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OFFICIAL

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Dr Sean Turner
Committee Secretary
Parliamentary Joint Committee on Law Enforcement
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Dr Turner

Inquiry into criminal activity and law enforcement during the COVID-19 pandemic – Supplementary submission on behalf of the Crime and Corruption Commission

Thank you for the invitation to make a supplementary submission to this inquiry. This submission should be read in addition to the Crime and Corruption Commission ('CCC')'s initial submission, dated 29 July 2020 (submission Number 5).

These observations are again addressed at a level of generality due to the evolving nature of the pandemic, and so as not to compromise operational matters. This supplementary submission addresses questions (a) to (g).

As a general observation, while there has been disruption to criminal activity and law enforcement responses to it, we have not observed the level of disruption which may have been anticipated. There may be several reasons for this, including:

1. Still being in the midst of the pandemic, there are some trends which may take some time to manifest in complaints. Procurement, and other fraud types arising out of urgent circumstances, may not be readily observable until the actual threat of the pandemic has subsided.
2. While Australia experienced substantial disruption as a result of the pandemic, it has also fared better than some other jurisdictions. Had the impact of the pandemic been deeper, the opportunity and motivation for offending may have been greater.
3. Increases in some crime types may offset reductions in others.

Terms of reference (a), and (b): Changes to the crime and corruption risk environments

As noted in our initial submission, just as legitimate businesses have had to adapt and innovate in response to the pandemic, organised crime groups have also innovated in their criminal activities. For instance, there has been disruption to some supply chains and to aspects of criminal groups' methodologies as a result of pandemic-related health restrictions. Methods for transportation of illicit commodities across state borders has been impacted by border restrictions, and a reduction in domestic air travel.

It is well-understood that theft and fraud are particular risks in times of substantial economic and societal disruption. An accelerated procurement environment, opportunities for 'price gouging', opaque decision-making processes, and irregular procurement processes or practices necessitated by urgency or disruption, are all opportunities that can be exploited by criminal groups or unscrupulous actors. Those risks would apply equally to both state and federal governments. However, the complaints data received by the CCC to date (discussed below) has actually seen a decrease in complaints regarding procurement and fraud over the period of the pandemic.

Terms of reference (c) and (d): Trends in relation to criminal activity, and law enforcement responses

The CCC has continued to monitor the impacts of the COVID-19 pandemic on the CCC's work program. There are some patterns in our data that we believe are of particular relevance in the context of the pandemic.

The first is complaints about suspected corruption. Generally, the CCC has observed overall stability in the number complaints received during the pandemic to date, or a continuation of trends that pre-date the pandemic. There are a three notable exceptions. Complaints relating to recruitment and selection processes in public service departments in January to November 2020 increased, and were more likely to be of a "high" matter type (those which are categorised as more serious), compared to the same period in 2019. Complaints relating to procurement in January to November 2020 decreased, compared to the same period in 2019. Lastly, the number of fraud allegations received in January to November 2020 decreased, compared to the same period in 2019. We continue to monitor these trends, and explore the reasons for observed variation.

The increase in complaints about recruitment and selection processes in public sector departments is worth noting. While it is difficult to draw a clear causal connection, that trend may be explicable by reference to the uncertain economic environment caused by the pandemic. A Queensland public sector 'hiring freeze', along with job losses elsewhere in the economy, may mean that when vacancies are advertised, applicants are more likely to be more invested in the process. This may result in increased complaints about perceptions of unfairness.

The second is hearing days for Crime and Corruption operations. Hearing activity at the CCC dropped between April and June 2020 (as compared to the same period in 2019), which is attributable to the health directives or travel restrictions associated with the COVID-19 pandemic. However, after those directives and restrictions were lifted, the number of hearing days returned to or exceeded pre-pandemic levels. Some practical difficulties relating to social distancing requirements continue to present challenges for the conduct of hearings (e.g. number of CCC staff able to monitor the hearing 'live').

Terms of reference (e) and (f): Impacts on capacity and operational abilities of law enforcement

Within this altered risk environment, alongside the health directives associated with COVID-19, there have been impacts on investigative methods and legal proceedings related to the CCC's work. For instance, during the pandemic:

- Reduced witness availability for investigation and hearing purposes (e.g., border or flight restrictions, prisons banning face to face visits), particularly during the lockdown in mid-2020; some prospective interviewees remain reticent to be interviewed, citing health concerns.
- Reduced ability of CCC staff to travel intrastate or interstate for investigations during the lockdown in mid-2020.
- Delays in obtaining information from some third party agencies (e.g., statements from financial institutions due to office closures, staff working from home).
- Disruption to operational activities that depend on physical interaction (e.g., physical and technical surveillance, engagement with human sources), because of lockdowns, social distancing, and wearing masks.
- Changes in strategy for operational work are required to account for changes in behaviour associated with health directives (e.g., more time spent at home, wearing masks).

However, these changes have been managed and are manageable, and have not represented a significant impediment to the ability of the CCC to continue investigations into major crime and corruption.

As noted in our previous submission, some changes effected through regulation have ameliorated some of this disruption, including:

- The ability to conduct investigative hearings via video link (although the nature of the hearings that the CCC undertakes are best undertaken in person)
- The use of digital, rather than 'wet', signatures
- The ability to effect service via electronic means.

The ability to conduct investigative hearings via video link might appear to be a significant opportunity to overcome difficulties that a pandemic presents, however most hearings the CCC conducts are closed (not public) hearings. Closed hearings may not be easily or effectively conducted with witnesses appearing electronically because the security of the witness location and risk of compromise of the investigation cannot be adequately treated or assured.

While these regulatory changes were a response to the pandemic, the pandemic exposed, rather than created these issues. It is hoped that these three changes in particular may endure beyond the pandemic, as they represent opportunities for efficiencies in respect of operational conduct.

Term of reference (g): Changes to law enforcement that might be desirable

The COVID-19 pandemic has accelerated a pre-existing increase in borderless crime. The global crime environment, enabled by cheap, easily accessible technology, challenges law enforcement efforts, and requires coordination and responses at the national and international level. Within that context, Australia's law enforcement agencies need to work more closely together with a focus on building more productive working relationships.

Conclusion

It remains difficult to assess the true nature, scale and scope of change whilst in the midst of it. The landscape of organised crime and corruption activity, and law enforcement's response, has been altered and accelerated by the COVID-19 pandemic. At this stage we are seeing signs of how that disruption has manifested but it is an evolving landscape, and we will continue to monitor these trends, and to look for further signs of disruption as events unfold.

Yours sincerely



Jen O'Farrell
Chief Executive Officer