



Parliamentary Joint Committee on Law Enforcement

Examination of the Australian Crime Commission
Annual Report 2015–16

March 2018

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Acronyms and abbreviations

ACC	Australian Crime Commission
ACC Act	<i>Australian Crime Commission Act 2002</i>
ACID	Australian Criminal Intelligence Database
ACIF	Australian Criminal Intelligence Forum
the Act	<i>Parliamentary Joint Committee on Law Enforcement Act 2010</i>
AFP	Australian Federal Police
AGICC	Australian Gangs Intelligence Coordination Centre
ALEIN	Australian Law Enforcement Intelligence Network
ANAO	Australian National Audit Office
annual report	Australian Crime Commission Annual Report 2013-14
CEO	Chief Executive Officer
the committee	Parliamentary Joint Committee on Law Enforcement
Finance	Department of Finance
FMA Act	<i>Financial Management and Accountability Act 1997</i>
the framework	Outcomes and Outputs Framework
JAGs	Joint Analyst Groups
KPIs	Key Performance Indicators
NCIPs	National Criminal Intelligence Priorities
NCIS	National Criminal Intelligence System
NTS	National Targeting System
PBS	Portfolio Budget Statements
PGPA Act	<i>Public Governance, Performance and Accountability Act 2013</i>
PID Act	<i>Public Interest Disclosure Act 2013</i>
TRAM	Target Risk Assessment Methodology

Chapter 1

Introduction

Committee's duty to examine reports

1.1 The Parliamentary Joint Committee on Law Enforcement (the committee) has a statutory duty to examine each annual report of the Australian Crime Commission (ACC) under the *Parliamentary Joint Committee on Law Enforcement Act 2010* (the Act).

1.2 This is the sixth time that the committee has examined the annual report of the ACC since the widening of the committee's jurisdiction in 2010. Subsection 7(1) of the Act includes the following functions of the committee in relation to the ACC:

...(c) to examine each annual report on the ACC and report to the Parliament on any matter appearing in, or arising out of, any such annual report...¹

1.3 The duty of the committee to examine annual reports of the ACC under the Act stems from an expectation that agencies which have been granted strong coercive powers, like the ACC, should be subject to additional oversight. At the time of the introduction of the Parliamentary Joint Committee on Law Enforcement Bill 2010, the then Attorney-General noted that the bill would exemplify the 'commitment to improving oversight and accountability in relation to the exercise of the functions of Commonwealth agencies.'²

The Australian Criminal Intelligence Commission

1.4 The *Australian Crime Commission Amendment (National Policing Information) Act 2016* amended the *Australian Crime Commission Act 2002* to incorporate CrimTrac into the ACC. The changes were implemented on 1 July 2016, and the ACC is now known as the Australian Criminal Intelligence Commission (ACIC).³

1.5 The annual report examined in this committee report covers the period before the ACC merged with CrimTrac and became the ACIC. This report will therefore refer to the ACC.

Report under consideration

1.6 The ACC's Annual Report 2015–16 (the annual report) was presented to the Minister for Justice, the Hon Michael Keenan MP, on 10 October 2016. It was

1 *Parliamentary Joint Committee on Law Enforcement Act 2010*, ss. 7(1).

2 *House of Representatives Hansard*, 18 March 2010, p. 2925.

3 Australian Criminal Intelligence Commission (ACIC), *About us: legislation*, <https://www.acic.gov.au/about-us/legislation> (accessed 12 January 2017).

presented to the House of Representatives on 13 October 2016⁴ and tabled in the Senate on 7 November 2016.⁵

Examination of the annual report

1.7 In examining the ACC annual report, the committee held a public hearing at Parliament House, Canberra on 14 June 2017. The witnesses who appeared before the committee are listed in Appendix 1.

Structure of the committee report

1.8 The committee's report comprises the following chapters:

- chapter 2 examines ACC compliance with annual report requirements and the ACC's financial management;
- chapter 3 considers the ACC's performance against its key performance indicators; and
- chapter 4 details issues raised with the ACC in the hearing, as well as major operational information of interest to the committee over the reporting period.

Acknowledgements

1.9 The committee also acknowledges the cooperation of the ACC officials who assisted the committee in conducting its examination.

Note on references

1.10 References to the committee *Hansard* are to the official *Hansard*.

4 *Votes and Proceedings*, No. 11—13 October 2016, p. 214.

5 *Journals of the Senate*, No. 12—7 November 2016, p. 356.

Chapter 2

Australian Crime Commission Annual Report 2015–16

Background

2.1 The Australian Crime Commission (ACC) is established under the *Australian Crime Commission Act 2002* (ACC Act) as a statutory authority to combat serious and organised crime.¹ It is the only agency 'solely dedicated to combating serious and organised crime of national significance.'²

2.2 The ACC works with partners across law enforcement, national security, government and industry and provides Australia with 'the ability to discover, understand and respond to federally relevant serious and organised crime.'³

Annual report compliance

2.3 The ACC annual report must comply with requirements specified in section 61 of the ACC Act. Subsection 61(2) requires that the report must include the following:

- (a) a description of any investigation into matters relating to federally relevant criminal activity that the ACC conducted during the year and that the Board determined to be a special investigation;
- (b) a description, which may include statistics, of any patterns or trends, and the nature and scope, of any criminal activity that have come to the attention of the ACC during that year in the performance of its functions;
- (c) any recommendations for changes in the laws of the Commonwealth, of a participating State or of a Territory, or for administrative action, that, as a result of the performance of the ACC's functions, the Board considers should be made;
- (d) the general nature and the extent of any information furnished by the ([Chief Executive Officer (CEO)]) during that year to a law enforcement agency;
- (da) the general nature and the extent of any information disclosed by the CEO during that year to a body corporate under section 59AB;
- (e) the extent to which investigations by the ACC have resulted in the prosecution in that year of persons for offences;
- (ea) the extent to which investigations by the ACC have resulted in confiscation proceedings;
- (g) particulars of the number and results of:

1 Australian Crime Commission (ACC), *About the Australian Crime Commission*, www.crimecommission.gov.au/about-us/legislation (accessed March 2017).

2 ACC, *Annual Report 2015–16*, p. 8.

3 ACC, *Annual Report 2015–16*, p. 8.

(ii) applications made to the Federal Court or the Federal Circuit Court under the Administrative Decisions (Judicial Review) Act 1977 for orders of review in respect of matters arising under this Act; and

(iii) other court proceedings involving the ACC;

being applications and proceedings that were determined, or otherwise disposed of, during that year.⁴

2.4 As the CEO, Mr Chris Dawson APM, explained in the annual report, this is the final ACC annual report that will be published, following the merger of the ACC and CrimTrac to form the Australian Criminal Intelligence Commission (ACIC), which began operating from 1 July 2016.⁵

2.5 As a Commonwealth entity, the ACC must comply with the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which requires Commonwealth entities to provide an annual report to the entity's responsible minister for presentation to the Parliament on the entity's activity during the reporting period,⁶ and with the Public Governance, Performance and Accountability Rule 2014.⁷

2.6 Under the PGPA Act, Commonwealth entities are also required to prepare annual performance statements and include a copy of these statements in the entity's annual report tabled in the Parliament.⁸ The ACC's annual performance statement appears at chapter 2 of the annual report.

2.7 Based on the committee's assessment, the annual report meets the above requirements.

ACC achievements in 2015–16

2.8 The annual report sets out a comprehensive summary of intelligence products and advice, investigations and intelligence operations, and national criminal databases in the 2015–16 reporting period.

Intelligence products and advice

2.9 The ACC aims to 'build up a national picture' of serious and organised crime by:

...producing intelligence products, advice and recommendations that enhance national understanding of the organised criminal environment and inform collaborative responses, both immediate and longer-term including hardening the environment against such crime.⁹

4 *Australian Crime Commission Act 2002*, ss. 61(2).

5 ACC, *Annual Report 2015–16*, p. 17. The CEO's review also foreshadows a further merger with the Australian Institute of Criminology.

6 *Public Governance, Performance and Accountability Act 2013*, s. 46.

7 Public Governance, Performance and Accountability Rule 2014, div. 3A.

8 *Public Governance, Performance and Accountability Act 2013*, s. 39.

9 ACC, *Annual Report 2015–16*, p. 43.

2.10 In 2015–16, the ACC produced the following intelligence products and advice:

- flagship products:
 - *Organised Crime Threat Assessment 2016*;
 - *Illicit Drug Data Report 2014–15* (produced in 2015–16, released in 2016–17); and
 - *Organised Crime 2025* (produced in 2015–16, to be released);
- 2618 intelligence products shared with 176 agencies;
- 25 252 automated alerts on significant criminal targets;
- 12 strategic assessments of crime types, markets or criminal issues; and
- eight strategic insights products.¹⁰

Investigations and intelligence operations

2.11 The ACC aims to 'break the business of serious and organised crime by working with our partners on investigations, operations and associated task forces.'¹¹

2.12 The ACC's investigations collect intelligence and evidence to disrupt and deter criminal groups; its operations gather intelligence about criminal activity in order to understand the extent, impact and threat of this activity.¹²

2.13 The ACC Board determines which of these investigations and operations require the use of coercive powers, where traditional methods have not been, or are not expected to be, effective.¹³

2.14 The ACC focused on the following priorities in 2015–16:¹⁴

- tackling criminal profit through:
 - the Targeting Criminal Wealth No. 2 Special Investigation;
 - the ACC-led Eligo 2 National Task Force;
 - contribution to the Criminal Assets Confiscation Taskforce, led by the Australian Federal Police (AFP); and
 - contribution to the multi-agency Serious Financial Crime Taskforce;
- tackling highest risk criminals through:
 - the Highest Risk Criminal Targets No. 2 Special Investigation;

10 ACC, *Annual Report 2015–16*, p. 42.

11 ACC, *Annual Report 2015–16*, p. 57.

12 ACC, *Annual Report 2015–16*, p. 57.

13 ACC, *Annual Report 2015–16*, p. 57.

14 For more detail on each of the priorities and the investigations and intelligence operations, see ACC, *Annual Report 2015–16*, pp 58-105.

- the National Criminal Target List;
- the National Target System;
- automated alerting; and
- state-specific special investigations, namely the Highest Risk Criminal Targets in Victoria and South Australia;
- tackling criminal gangs through:
 - the Outlaw Motor Cycle Gangs Special Operation;
 - the ACC-led Australian Gangs Intelligence Coordination Centre;
 - the Gangs Intelligence Hub;
 - the National Gangs List; and
 - the national task force, Operation Morpheus;
- informing responses to Australia's illicit drug markets through the High Risk and Emerging Drugs No. 2 Special Operation;
- contributing to national security through the National Security Impacts from Serious and Organised Crime No. 2 Special Operation and the ACC's contribution to national efforts to combat foreign fighters;
- making Australia a more hostile place for serious and organised crime through:
 - the Making Australia Hostile to Serious and Organised Crime No. 2 Special Operation;
 - the Wildlife and Environmental Crime Team;
 - other strategic intelligence helping to make Australia more hostile to organised crime; and
 - the Child Sex Offences No. 2 Special Operation.

2.15 Through this investigation and intelligence work, the ACC contributed to 65 disruptions of criminal entities and 52 convictions in 2015–16.¹⁵

National criminal databases

2.16 The ACC aims to maintain national databases of criminal information and intelligence in order to contribute to the work of law enforcement agencies, and inform and influence longer-term strategic planning and policy development.¹⁶

2.17 The ACC's Australian Law Enforcement Intelligence Network is the secure extranet that provides a gateway for its partners to access the following services and databases:

- the Australian Criminal Intelligence Database;

15 ACC, *Annual Report 2015–16*, p. 57.

16 ACC, *Annual Report 2015–16*, p. 107.

-
- the National Target System;
 - the automated alerting service;
 - the Gangs Intelligence Hub;
 - the National Gangs List;
 - the National Clandestine Laboratory Database; and
 - the Violent and Sexual Crime Database.¹⁷

2.18 On 1 July 2015, following a successful bid for funding under the *Proceeds of Crime Act 2002*, the ACC also began work on proof of concept testing for the National Criminal Intelligence System (NCIS), to address the ACC's maintenance of aggregated national holdings of criminal information and intelligence, which has been found to be no longer fit for purpose.¹⁸ The NCIS Pilot Program, which seeks to address the inadequacies of the current system, runs to 30 June 2017.¹⁹ The NCIS is considered further in chapter 4.

Contribution to law reform and parliamentary inquiries

2.19 The ACC has continued its engagement with various parliamentary committees. Specifically, the ACC contributed to parliamentary inquiries and other reviews as follows:

- appearance before the Parliamentary Joint Committee on Law Enforcement inquiry into crystal methamphetamine (ice) on 14 October 2015;
- appearance before the Senate Economics Committee inquiry into the third party certification of food on 24 September 2015; and
- appearance before the Parliamentary Joint Committee on Law Enforcement inquiry into illicit tobacco on 4 March 2016.²⁰

Staffing and financial management

2.20 At 30 June 2016, the ACC comprised 595 staff across nine offices around Australia. This is a slight increase from previous years (581 staff at the conclusion of 2014–15, and 562 staff at the conclusion of 2013–14).²¹

2.21 In addition, the ACC had a total of 25 secondees from Commonwealth, state and territory law enforcement agencies at 30 June 2016, and hosted a total of 50 secondees from 15 other Commonwealth and law enforcement agencies on short-term and long-term assignment during 2015–16.²²

17 ACC, *Annual Report 2015–16*, p. 107.

18 ACC, *Annual Report 2015–16*, pp 110-112.

19 ACC, *Annual Report 2015–16*, pp 110-112.

20 ACC, *Annual Report 2015–16*, p. 52.

21 ACC, *Annual Report 2015–16*, p. 159.

22 ACC, *Annual Report 2015–16*, p. 159.

2.22 The Australian National Audit Office (ANAO) determined that the ACC had complied with the *Australian Accounting Standards and the Public Governance, Performance and Accountability (Financial Reporting) Rule 2015*, and presented fairly its financial position as at 30 June 2016, its financial performance and cash flows for 2015–16.²³

2.23 The ACC reported a deficit of \$9.911 million in 2015–16, noting that apart from unfunded depreciation and revenue received to fund capital items, the ACC realised a deficit of \$2.670 million for the financial year.²⁴ The annual report notes that the ACC had received prior approval from the Minister for Finance to incur a loss of \$3.545 million.²⁵

2.24 The annual report notes that the major components of the actual deficit primarily relate to:

- the recognition of an onerous contract provision required following the relocation of the Canberra Headquarters (\$2.100 million); and
- the impact of non-cash accounting adjustment relating to the revaluation of leave entitlements (\$0.370 million).²⁶

Commonwealth Ombudsman—controlled operations

2.25 Section 10 of the *Parliamentary Joint Committee on Law Enforcement Act 2010* requires the Commonwealth Ombudsman, at least once per calendar year, to brief the committee under Part 1 AB of the *Crimes Act 1914* (Crimes Act) during the preceding 12 months, about the involvement of the ACC and AFP in controlled operations. On 21 June 2017, the committee met with and was briefed in private by representatives from the Commonwealth Ombudsman.

2.26 The Ombudsman's inspection and reporting functions in respect of controlled operations are found in subsection 15HS(1) of the Crimes Act that provides:

The Ombudsman must, from time to time and at least once every 12 months, inspect the records of each authorising agency to determine the extent of compliance with this Part [Part IAB—Controlled operations] by the agency and by law enforcement officers.

2.27 The ACC is one such authorising agency.²⁷

2.28 According to the ACC, controlled operations are broadly described as 'covert operations carried out for the purpose of obtaining evidence that may lead to the prosecution of a person for a serious Commonwealth offence'. If a controlled operation is authorised under the Crimes Act, 'participants are exempt from any criminal liability and indemnified from civil liability arising from their acts or

23 ACC, *Annual Report 2015–16*, p. 184.

24 ACC, *Annual Report 2015–16*, p. 176.

25 ACC, *Annual Report 2015–16*, p. 176.

26 ACC, *Annual Report 2015–16*, p. 176.

27 *Crimes Act 1914*, s. 15GC.

omissions during the course of the operation, providing that certain conditions under the [Crimes Act] are met'. The Crimes Act also imposes a number of reporting obligations upon agencies with such powers.²⁸

2.29 On 21 June 2017, the Commonwealth Ombudsman informed the committee regarding the ACC's involvement in controlled operations under Part 1AB of the Crimes Act. This report is relating to the inspection of the controlled operation records of the ACC for the period of 1 July 2015 and 30 June 2016 (published April 2017).

2.30 A general summary of the information produced in these reports is available in the Ombudsman's public report in respect of the controlled operations activities of the Australian Commission for Law Enforcement Integrity, the AFP and the ACC for the period 1 July 2015 to 30 June 2016.

2.31 The Commonwealth Ombudsman reported that the inspections of the ACC's authorisations did not result in recommendations. It was satisfied that the ACC had actioned issues identified or self-disclosed from the previous reporting period and that no further issues were identified. During its December 2015 inspection, the Commonwealth Ombudsman was unable to provide its 'usual level of assurance that activities engaged in during one controlled operation were covered by the authority'; however, it noted 'there was nothing on file to indicate that the activities were not authorised'. The ACC advised the Commonwealth Ombudsman that this issue was rectified by including additional information on file.²⁹

Committee view

2.32 Based on the information provided by the Ombudsman, the committee is satisfied that the ACC's controlled operations were conducted within the relevant boundaries and requirements.

Commonwealth Ombudsman—telecommunications interception records and stored communication records

2.33 In March 2017, the Commonwealth Ombudsman published its *Report on the Commonwealth's Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapter 3 and 4 of the Telecommunications (Interception and Access) Act 1979* for the period 1 July 2015 to 30 June 2016.

2.34 The *Telecommunications (Interception and Access) Act 1979* (TIA Act) permits for '20 specialised law enforcement agencies access to an individual's telecommunications data and/or stored communications when investigating certain offences'. These powers are exercised covertly. The Commonwealth Ombudsman's role under the TIA Act is to provide independent oversight of each agencies' conduct when exercising these powers, including assessments of whether agencies comply

28 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations*, 1 July 2014 to 30 June 2015, January 2016, p. 1.

29 Commonwealth Ombudsman, *A report on the Commonwealth Ombudsman's activities in monitoring controlled operations*, 1 July 2015 to 30 June 2016, April 2017, p. 7.

with legislation 'and whether they have used these powers in line with the spirit of the legislation'.³⁰

2.35 With regard to the stored communications inspection, the Commonwealth Ombudsman found that the ACC had complied with the requirement to properly apply for preservation under the TIA Act; however, noted six instances that it was 'unable to determine compliance with mandatory revocation requirements under [section] 107(2)(a)(ii) of the [TIA] Act'.³¹ The Commonwealth Ombudsman reported that despite these six instances, the ACC had sufficient procedures and had planned enhancements to its compliance database to prevent future recurrences of these issues. The Commonwealth Ombudsman suggested that the ACC 'amend its request form for preservation notices to remind applicants of the obligation to revoke'. The ACC made this amendment accordingly.³²

2.36 The Commonwealth Ombudsman was unable to assess the ACC's compliance with record-keeping provisions under subsections 150A and 151 of the TIA Act. During this reporting period, the ACC had been issued with five stored communication warrants; however, these warrants were not presented to the Commonwealth Ombudsman for inspection. The warrants in question had not been executed, and the relevant stored communication had been accessed under corresponding telecommunications interception warrants. The Commonwealth Ombudsman reported that this led to a misunderstanding at the inspection that the ACC had been issued with telecommunications interception warrants during this inspection period.³³

2.37 A further six preservation notices were not presented to the Commonwealth Ombudsman at the inspection due to administrative oversight. These records were subsequently presented at a further inspection date and will be reported on at the end of the 2016–17 inspection period. The Commonwealth Ombudsman

30 Commonwealth Ombudsman, *Report on the Commonwealth's Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapter 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, 1 July 2015 to 30 June 2016, March 2017, p. 1.

31 Commonwealth Ombudsman, *Report on the Commonwealth's Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapter 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, 1 July 2015 to 30 June 2016, March 2017, p. 16.

32 Commonwealth Ombudsman, *Report on the Commonwealth's Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapter 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, 1 July 2015 to 30 June 2016, March 2017, p. 16.

33 Commonwealth Ombudsman, *Report on the Commonwealth's Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapter 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, 1 July 2015 to 30 June 2016, March 2017, p. 17.

concluded that this issue was 'an outlier which is not representative of the ACC's general record-keeping practices'.³⁴

2.38 The Commonwealth Ombudsman's inspection of telecommunications data was very positive and commended the ACC for its commitment to a compliance culture and comprehensive operating procedures. The Commonwealth Ombudsman's report did not note any concerns.³⁵

Commonwealth Ombudsman—surveillance devices

2.39 The Commonwealth Ombudsman did not finalise the results from its inspection of agencies' compliance under section 55 of the *Surveillance Devices Act 2004*. The results of these inspections will be considered in the Commonwealth Ombudsman's next report.³⁶

34 Commonwealth Ombudsman, *Report on the Commonwealth's Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapter 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, 1 July 2015 to 30 June 2016, March 2017, p. 17.

35 Commonwealth Ombudsman, *Report on the Commonwealth's Ombudsman's monitoring of agency access to stored communications and telecommunications data under Chapter 3 and 4 of the Telecommunications (Interception and Access) Act 1979*, 1 July 2015 to 30 June 2016, March 2017, pp 18–19.

36 Commonwealth Ombudsman, *Report to the Attorney-General on agencies' compliance with the Surveillance Devices Act 2004*, 1 July to 31 December 2016, March 2017, p. 1.

Chapter 3

Australian Crime Commission performance measurement

3.1 This chapter considers the performance of the Australian Crime Commission (ACC) against the outcomes found in the Attorney-General's Department Portfolio Budget Statement (PBS) and the ACC's key performance indicators (KPIs). It examines the measurement tools utilised to inform the KPIs and to track performance over time. The committee notes that 2015–16 marks the third year of reporting against the current KPIs.

Portfolio Budget Statement

3.2 The ACC is required, by the PBS, to contribute to outcomes that are intended results, impacts or consequences of actions by the Commonwealth government:

Commonwealth programmes are the primary vehicle by which government entities achieve the intended results of their outcome statements. Entities are required to identify the programmes that contribute to government outcomes over the budget and forward years.¹

Outcome 1

3.3 The ACC is required to reduce:

Reduced serious and organised crime threats of most harm to Australians and the national interest including through providing the ability to discover, understand and respond to such threats.²

3.4 The PBS describes the ACC's approach to achieving this outcome:

The ACC's strategic approach of discovering new and emerging threats, understanding them more deeply, and initiating preventative or disruptive responses with partners, will direct the allocation of resources and ACC capabilities to the serious and organised crime threats of most harm to Australians and the national interest. Core elements of this strategy include providing national strategic advice on serious and organised crime threats and coordinating and participating in national responses with partners. A highly developed understanding of the threats posed by serious and organised crime will underpin the ACC's provision of specialised criminal intelligence capabilities including special coercive powers and will focus response strategies on targets that pose the highest risk to Australians. The ACC will specifically focus on two core areas—building capability and working with partners—to deliver its outcomes and guide internal strategy development.³

1 Attorney General's Department (AGD), *Portfolio Budget Statement 2015–16*, p. 112.

2 AGD, *Portfolio Budget Statement 2015–16*, p. 112.

3 AGD, *Portfolio Budget Statement 2015–16*, p. 113.

Key performance indicators

3.5 As noted earlier, this is the third year that the ACC has reported against the current KPIs. As noted in the annual report, the ACC:

...will continue to develop [its] ability to capture and report on [its] performance in both qualitative and quantitative terms and to build relevant comparisons over the coming years.⁴

3.6 The KPIs align with the performance framework outlined in the ACC's *Strategic Plan 2013–18*.⁵

3.7 The ACC has provided data from the two previous reporting periods for all KPIs in the 2015–16 annual report.⁶ The information in the annual report is presented by reference to analysis and results of qualitative and quantitative achievements.

3.8 The committee has not reproduced all of the measures within each KPI, but has selected notable highlights that are demonstrative of the ACC's work and effectiveness against each KPI.

KPI 1—Producing useful intelligence that identifies and provides insights on new and emerging serious and organised crime threats

3.9 The ACC worked towards this KPI through numerous achievements, including:

- identifying individuals who display characteristics consistent with a terrorism lone actor; and
- the addition of 65 new targets to the National Criminal Target List.⁷

3.10 The annual report notes that 85 per cent of stakeholders agreed or strongly agreed that the ACC achieved this KPI.⁸ This is a three per cent reduction from the last reporting period (88 per cent).⁹

KPI 2—Fills intelligence gaps through the identification of vulnerabilities and indicators of serious and organised crime

3.11 The ACC worked towards this KPI through, for example:

- producing 159 intelligence products, including disclosures that advanced investigations and supported operational activity related to previously unknown entities threatening national security, foreign fighters, terrorism financing and vulnerabilities in the aviation sector that may be exploited by serious and organised crime; and

4 Australian Crime Commission (ACC), *Annual Report 2015–16*, p. 30.

5 ACC, *Annual Report 2015–16*, p. 30.

6 Results and analysis against some KPIs also refer to data from the 2012–13 reporting period.

7 ACC, *Annual Report 2015–16*, p. 31.

8 ACC, *Annual Report 2015–16*, p. 31.

9 ACC, *Annual Report 2015–16*, p. 31.

- providing 25 515 real time alerts on nationally significant crime targets, up from 4333¹⁰ in 2014–15.¹¹

3.12 The annual report notes that 76 per cent of the ACC's stakeholder survey respondents agreed or strongly agreed that the ACC achieved this KPI, a two per cent decrease from the result in 2014–15 (78 per cent).¹²

KPI 3—Collects and maintains national holdings of serious and organised crime threats and targets

3.13 The work of the ACC towards this KPI included:

- maintaining the National Criminal Target List and the Australian Criminal Intelligence Database, and conducting 202 coercive examinations;
- producing over 590 intelligence products on outlaw motorcycle gangs that were provided to over 50 agencies to support multiple investigations; and
- responding to 733 requests for information from national and international partners, including in respect of firearms traces.¹³

3.14 The annual report notes that 90 per cent of respondents to the ACC's stakeholder survey agreed or strongly agreed that the ACC met this KPI, a decline of one per cent from the result in 2014–15 (91 per cent).¹⁴

KPI 4—Interprets and analyses national holdings to create a national serious and organised crime intelligence picture

3.15 The ACC worked towards this KPI through its production of numerous publications, including the *Organised Crime Threat Assessment*, *Illicit Drug Data Report* and the *Precursor Chemicals Information Resource 2016*. The ACC also:

- enhanced knowledge of the illicit/non-medical use of pharmaceuticals through theft and diversion of chemicals;
- produced a joint report with the United States Federal Bureau of Investigation (FBI) on characteristics of cybercrime; and
- produced 1859 information reports.¹⁵

3.16 The annual report notes that 79 per cent of the ACC's stakeholders agreed or strongly agreed that the ACC had achieved KPI 4, a decrease from 88 per cent in 2014–15.¹⁶ The annual report notes that the ACC 'will be exploring the decline in

10 This figure represents six months of 2014–15. 2015–16 is a full year figure.

11 ACC, *Annual Report 2015–16*, p. 32.

12 ACC, *Annual Report 2015–16*, p. 32.

13 ACC, *Annual Report 2015–16*, pp 33-34.

14 ACC, *Annual Report 2015–16*, p. 34.

15 ACC, *Annual Report 2015–16*, pp 35-36.

16 ACC, *Annual Report 2015–16*, p. 36.

performance against this KPI during the coming year' and in its next stakeholder survey.¹⁷

KPI 5—Informs and influences the hardening of the environment against serious and organised crime

3.17 The ACC worked towards this KPI through, for example:

- contributing to the National Ice Taskforce and Australia's Cyber Security Strategy;
- providing advice on Commonwealth public sector bribery and whether there is intelligence to support concerns of systemic corruption; and
- identifying an independent money remitter laundering proceeds of crime, leading to cancellation of their registration.¹⁸

3.18 The annual report notes that 66 per cent of stakeholders surveyed agreed or strongly agreed that the ACC had achieved KPI 5, a decrease from 78 per cent in 2014–15.¹⁹ The annual report notes that the ACC will also explore this decline in performance during the coming year and in its next stakeholder survey.²⁰

KPI 6—Influences or enables the disruption, disabling or dismantling of serious and organised crime

3.19 The ACC worked towards this KPI though, for example:

- disrupting 65 serious and organised criminal groups or networks;
- seizing \$12.59 million in cash, over \$1.81 million estimated street value of illicit drugs, \$0.02 million precursor chemicals and 61 firearms; and
- restraining more than \$104.87 million in assets.²¹

3.20 The annual report notes that 76 per cent of respondents to the ACC's survey agreed or strongly agreed that the ACC had achieved KPI 6, a decline of seven per cent from 2014–15 (83 per cent).²² The annual report notes that '[t]he reasons behind this decline in stakeholder perception are not clear and will be further explored during the coming year and in next year's stakeholder survey'.²³

17 ACC, *Annual Report 2015–16*, p. 36.

18 ACC, *Annual Report 2015–16*, p. 37.

19 ACC, *Annual Report 2015–16*, p. 37.

20 ACC, *Annual Report 2015–16*, p. 37.

21 ACC, *Annual Report 2015–16*, pp 38–40.

22 ACC, *Annual Report 2015–16*, p. 40.

23 ACC, *Annual Report 2015–16*, p. 40.

KPI 7—Participates in or coordinates collaboration in joint operations and investigations to prevent and disrupt serious and organised crime

3.21 The ACC worked towards this KPI through its leadership or participation in a variety of joint operations and investigations, including:

- Eligo National Task Force (money laundering);
- maritime task forces (operations to disrupt organised crime exploitation of the maritime sector in Victoria, New South Wales and Western Australia);
- Joint Organised Crime Task Forces/Groups (the disruption of jurisdictional and organised crime groups in Victoria, New South Wales and Western Australia); and
- Project Jacto (exploitation of Australia's migration system).²⁴

3.22 The annual report notes that 83 per cent of respondents to the stakeholder survey agreed or strongly agreed that the ACC had met KPI 7, a decrease of two per cent from 2014–15 (85 per cent).²⁵

Analysis of results

3.23 As noted in paragraph 3.7, the ACC possesses data to compare its performance scorecard between each reporting period. An analysis provides a review of its qualitative and quantitative results, and an overall summary of the ACC's performance for each KPI. In the results and analysis of all KPIs, the ACC has included other comparable quantitative results. Data is primarily from the last two reporting periods; however, in some cases the ACC has included data from 2012–13.²⁶

3.24 The ACC provides commentary on the both the qualitative and quantitative results for the 2015–16 KPIs. As in the 2014–15 annual report, these comments include the expansion of existing activities and new performance measures.

Stakeholder survey responses

3.25 All comparable quantitative results for each KPI are inclusive of the ACC's stakeholder survey responses. All reported results from this survey are lower than the 2014–15 reporting period. Where the decline is marginal, the annual report comments that the overall results are 'solid', 'strong' or 'very strong'. The annual report notes that the more significant declines against KPIs 4, 5 and 6 will be further explored during the coming year and in next year's stakeholder survey.

Committee view

3.26 As in the 2014–15 annual report, the 2015–16 annual report shows a significant shift from primarily focusing on qualitative data to include quantitative KPIs. This change has addressed the committee's concern and commentary that

24 ACC, *Annual Report 2015–16*, pp 40–41.

25 ACC, *Annual Report 2015–16*, p. 41.

26 See for example: ACC, *Annual report 2015–16*, p. 33.

previous reports lacked quantitative KPIs. The committee congratulates the ACC for continuing with this form of reporting.

3.27 The committee continues to acknowledge the ongoing complexity of the new qualitative KPIs the ACC has developed, and acknowledges that some of the ACC's work remains unquantifiable.

3.28 The committee notes that the ACC's stakeholder survey indicates that generally the ACC has maintained a high level of satisfaction, despite all results being slightly lower in this reporting period than in the previous two reporting periods. The committee acknowledges the ACC's commitment to explore the more significant decline in results in respect of KPIs 4, 5 and 6, and looks forward to the analysis and conclusions in the ACC's next annual report.

Chapter 4

Key issues

4.1 This chapter provides an overview of various issues the committee discussed with the Australian Crime Commission (ACC) during the committee's hearing on the ACC's 2015–16 annual report.

4.2 At the hearing, the ACC reported on the merger between it and CrimTrac, and provided a final update on Task Force Eligo. Other matters discussed included: the National Criminal Intelligence System (NCIS); international deployment of ACC staff; the National Wastewater Drug Monitoring Program (wastewater program); and cybercrime. This chapter also considers the ACC's key publications, and its security, integrity and misconduct strategies.

Merger between the Australian Crime Commission and CrimTrac

4.3 The merger between the ACC and CrimTrac was announced on 5 November 2015 by the Minister for Justice, the Hon Michael Keenan MP. The passage of legislation to implement the merger passed through the Parliament on 5 May 2016. Amendments found in the *Australian Crime Commission Amendment (National Policing Information) Act 2016* (and its Regulation¹) and the *Australian Crime Commission (National Policing Information Charges) Act 2016* enable the ACC to fulfil CrimTrac's functions, the governance of the new merged agency, and the continuation of the CrimTrac Special Account.² The regulation provides for the merged agency to be called the Australian Criminal Intelligence Commission (ACIC) and prescribes:

- a. bodies from which the merged agency will be able to collect 'national policing information' (intended to capture all bodies from which CrimTrac currently collects information)
- b. kinds of information for the purpose of the definition of 'national policing information' (intended to capture all information that is currently collected and disseminated by CrimTrac through its existing systems, to enable the merged agency to carry out its new national policing information function).³

4.4 Mr Chris Dawson, Chief Executive Officer of the ACC, informed the committee that this change:

1 The Australian Crime Commission Amendment (National Policing Information) Regulation 2016.

2 Australian Crime Commission (ACC), *Annual Report 2015–16*, p. 156.

3 ACC, *Annual Report 2015–16*, p. 156.

...now uniquely equips the ACIC as Australia's national criminal intelligence agency, combining law enforcement datasets with our investigative intelligence and information delivery functions.⁴

4.5 The ACC's annual report clarified that the ACC Board will continue existence but will incorporate functions previously performed by the CrimTrac Board of Management. It also noted that the *Australian Crime Commission (National Policing Information Charges) Determination 2016* details the amount the ACIC will charge for criminal history checks (a function previously performed by CrimTrac) and allows for the Minister for Justice to determine a new charge if appropriate.⁵

Task Force Eligo

4.6 The ACC informed the committee that Task Force Eligo (Eligo 2) ceased its operations as of 31 December 2016. This iteration of Eligo continued the work from the first iteration that was established in 2012. The purpose of Eligo 2 was to prioritise international and domestic money laundering operators. Domestically, Eligo 2 consisted of the ACC, the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Australian Federal Police (AFP) and other Commonwealth, state and territory partners. Eligo 2's international partners included the Royal Canadian Mounted Police, the United Kingdom National Crime Agency, United States (US) Drug Enforcement Administration (DEA), the US Federal Bureau of Investigation (FBI), the US Immigration and Customs Enforcement, and the New Zealand Police.⁶

4.7 The ACC told the committee that Eligo 2 had disrupted global money laundering operations and drug networks, and resulted in the:

...seizure of over \$80 million in cash, the restraint of more than \$59 million worth of assets and in excess of \$1.6 billion in street value of drugs which have been taken from the streets. The work of the task force does include long-term prevention strategies. There are significant arrests that have been made by our international partners. Those have severely disrupted a number of networks.⁷

4.8 Although Eligo 2 had severely disrupted a number of networks, the committee was told that money laundering remains a challenge and the ACC will continue to work in this area.⁸ The ACC's annual report explained that its focus would shift to 'target money laundering at a more 'upstream' offshore level, the impact is spread more internationally, which means our onshore results are different this year'.⁹

4 Mr Chris Dawson APM, Chief Executive Officer, Australian Crime Commission (ACC), *Committee Hansard*, 14 June 2017, p. 1.

5 ACC, *Annual Report 2015–16*, p. 156.

6 ACC, *Annual Report 2015–16*, p. 61.

7 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 1.

8 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 1.

9 ACC, *Annual Report 2015–16*, p. 61.

National Criminal Intelligence System

4.9 During the 2015–16 reporting period, the ACC continued to develop its pilot of a NCIS. The purpose of the NCIS is to:

...improve the way criminal intelligence and information is shared and used across the country, meaning the right people will have the right information sets at the right time, when they need them, and this will greatly improve Australia's national capabilities to prevent, detect and disrupt threats, particularly those of serious and organised crime and, indeed, matters of national security such as terrorism.¹⁰

4.10 Presently, intelligence sharing between Commonwealth, state and territory law enforcement agencies is complicated by the use of different systems and the:

...limited technical capacity to handle and integrate the rapidly increasing volume of information, and a reliance on manual processes and personal network to share information.¹¹

4.11 A partnership between 15 agencies and over 400 users,¹² the pilot program incorporated intelligence practitioners, investigators, managers and front line law enforcement personnel. Users tested the NCIS design during operational activities, as a means to 'prove the value of delivering a system that is highly usable and could become an invaluable asset for Australia's criminal intelligence and information capability'.¹³

4.12 Mr Dawson advised the committee that the pilot program had consolidated over 100 million records and includes 30 million master records¹⁴ from 400 different data sources.¹⁵ According to Mr Dawson, the pilot NCIS 'has demonstrated already real-world day-to-day benefits can be realised through improved information and sharing'.¹⁶

4.13 The committee questioned the ACC about the funds required to establish a NCIS. In response, Mr Dawson stated a full program would cost \$200 million.¹⁷ The ACIC board had committed \$50 million, subject to a business case evaluation, and would be sourced from revenue generated as part of CrimTracs' background

10 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 1–2.

11 ACC, *Annual Report 2015–16*, p. 110.

12 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 1–2.

13 ACC, *Annual Report 2015–16*, p. 110.

14 Master records consolidate one or more identity records when sufficient data is available to link multiple records, consisting of hundreds of individual identify records. See, ACC, *Annual Report 2015–16*, p. 111.

15 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 1–2.

16 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 1–2.

17 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 5.

checking—police clearance certificate-type fees. The remaining \$150 million would need to be sought externally.¹⁸

4.14 The pilot program concluded at 1 July 2016 and the ACC advised it would then undergo an evaluation.¹⁹

International deployments

4.15 An area of continued interest for the committee is the international deployment of ACC officers. The committee was advised that ACC officers are currently deployed to Hong Kong, Dubai, the US, and Canada. Officers are also deployed to Europol, The Hague and the National Crime Agency in the United Kingdom. Mr Dawson highlighted the importance of these international deployments because the ACC's focus is on transnational serious and organised crime. The ACC estimates:

...some 70 per cent of the most serious and organised criminal entities are either located offshore or are onshore with very strong connections with Australian criminal entities.

...

In our assessment...these are generally more than one individual. But if it is, for instance, a Chinese triad or Australians that have located themselves in other countries, they are organising a lot of the harm in the form of drug trafficking, money laundering, weapons and all of those sorts of criminal threats. They are either domiciled offshore or they have very strong connections with Australian criminals. But our estimation is that 70 per cent of these have that international or transnational connection. Hence, they are not just domestically focused—for instance, in Sydney, Melbourne or Brisbane.²⁰

4.16 The ACC also works collaboratively with existing international networks formed through the work of AUSTRAC, the AFP and the Department of Immigration and Border Protection.²¹

Wastewater analysis

4.17 In May 2016, the Minister for Justice authorised the expenditure of \$3.59 million over three years to establish a wastewater program. The wastewater program is 'used by agencies and entities tasked with understanding Australian drug markets' is capable of measuring 'drug use in small or very large populations and [has the] potential to inform timely and appropriate policy and operational responses to problems'.²²

18 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 5.

19 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 1–2.

20 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 2.

21 ACC, *Annual Report 2015–16*, p. 17.

22 ACC, *Annual Report 2015–16*, p. 88.

4.18 Mr Dawson commented that the wastewater program is the first of its type to be done nationally and has been informed by the experiences of 20 European countries that have also implemented wastewater program. Australia's wastewater program tested for:

...13 drugs, both illicit and licit. The two licit drugs are alcohol and tobacco, and we coupled that with two prescription type drugs which are subject to abuse—oxycodone and fentanyl.²³

4.19 The wastewater program is able to determine drug use through Australia's wastewater system because:

When a person ingests a drug—by either snorting, smoking, injecting or whatever way they do it—they excrete it. The excretion obviously goes through the wastewater system. The metabolites go through the body and that is sampled. The science has developed to some precision. They calculate the amount and type of drugs at each sampling.²⁴

4.20 Each capital city's water catchment area is analysed, along with a number of regional sites: in total, 58 per cent of the Australian population is covered in the wastewater program.²⁵ According to Mr Dawson, the wastewater program is:

...the most precise instrument by which we can make an assessment of the types and quantities of drugs that are being abused in Australia. Previously we had to rely on a very limited urine analysis of police prisoners, detainees in custody—and they are a very small congregation—or a national drug household survey which is some three years old and is reliant on people's truthfulness and memory.²⁶

4.21 Along with the geographic distribution of drug use, the wastewater program provides valuable data on not only the type of drugs that are being consumed in a designated area, but also where those drugs are being used.²⁷

4.22 The committee questioned the ACC about whether the Department of Human Services (DHS) would use data from the wastewater program to determine trial sites for the government's proposal to drug-test welfare recipients. Mr Dawson advised the committee:

There are several universities that we have engaged—the University of Queensland and the University of South Australia. We have basically contracted them to work with the respective water authorities. I have not had a direct request personally from the Department of Human Services

23 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 2.

24 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 2.

25 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 2–3.

26 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 2–3.

27 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 3.

about that specific matter you raise and I am not aware whether they have another avenue by which they would be identifying wastewater sites.²⁸

4.23 Mr Dawson then advised the committee that Queensland, Western Australia and South Australia have all independently conducted their own wastewater programs through their state police agencies. Mr Dawson re-iterated that he did not receive a direct request from the DHS; however, added that data had been provided to eight police forces and the Department of Health.²⁹

4.24 The committee questioned the ACC on the suitability of utilising the wastewater program data to determine the trial sites. Mr Dawson commented that he 'would have to understand better the type of information they need' and that the ACC made a 'conscious contractual arrangement' with water sampling authorities 'not to identify particular sites' in its unclassified report. The classified report was provided to authorities and Mr Dawson had written to state and territory police commissioners identifying the particle sample sites.³⁰ Mr Dawson added:

It is certainly self-evident from the report that the capital cities are all tested; that is true. With the regional sites in particular we have been quite careful, and not just because the water authorities themselves in some cases did not want those to be identified. In my words, we would not want to particularise a particular regional centre above another, simply because we have not sampled those that abut them. You may well shine a light on a particular regional town, but it may have a bigger or a smaller problem, because we simply have not sampled the towns in and around the same locality. That is one of the other reasons behind it.

...

Our present policy approach is not to identify the particular areas. We do not want to particularise a locality—particularly in a regional locality. As I say, the capitals are self-evident.³¹

Cybercrime

4.25 Cybercrime, and its links to serious and organised crime, is a priority area for the ACC. In its annual report, the ACC listed a number of its activities that contribute to intelligence on cybercrime. These activities include:

- The ACC, in consultation with the AFP and Australia's national computer emergency response team, authored the section on cybercrime for the Australian Cyber Security Centre's annual threat assessment.
- The Cybercrime Monthly Report is published by the ACC and provides regular high level summaries of the cybercrime environment. This report is distributed

28 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 4.

29 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 4.

30 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 4.

31 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 5.

to domestic and international law enforcement agencies and key private sector partners.

- In partnership with the FBI, the ACC produced a joint report on the characteristics of cybercrime activity.
- Information sharing agreements between the ACC and private sector partners.

4.26 In 2015–16, the ACC embedded analysts at the International Cyber Crime Coordination Cell (IC4). The IC4 supports collaborative efforts by participating law enforcement partners to identify, target and apprehend cybercriminals and disrupt key enablers of the cybercrime. The FBI hosts the IC4, which includes staff from the AFP, the UK National Crime Agency, and the German Federal Criminal Police Office.³²

4.27 Another responsibility of the ACC is to administer the Australian Cybercrime Online Reporting Network (ACORN). ACORN is a national policing initiative that allows the public to report instances of cybercrime and provides advice to help the public recognise and avoid common cybercrime activities. From 1 July 2015 to 30 June 2016, there were 41 341 reports of cybercrime made to ACORN, which ranged from instances of online scams to cyber bullying. The committee was told that a particular area of concern is the use of ransomware-type financial scams:

...broadly speaking, it is the majority of the reports were receive—and we then federate it out to the law enforcement agencies, primarily the Australian Federal Police and the state and territory police. It is just simply another crime type. Yes, it is complex. Yes, it does have some particular technical challenges, and it is also very much a transnational crime—it is borderless. So, if a victim is resident in Australia but their house is scammed by someone in Africa or eastern Europe—they are common areas that we will identify—that does present a real and present challenge. The jurisdictional challenges are but one of the challenges, to the nature of encryption and the nature of the dark webs, the pseudonyms and the challenges with ISPs et cetera.³³

4.28 The committee questioned the ACC further on its cybercrime-related activities. Of particular interest were the ACC's intelligence capabilities around the dark web and the use of bitcoins in transnational and organised crime. The ACC informed the committee that it had received \$16 million over four-years to employ 14 additional staff for cybercrime intelligence, including deployments to the IC4 and Europe.³⁴ Mr Dawson added this funding:

...is restricted to the intelligence effort, as opposed to the investigative effort. The investigative effort nationally is performed by the Australian Federal Police and other parties such as the Australian Signals Directorate, with whom we work in collaboration. The ASD have a particular remit more appropriately with national security matters, but we co-locate under

32 ACC, *Annual Report 2015–16*, p. 97.

33 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 6.

34 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 3.

ASD auspices at the Australian Cyber Security Centre. So we have co-located offices there, and we also have offices in Brisbane and Sydney at the CIRT facilities there, which also work with the private sector. So we are strong contributors in the national framework. It is a growing threat, which is reflected in our assessments. There is a current deal of effort being added to what is already been done. I am a member of the Prime Minister's cybersecurity board. We met as recently as yesterday, and this is a very topical matter which we are giving a lot of attention to.³⁵

4.29 The committee questioned whether the ACC has the necessary skills, knowledge and capabilities to address cybercrime, and asked whether there is a gap. In response, Mr Dawson re-assured the committee that the commission has the necessary skills and capabilities; however, Mr Dawson acknowledged that government agencies are competing with the private sector for experts in the cybercrime field:

We are all under a degree of pressure in terms of recruiting the right type of skilled specialists—because they are also in demand by the private sector. The private sector of course attracts some of our specialist. In fact, a number of specialists within our employ have been recruited within Australia and indeed by some international companies. So they are in high demand.³⁶

4.30 The ACC reported that it is learning from, and co-operating with, the UK and the US who are leading the way in innovative workforce planning. Mr Dawson maintained that Australia was not idle on this matter, and referred to the Prime Minister's announcement to establish a task force dedicated to deal with this issue:

The Special Adviser to the Prime Minister on Cyber Security has been tasked with leading a workforce on that, which we are contributing to as well, along with our other partners. I should say that this very much engages the states and territories and indeed the private sector as well. It is certainly a national issue. As to recruitment, I think we need to be more innovative. One of the absolute challenges, though, is getting the right people who have the right security clearances—for obvious reasons. They may have the technical skills, but they may not meet the security clearances. That is a real and present issue which, again, we are working through collaboratively.³⁷

4.31 Australia's international co-operation was further considered, in particular, Australia's engagement with the Five Eyes intelligence community on the matter of cybercrime. The committee expressed concern that despite the Five Eyes country's expertise, it appears they are unable to prevent cybercrimes being committed in other jurisdictions. In response, the ACC told the committee that it is communicating with 'service providers, from both an Australian and Five Eyes perspective...in the area of

35 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 3.

36 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 3.

37 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, pp 3–4.

terrorism and national security matters'. Mr Dawson highlighted the importance of having access to:

...the right information sets and being able to determine where, who and when they are able to transmit data across the cyber internet is a real problem for the entire world, not just Australia. I cannot provide a definitive answer as to why a particular country is ahead or behind, other than to say that, particularly with the Five Eyes law enforcement and intelligence sets, we are working very closely. We co-chair a cyber program...so our experts are working very much with the other Five Eyes countries, and indeed beyond the Five Eyes countries, but that is where our strongest partnership is. We are in step with the other Five Eyes countries: USA, Canada, Britain and New Zealand. In every effort they are making we are sharing our capabilities with them and they are sharing theirs with us.³⁸

4.32 A challenge, according to Mr Dawson, is achieving an 'understanding and agreement with service providers, because of their commercial reality and the way they operate'. Despite these challenges, Mr Dawson spoke of steps taken by a number of international providers that have assisted law enforcement and national security objectives to tackle the issue of cybercrime. That said, '[w]hile there is some progress, we are not getting cooperation from a lot of those [international] service providers'.³⁹ The ACC noted the strong political effort that is happening in Australia, namely by the Attorney-General, to enhance co-operation in this space.⁴⁰

Key publications

4.33 The ACC's key publications for 2015–16 are listed below. The publications, collectively known as the *Picture of Criminality in Australia*, provide valuable information to support the detection, disruption and understanding of serious and organised crime in Australia and abroad.

Organised Crime Threat Assessment

4.34 The *Organised Crime Threat Assessment* is a bi-annual publication that provides a risk assessment of Australia's illicit markets and the activities of serious and organised crime groups. Markets identified in the assessment include illicit drugs, economic crime (such as cybercrime and fraud), firearm and environmental crime and crimes against the person (such as human trafficking, slavery and sexual exploitation). This assessment underpins the Commonwealth's *National Organised Crime Response Plan*, as well as other high level strategies.⁴¹

4.35 The 2016 assessment included, for the first time, reference to professional facilitators to the activities that enable organised crime. This inclusion is based upon evidence that shows 'professional facilitators are increasingly important to criminals

38 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 6.

39 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 6.

40 Mr Dawson, ACC, *Committee Hansard*, 14 June 2017, p. 6.

41 ACC, *Annual Report 2015–16*, p. 44.

seeking to obscure their identity, minimise their risk of detection, conceal their illicit wealth, and operate within the cracks in current legislation and regulatory regimes'.⁴² The risk posed by the methamphetamine market, cybercrime and technology-enabled crime were also highlighted in the 2016 assessment.⁴³

Organised Crime in Australia

4.36 The *Organised Crime in Australia* report is a declassified version of the *Organised Crime Threat Assessment*. This report is released bi-annually; however, neither the 2015 report nor the 2017 report were released during the 2015–16 reporting period. The committee will consider the 2017 report, released on 24 August 2017, during its inquiry into the ACIC's annual report for 2016–17.

National Criminal Target Report

4.37 The *National Criminal Target Report* is a classified publication that provides a 'consolidated national picture of the risk posed by serious and organised crime groups affecting Australia'. Operational law enforcement work and strategies are informed by this report.⁴⁴ No report was released during the 2015–16 reporting period.

Illicit Drug Data Report

4.38 The 13th edition of the *Illicit Drug Data Report 2014–15* provides information on illicit drug related arrests, seizures, purity levels, profiling data and prices. Data is sourced from Commonwealth, state and territory law enforcement partners, as well as academic and health data.⁴⁵

4.39 The 2014–15 report again reported a record 105 862 national illicit drug seizures,⁴⁶ a significant increase from the previous year's total of 93 086.⁴⁷ This increase was also reflected with a record number of arrests: 133 926 nationally.⁴⁸ Other findings in the 2014–15 report included:

- a record 514.4 kilograms of national amphetamine-type stimulants seized and 35 468 arrests;
- a record number of national cannabis seizures and arrests, 59 271 and 75 105 respectively;
- a record number of national cocaine seizures (weighing over half a tonne) and 2092 arrests; and

42 ACC, *Annual Report 2015–16*, p. 44.

43 ACC, *Annual Report 2015–16*, p. 44.

44 ACC, *Annual Report 2015–16*, p. 45.

45 ACC, *Annual Report 2015–16*, p. 46.

46 ACC, *Annual Report 2015–16*, p. 46.

47 ACC, *Annual Report 2014–15*, p. 42.

48 ACC, *Annual Report 2015–16*, p. 46.

- a decrease in the number of clandestine laboratories detected by law enforcement agencies nationally.

4.40 For the first time, the report for 2014–15 included data from the national wastewater program.

Organised Crime 2025

4.41 The ACC released its third instalment of the *Organised Crime 2025* report. This report attempts to provide strategic foresight to examine factors that may influence the Australian criminal environment over the next decade. This classified document is shared with the ACC's stakeholders 'to inform decision-making on proactive response strategies, including structural development and operation priorities'.⁴⁹

Security, integrity and misconduct

4.42 The ACC in its annual report details its efforts to improve its security, integrity and misconduct profile, as well as report on any instances of these activities. This information is summarised below.

Integrity and Security Teams

4.43 The ACC has dedicated integrity and security teams. In 2015–16, these teams:

- consulted with ACC business areas regarding fraud and misconduct risks;
- improved mechanisms to report fraud and misconduct, and disclosure of information;
- reviewed and revised online integrity and security training modules;
- developed an ongoing staff suitability assessment; and
- used risk management to guide protective security.⁵⁰

4.44 The ACC's fraud and corruption detection program was audited throughout 2015–16, which targeted high risk activities identified through a fraud and corruption risk assessment process and fraud survey. Other integrity measures addressed were the development of integrity testing policy and procedures, and a review and update of public interest disclosure policy.⁵¹

Corruption and fraud

4.45 In 2015–16, the ACC's Integrity Assurance Team received two allegations of corruption. One case was referred to the Australian Commission for Law Enforcement Integrity (ACLEI) for investigation and remained open at the time of the 2015–16 reporting period. The ACC reported that the second case was undergoing a preliminary investigation. The ACC received 10 misconduct allegations. None of

49 ACC, *Annual Report 2015–16*, p. 47.

50 ACC, *Annual Report 2015–16*, p. 142.

51 ACC, *Annual Report 2015–16*, p. 142.

these allegations were referred to ACLEI, and one case remained open at the end of 2016.⁵²

4.46 There remained two fraud and corruption cases open from the previous reporting period. One remained with ACLEI and the other was referred back to the ACC for a joint investigation in partnership with ACLEI. The ACC reported that this investigation was ongoing.⁵³

4.47 There were no reported instances of fraud in 2015–16.⁵⁴

Public Interest Disclosure Scheme

4.48 In 2015–16, the ACC's Integrity Assurance Team received five internal disclosures under the Public Interest Disclosure Scheme (PID Scheme). Two matters were investigated under the PID Scheme and both cases were closed with no further action required. The remaining three cases were closed because they fell within the remit of another investigation.

Misconduct

4.49 The ACC received seven referrals of alleged misconduct in 2015–16. As of 30 June 2016: five cases did not require a formal investigation after a preliminary assessment or investigation; and two cases were withdrawn following a preliminary investigation and prior to a formal investigation.⁵⁵

Committee view

4.50 The committee extols the ACC for its continued work to inform Australia's law enforcement agencies in their fight against serious and organised crime. In particular, the committee is supportive of the ACC's engagement with Australia's international partners, including the Five Eyes, and in Hong Kong and the United Arab Emirates. The committee's inquiries into crystal methamphetamine and illicit tobacco have shown the value in fostering co-operative relationships with countries that are known transit points for illicit commodities coming to Australia.

4.51 The ACC's continued effort to establish a NCIS is commendable. The committee has received regular updates on the progress and design of the NCIS and is of the view that such a system will significantly improve the co-ordination and intelligence sharing capabilities of law enforcement agencies across all jurisdictions. For this reason, the committee has recommended in its first report for the inquiry into crystal methamphetamine that Commonwealth, state and territory governments commit long term funding for the implementation, maintenance and ongoing use of the NCIS.

52 ACC, *Annual Report 2015–16*, p. 144.

53 ACC, *Annual Report 2015–16*, p. 144.

54 ACC, *Annual Report 2015–16*, p. 144.

55 ACC, *Annual Report 2015–16*, p. 144.

4.52 The committee congratulates the ACC in its work to establish wastewater program in Australia. The wastewater program has provided invaluable data on licit and illicit drug usage of communities from across Australia. This data will provide policy makers and law enforcement agencies with additional insight into drug type and usage patterns, and inform appropriate responses to these problems. The wastewater program has already helped inform the committee in its inquiries into crystal methamphetamine and illicit tobacco.

4.53 Finally, the committee is pleased with the ACC's work in the area of cybercrime and the darkweb; however, it is concerned about the challenges faced in this space: namely, government agencies competing with the private sector for experts in the field of cybercrime; and the issue of accessing data held by international service providers to tackle the issue of cybercrime and terrorism.

Mr Craig Kelly MP
Chair

Appendix 1

Witnesses who appeared before the Committee at the public hearing

Wednesday, 14 June 2017 – Canberra ACT

Australian Criminal Intelligence Commission

BLANCH, Mr Col, Executive Director, Intelligence

DAWSON, Mr Chris, Chief Executive Officer

WILLIAMS, Mr Paul, Acting Deputy Chief Executive Officer

