

# Chapter 1

## Introduction and background

1.1 On 12 November 2015, pursuant to a recommendation of the Selection of Bills Committee, the Senate referred the *Australian Crime Commission Amendment (Criminology Research) Bill 2015* (the Bill) for inquiry and report by 26 November 2015.

### Conduct of the inquiry

1.2 Details of the inquiry, including a link to the Bill and associated documents, were made available on the committee's website.

1.3 Due to the short timeframe in which the committee was required to report on this matter, it did not invite written submissions. However, the committee accepted and published submissions from the Australian Crime Prevention Council, Civil Liberties Australia and jointly from the Attorney-General's Department, the Australian Crime Commission (ACC) and the Australian Institute of Criminology (AIC); these are listed at Appendix 1.

1.4 A public hearing was held on 19 November 2015 in Melbourne; the list of witnesses who gave evidence is at Appendix 2.

1.5 The Chair acknowledges the cooperation of the Deputy Chair in facilitating the public hearing for the inquiry and the preparation of this report.

### References to the Hansard transcript

1.6 References to the committee Hansard are to the proof Hansard. Page numbers may vary between the proof and the official transcript.

### Background

1.7 The AIC was established as a Commonwealth statutory authority in 1973, under the *Criminology Research Act 1971*. The AIC's functions include:

- (a) to promote justice and reduce crime by conducting criminological research and communicating the results of that research to the Commonwealth, the State, the Territories, and the community; and
- (b) to administer the program for awarding grants and engaging specialists for criminological research that is relevant to the public policy of the States and Territories, and activities related to that research.<sup>1</sup>

1.8 The Act also:

- (a) established a Criminology Research Advisory Council (the Council) to advise the Director in relation to the above matters;<sup>2</sup>

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1 *Criminology Research Act 1971*, s. 6.

2 *Criminology Research Act 1971*, s. 33.

- (b) states that the Attorney-General can ask the AIC to conduct or arrange for the conduct of particular criminological research or training, and give that research or training particular priority;<sup>3</sup> and
- (c) enables the AIC to charge an amount reasonably related to the cost of the services it provides in performing any of its functions, or exercising any of its powers.<sup>4</sup>

1.9 The Council consists of representatives from the Commonwealth and each state and territory. It advises the AIC Director in relation to strategic priorities for criminology research, the priorities for communicating the results of that research, and applications for research grants which the AIC allocates.<sup>5</sup> The Act requires that the Council meet at least 3 times each year.<sup>6</sup>

1.10 The ACC was established as a Commonwealth statutory authority in 2003 under the *Australian Crime Commission Act 2002*. The ACC's functions include:

- (a) collecting, correlating, analysing and disseminating criminal information and intelligence and maintaining a national database of that information and intelligence;
- (b) undertaking intelligence operations;
- (c) investigating matters relating to federally relevant criminal activity;
- (d) matters relating to integrity operations pursuant to the *Crimes Act 1914*;
- (e) providing reports to the Board on the outcomes of operations or investigations;
- (f) providing strategic and other criminal intelligence assessments to the Board; and
- (g) providing the Board with advice on national criminal intelligence priorities.<sup>7</sup>

1.11 The Act also established an ACC Board, which includes the Chief Executive Officer (CEO) of the ACC, representatives from each Australian police service, the Customs Comptroller-General, the Chairperson of the Australian Securities and Investments Commission (ASIC), the Director-General of the Australian Security Intelligence Organisation (ASIO), and the Commissioner of Taxation. The functions of the ACC Board include determining national intelligence and ACC priorities.<sup>8</sup>

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3 *Criminology Research Act 1971*, s. 6A.

4 *Criminology Research Act 1971*, s. 47.

5 *Criminology Research Act 1971*, s. 33(2).

6 *Criminology Research Act 1971*, s. 34(1).

7 *Australian Crime Commission Act 2002*, s. 7A.

8 *Australian Crime Commission Act 2002*, s. 7C.

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## **Purpose of the Bill**

1.12 The Bill seeks to merge the Australian Institute of Criminology (AIC) into the Australian Crime Commission (ACC). Following the merger, the AIC would form a research branch within the ACC called the Australian Crime and Justice Research Centre (ACJRC). The Bill seeks to do this by repealing the *Criminology Research Act 1971* in order to abolish the AIC as a Commonwealth statutory agency, and by making amendments and additions to the *Australian Crime Commission Act 2002* (the ACC Act).

1.13 The Bill proposes the following amendments to the ACC Act:

- defining 'criminological research' and making such research both a 'permissible purpose' and function of the ACC;
- enabling the ACC to continue charging fees for services relating to criminological research;
- enabling the CEO to disclose and publish the ACC's criminological research and information related to that research, with specific requirements regarding personal information; and
- continuing the existence of the 'Criminology Research Special Account'.

1.14 The Bill does not establish a statutory advisory body similar to the existing AIC Council.

## **Comments by the Scrutiny of Bills Committee**

1.15 In Alert Digest No. 12 of 2015, the Senate Scrutiny of Bills Committee noted concerns about the impact of proposed section 59AE on personal rights and liberties relating to privacy. The Scrutiny of Bills Committee sought the Minister's advice as to why the Information Commissioner did not have jurisdiction to investigate breaches of the proposed ACC disclosure regime relating to criminological research. At the time of drafting this report, the Minister's response was not available.

