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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

By email: le.committee@aph.gov.au

Dear Dr Turner

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

Thank you for the invitation to make a submission in relation to this matter.

The Crime and Corruption Commission ('CCC') makes some brief submissions in relation to the proposed questions – in particular in relation to questions (a) to (f).

The submissions are addressed at a level of generality due to the relatively early stage and evolving nature of the crisis, and so as not to compromise operational matters. However, there are matters which are already observable, both in the context of criminal activity, and in the law enforcement response to it.

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

The COVID-19 global pandemic introduced a sudden shift in the crime and corruption risk environment. Activities of criminal networks are likely to have been disrupted by border travel restrictions, and new crime targets have emerged in the form of stimulus payments, access to superannuation, among others. Just as legitimate businesses have had to innovate during the COVID-19 pandemic, it is likely that organised crimes groups have innovated in their criminal activities.

Similarly, the pandemic has created new opportunities that may be conducive to corruption, including urgent procurement or recruitment processes, the need for new vendors due to supply chain disruptions, and a large number of public sector employees shifting to work-from-home arrangements. It has also changed some of the widely-acknowledged drivers for corruption risk, including unemployment, constrained opportunities for promotion, and devalued personal investments (e.g. superannuation).

While the CCC has observed a small reduction in complaints during the pandemic to date, including in relation to allegations of fraud-based corruption, it is expected that this reduction in complaints may be attributable to a shift in focus among those who would report corrupt conduct, rather than a reduction in actual corruption. 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.

It is also expected (although, due to the nature of the CCC's present suite of operational work, not directly observed) that there would be some disruption to supply chains and to aspects of criminal groups' methodologies as a result of pandemic-related health restrictions. Transportation of illicit commodities across state borders (whether by road or air), will obviously be impacted by border restrictions, and a reduction in domestic air travel.

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

The CCC has been monitoring the impacts of the COVID-19 pandemic on the CCC's work program. Even at this early stage of the pandemic, there are some patterns in our data that we may attribute (in full or in part) to the pandemic.

The first is complaints and allegations about suspected corruption. While the number of complaints the CCC received between January and June 2020 is similar to the same period in 2019, fewer complaints in 2020 were of a "medium" matter type, and more were of a "low" matter type, compared to those received in the same period in 2019. Also, there are fewer allegations per complaint in 2020, compared to the allegations per complaint in the same period in 2019. Noting that fraud is of particular interest to this Inquiry, we found that there was a substantial drop in the number of fraud allegations received in January to June 2020, compared to the same period in 2019.

Of course, some change in corruption complaints and allegations is expected, due to the widespread transition to working from home, and the dramatic drop in citizen interactions during the pandemic. The CCC will continue to monitor these trends, to ascertain whether the nature of complaints the CCC is receiving during the COVID-19 pandemic are materially different than the same period in 2019.

The second is hearing days for Crime and Corruption operations. Hearing activity at the CCC dropped in the first months of the pandemic (as compared to the same period in 2019), most of which is attributable to the health directives or travel restrictions associated with the COVID-19 pandemic.

The third is changes in volume of work the QPS refers to the CCC. The number of crime referrals, and proceeds of crime referrals, that the QPS has referred to the CCC between January to June 2020 is lower than the same period in 2019. While it is too early to tell whether this reduction is normal fluctuation, or reflecting that the QPS's efforts in the COVID-19 pandemic have changed the volume of matters being referred to the CCC, we will continue to monitor these data.

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:

- Witness availability for investigation and hearing purposes reduced (e.g., border or flight restrictions, prisons banning face to face visits)
- Ability of CCC staff to travel intrastate or interstate for investigations has reduced
- Obtaining information from some third party agencies has taken far longer than is usual (e.g., statements from financial institutions due to office closures, staff working from home)
- Operational activities that depend on physical interaction (e.g., physical and technical surveillance, engagement with human sources), are necessarily disrupted by lockdowns and social distancing
- 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)

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.

Further, some changes effected through regulation ameliorated some of this disruption, including:

- The ability to conduct investigative hearings remotely (but noting that 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.

While these regulatory changes to operational practices were introduced in response to the pandemic, the issues to which these changes were directed were crystallised, rather than introduced, by the pandemic. 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.

While the preference remains for investigative hearings to be undertaken face-to-face, the ability to conduct hearings remotely if the circumstances require represents a significant opportunity to overcome difficulties that may be presented by matters beyond the pandemic. These include issues of urgency, geography, security and scheduling.

Conclusion

It is 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 substantially altered by the COVID-19 pandemic. At this early stage we are seeing signs of how that disruption may manifest 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.

If you require anything further, please do not hesitate to contact me, on _____, or by email at _____.

Yours sincerely

Jen O'Farrell
Chief Executive Officer