

Chapter 2

Australian Crime Commission Annual Report 2013-14

Background

2.1 The ACC is established under the *Australian Crime Commission Act 2002* (the ACC Act) as a statutory authority to combat serious and organised crime.¹

2.2 It is the only agency 'solely dedicated to combating serious and organised crime of national significance.'²

2.3 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

2.4 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 description of any investigation into matters relating to federally relevant criminal activity that the ACC conducted during the year and that the ACC Board determined to be a special investigation;
- 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;
- 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 ACC Board considers should be made;
- the general nature and the extent of any information furnished by the CEO during that year to a law enforcement agency;
- the general nature and the extent of any information disclosed by the CEO during that year to a body corporate under section 59AB;⁴

1 ACC, *About the Australian Crime Commission*, www.crimecommission.gov.au/about-us/legislation (accessed 13 March 2015).

2 ACC, *Annual Report 2013-14*, p. 8.

3 ACC, *Annual Report 2013-14*, p. 8.

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- the extent to which investigations by the ACC have resulted in the prosecution in that year of persons for offences;
 - the extent to which investigations by the ACC have resulted in confiscation proceedings;
 - particulars of the number and results of:
 - applications made to the Federal Court or the Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977* for orders of review in respect of matters arising under the ACC Act; and
 - other court proceedings involving the ACC;
 - being applications and proceedings that were determined, or otherwise disposed of, during that year.⁵

2.5 The annual report notes that this is the last annual report of the ACC to be produced pursuant to requirements set out in the *Financial Management and Accountability Act 1997* (FMA Act), due to the passage of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).⁶

2.6 As an FMA Act agency, the ACC must comply with the *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, prepared by the Department of the Prime Minister and Cabinet and approved by the Joint Committee of Public Accounts and Audit.⁷

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

2.8 With respect to the PGPA Act, the annual report provides commentary in relation to the new obligations:

There are new expectations set out in the PGPA Act that relate to the way agencies conduct planning. In the coming year we will be working toward compliance with the requirements and making any necessary alterations to our planning framework.⁸

4 Section 59AB relates to the disclosure of information to private sector bodies. The CEO may disclose ACC information to a body corporate that is prescribed if the CEO considers it appropriate and that the disclosure is necessary for preventing criminal offences, detecting criminal offences or facilitating the collection of criminal information. *Australian Crime Commission Act 2002*, s. 59AB.

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

6 ACC, *Annual Report 2013-14*, p. 102.

7 Department of the Prime Minister and Cabinet, *Requirements for Annual Reports for Departments, Executive Agencies and FMA Act Bodies*, http://www.dpmc.gov.au/sites/default/files/publications/Requirements_for_Annual_Reports.pdf (accessed 7 May 2015)

8 ACC, *Annual Report 2013-14*, p. 118.

ACC priorities in 2013-14

2.9 The annual report notes that there were numerous priorities for the ACC in 2013-14.

Investigations

2.10 The annual report notes that the ACC's investigations are designed to disrupt and deter criminal groups by collecting intelligence and evidence. Investigations approved by the ACC Board in 2013-14 include:

- Highest Risk Criminal Targets
- Highest Risk Criminal Targets—South Australia
- Highest Risk Criminal Targets—Victoria
- Targeting criminal wealth.⁹

Intelligence operations

2.11 Intelligence operations are designed to gather intelligence around specific criminal activities (as opposed to groups). These operations are subsequently informed by the extent, impact and threat of the criminal activities. The ACC Board approved the following intelligence operations in 2013-14:

- High Risk and Emerging Drugs
- Outlaw Motor Cycle Gangs
- National Security Impacts from Serious and Organised Crime
- Making Australia Hostile to Serious and Organised Crime
- National Indigenous Intelligence Task Force (Indigenous Violence or Child Abuse)
- Child Sex Offences.¹⁰

Contribution to law reform and parliamentary inquiries

2.12 The ACC has continued its engagement with various parliamentary committees, serious and organised crime forums and whole-of-government decisions. In 2013-14, the ACC contributed to the National Security Committee of Cabinet, COAG's Law Crime and Community Safety Council and various inter-governmental forums.

2.13 Specifically, the ACC contributed to parliamentary inquiries and other reviews as follows:

- Senate Legal and Constitutional Affairs References Committee—*Comprehensive revision of the Telecommunications (Interception and Access) Act 1979*

9 ACC, *Annual Report 2013-14*, p. 19.

10 ACC, *Annual Report 2013-14*, p. 19.

- Senate Legal and Constitutional Affairs Legislation Committee—Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014
- Parliamentary Joint Committee on Law Enforcement—Inquiry into financial related crime
- Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity—Inquiry into the jurisdiction of the Australian Commission for Law Enforcement Integrity
- Victorian Parliamentary inquiry into the supply and use of methylamphetamine, particularly ice in Victoria
- Commonwealth review of Australia's anti-money laundering/counter-terrorism financing regime
- Hawke review of the Freedom of Information Act 1982 and the Australian Information Commissioner Act 2010.¹¹

Financial management

2.14 On 30 June 2014, the ACC comprised 562 staff across in nine offices around Australia. This is a slight reduction from previous years, of 584 staff at the conclusion of 2012-13 and 598 staff in 2011-12.¹²

2.15 The Australian National Audit Office (ANAO) determined that, with respect to the ACC's financial statements, the ACC had followed the requirements of the Finance Minister's Orders made under the FMA Act, including the Australian Accounting Standards. Further, the ANAO opined that the ACC had given a true and fair view of the matters required by the Finance Minister's Orders, including its financial position as at 30 June 2014 and its financial performance and associated cash flows in the preceding financial year.¹³

2.16 The ACC reported a deficit of \$6.317 million in 2013-14, noting that apart from the unfunded depreciation of \$7.347 million, the ACC reported a surplus of \$1.030 million. The annual report notes:

Appropriated equity injections and appropriated Departmental Capital Budgets do not impact the surplus or deficit. However, the ACC received capital funding from portfolio agencies and the accounting treatment requires this funding be recognised as revenue. This resulted in a surplus, as there was no operating expenditure when the funding was used to purchase assets.

The surplus includes \$1.215 million in capital funding received from portfolio agencies for capital investment. With the exclusion of capital funding the ACC returned a \$0.185 million deficit for the financial year, for

11 ACC, *Annual Report 2013-14*, pp 34–35.

12 ACC, *Annual Report 2013-14*, p. 5.; ACC, *Annual Report 2012-13*, p.11.; ACC, *Annual Report 2011-12*, p. 20.

13 ACC, *Annual Report 2013-14*, p. 157.

which we had a Ministerial approved deficit of up to \$0.443 million for the finalisation of the National Indigenous Intelligence Task Force.¹⁴

Commonwealth Ombudsman

2.17 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 about the involvement of the ACC and AFP in controlled operations under Part 1AB of the *Crimes Act 1914* during the preceding 12 months. In the usual manner, the committee has received the report and it is currently under consideration.¹⁵

2.18 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.

14 ACC, *Annual Report 2013-14*, p. 150.

15 *Parliamentary Joint Committee on Law Enforcement Act 2010*, s. 10.