



Australian Government
Attorney-General's Department

The Senate Legal and Constitutional Affairs Legislation Committee

Inquiry into the Australian Crime Commission Amendment (National Policing Information) Bill 2015 and the Australian Crime Commission (National Policing Information Charges) Bill 2015

Joint submission from the Commonwealth Attorney-General's Department, the Australian Crime Commission and CrimTrac Agency

February 2016

The Attorney-General's Department (AGD), the Australian Crime Commission (ACC) and CrimTrac Agency welcome the opportunity to provide the Senate Legal and Constitutional Affairs Legislation Committee with this submission as part of the Committee's inquiry into the Australian Crime Commission Amendment (National Policing Information) Bill 2015 (Consolidation Bill) and the Australian Crime Commission (National Policing Information Charges) Bill 2015 (Charges Bill).

This submission focuses on the issues for consideration outlined in Appendix 1 of the Selection of Bills Committee report of 4 February 2016.

Overview of proposed merger

The Consolidation Bill and the Charges Bill implement a merger of CrimTrac and the ACC. These agencies are two of Australia's national law enforcement bodies, created to provide police with access to national criminal information and intelligence. A merger of CrimTrac and the ACC offers significant strategic opportunities to the agencies and national policing and justice sectors, such as:

- increased connectivity between key national intelligence and police information agencies
- enhanced quality and timeliness of information and intelligence delivered to frontline officers
- improved agency and national productivity, by removing duplication and providing a single vision for the agencies, and
- an enhanced national threat picture, providing better evidence to inform operational decision making and priorities.

Legislation

The purpose of these Bills is to amend the *Australian Crime Commission Act 2002* in order to merge CrimTrac with the ACC and to allow the merged agency to continue CrimTrac's self-funded business model.

The Consolidation Bill makes amendments to the ACC Act. The amendments:

- enable the merged agency to carry out all of CrimTrac's functions, referred to as 'national policing information' functions,
- enable the merged agency Board to set high-level priorities for the agency's new national policing information functions,
- provide the merged agency Board with additional, specific functions currently exercised by the CrimTrac Board, such as making recommendations to the relevant Commonwealth Minister about expenditure from the National Policing Information Systems and Services Special Account, and
- ensure that the merged agency can continue to share national policing information, in the same way as CrimTrac currently does, and provide nationally coordinated criminal history checks to a range of stakeholders.

The Charges Bill allows the merged agency to continue the current funding model, whereby CrimTrac is entirely self-funded through revenue generated primarily from criminal history checks.

It allows the agency to adapt to emerging future police and government needs by allowing the agency to charge for new services in the future, should this be desirable.

Privacy

The ACC and CrimTrac are both ‘enforcement bodies’ under the *Privacy Act 1988* (Privacy Act). The agencies may already share information for enforcement-related activities, including crime prevention and intelligence gathering. However, the merger will result in a shift of the CrimTrac functions from an agency that is subject to the Privacy Act to an agency that is not – the ACC.

In recognition of this, AGD, the ACC and CrimTrac have undertaken a Privacy Impact Assessment (PIA) (**Attachment A**). The purpose of the PIA is to assess the impact the merger will have on the protection of personal information.

The PIA concludes that, while merging CrimTrac into the ACC will mean it will no longer be subject to the Privacy Act, this will not result in a diminution of protection for the personal information currently held by CrimTrac. The information held by CrimTrac will become subject to the same robust accountability, oversight and information protection mechanisms that protect the sensitive information that the ACC currently handles.

The PIA recommends that the merged agency should develop an information handling protocol that sets out how it will deal with the collection of personal information, the storage, security and use or disclosure of that information, and access to and correction of that information.

The agencies are developing this protocol in consultation with the Office of the Australian Information Commissioner. To ensure transparency in the merged agency’s dealings with personal information, the agency will publish both the PIA and the protocol.

Timing

It is anticipated that the merged agency will commence operation on 1 July 2016. Significant transition planning has already been undertaken. CrimTrac and the ACC have established a joint, dedicated change management team to help manage any risk to business continuity and ensure the merger is delivered on time.

A merger of CrimTrac and the ACC requires the unanimous agreement of all jurisdictions, as CrimTrac is established under an InterGovernmental Agreement (IGA) with states and territories.

In November 2015, the Law Crime and Community Safety Council (LCCSC), which comprises all state and territory attorneys-general and police and justice ministers, agreed, subject to the approval of Cabinets in each jurisdiction:

- to take necessary legislative and administrative steps to reflect the change in agency arrangements from 1 July 2016, and
- to terminate the current IGA and replace it with a new one for commencement by 1 July 2016.

The IGA would support the proposed legislative changes and protect jurisdictional interests. LCCSC considered a near-final version of the IGA in reaching their decision in November.

Some jurisdictions will need to make consequential amendments to laws that specifically refer to CrimTrac. AGD has been advised that this work is already underway in most jurisdictions.

Conclusion

The merger of the ACC and CrimTrac will provide Australian law enforcement agencies with central access to a comprehensive criminal information and intelligence resource.

CrimTrac, the ACC and AGD would be happy to provide further information if this would be of assistance to the Committee.