishing identity that agencies could consider.

6.59 Dr Smith and Mr Baker both advocated consideration of a biometric system of identification for use in the TFN system. As stated by Mr Baker:

The various biometric systems of identification available would more significantly assure an individual's identity and assist in minimising the incidence of identity fraud and theft, including the issue of TFNs to false applicants.⁶⁴

6.60 The ANAO also identified practices used overseas to improve PoI including 'mandating the registration of clients for tax and social security purpose at birth'⁶⁵ and use of a single 'agency charged with managing the common identifier'⁶⁶.

6.61 The Committee did not consider these proposals in enough detail to reach a conclusion on their effectiveness. However, the Committee does note

62 ATO, Submission No.17, p.13.

63 DHAC, Submission No.36, Att A, pp.3-4.

64 Mr Baker, Submission No.26, p.4.

65 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.48.

66 ANAO Audit Report No.37 1998-99, *Management of Tax File Numbers*, p.49.

that these approaches are likely to involve significant privacy concerns and are also likely to be high cost. These approaches warrant continued monitoring, however are unlikely to be suitable for use in Commonwealth agencies in the short term.

Legislative responses

6.62 Many of the issues brought to the attention of the Committee require an administrative solution, as outlined above. There have also been suggestions that there is scope for a legislative response to addressing the issue of identity fraud.

Recognising identity fraud as a crime

- 6.63 The Committee has been advised that there is no national legislation currently in operation that can be used to prosecute for identity fraud. Offenders are therefore prosecuted for the outcomes of their false identity – for example social security fraud using a false identity is prosecuted under the *Social Security Act 1991*.
- 6.64 Anecdotal information has been received by the Committee that identity fraud investigations are being hampered by current legislative arrangements, particularly due to the fact that agencies must individually conduct their investigations. For example, the Committee has been informally advised of cases where evidence of identity fraud was not seized by an agency as it did not specifically relate to fraud against that agency, and where an agency expected to uncover evidence of identity fraud against other agencies, but was not able to bring these agencies into the investigation until such evidence was uncovered.
- 6.65 Concern has also been raised that cases of fraud may not be proceeding to prosecution for a number of reasons. One of the problems seems to be that, currently, each case must be considered individually. One of the factors in deciding if the case should be taken on by the Director of Public Prosecutions is the level of criminality, or the impact that it has on Australian society. There may, therefore, be cases where the overall level of fraud perpetrated, by an individual, reaches this level but where none of the individual instances against a single agency reach the required level for action to be taken.
- 6.66 It has been suggested that making identity fraud an offence in its own right could overcome a number of these investigation and prosecution problems. In particular, the ATO has suggested that ‘a review into the effectiveness of existing offence provisions and of agency prosecution

policies'⁶⁷ should be undertaken in order to look into the current 'wide variation in offence provisions and associated penalties with respect to identity fraud in the Commonwealth sphere'⁶⁸.

6.67 Of relevance in this regard is the fact that the USA has recently enacted the *Identity Theft and Assumption Deterrence Act of 1998*, which focuses specifically on identity fraud, in recognition of the growth of such offences at different levels of government.

6.68 As noted by Mr Baker:

This Act makes the theft of personal information with the intent to commit an unlawful act a federal crime in the United States of America, with penalties up to fifteen years imprisonment and a maximum fine of \$250,000. This Act treats the issue of identity theft and fraud more significantly than current Australian state legislation.⁶⁹

6.69 It should be noted that Federal Agent Williamson from the AFP did not agree with this view, stating that:

Identity fraud in its own right is a nebulous thing. We ought to be looking at the ultimate crime that is committed, not necessarily the methodology of committing it. That is, if you have defrauded the Commonwealth of a particular sum of money, what ought to be of issue to us is that you have defrauded the Commonwealth of the money, not so much whether you did it by identity fraud, by sticking your hand through a window or by whatever method.⁷⁰

6.70 The Committee Chairman wrote to the Chairman of the House of Representatives Standing Committee on Legal and Constitutional Affairs on 18 April 2000 noting that this may be an issue of relevance to their inquiry into the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*.

67 ATO, Submission No.30, p.5.

68 ATO, Submission No.30, p.5.

69 Mr Baker, Submission No.26, p.3.

70 Transcript, p.170.

- 6.71 In response to this letter, the issue was raised in a public hearing with the Attorney-General's Department held by the Legal and Constitutional Affairs Committee. In their report, the Legal and Constitutional Affairs Committee note that:

The Attorney-General's Department argued that the Bill [the *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*] will resolve the dilemma with agency specific identity fraud offences and provides a variety of general application offences that can deal sufficiently with identity fraud. By replacing a number of similar agency specific offences with general application offences the Bill eliminates a number of inconsistent penalties, providing consistent penalties for such criminal conduct across government agencies.

Provisions in the Bill that provide coverage against identity fraud include obtaining by deception and general dishonesty offences, the false information offences, and the forgery and false documents offences. In light of this information provided by the Attorney-General's Department, the Committee considers that the offences in the Bill will deal adequately with criminal conduct related to identity fraud.⁷¹

- 6.72 The Committee agrees with the Legal and Constitutional Affairs Committee's assessment and supports the move to centralise and standardise the treatment of identity fraud. Following passage of the Bill, it will be important that departments take appropriate steps to ensure that changes are properly reflected in their processes. In addition, the Committee considers that the pace of change in the nature of fraud and the technologies used to perpetrate fraud in this area mean that its legislative treatment warrants ongoing coordinated monitoring.

71 House of Representatives Standing Committee on Legal and Constitutional Affairs. 2000. *Advisory Report on the Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999*. Canberra, CanPrint Communications Pty Limited, p.15.