

Chapter 2

Key issues

2.1 During the course of the inquiry, a number of issues were raised. These included:

- (a) the integrity and independence of criminological research in Australia;
- (b) setting the criminological research agenda and priorities;
- (c) the allocation of grants; and
- (d) public access to data and library resources;

2.2 These are discussed in this chapter.

Integrity and independence

2.3 The continued integrity and independence of criminological research in Australia was the source of concern during the inquiry.

2.4 Professor Janet Ransley, Acting Director of the Griffith Criminology Institute (GCI), discussed criminology research in comparable overseas jurisdictions, stating:

The leadership role in collecting, publicising and making use of national data has been significant. Other countries internationally have agencies that are responsible for that. If you look at the US, it has the National Institute of Justice; the UK has the Home Office Science unit, which has a section dealing with crime and justice research. Neither of these agencies are situated within law enforcement bodies; they are situated independently or within a government department, although they have some independence in the way their research is structured and directed. Independence is something that needs to be considered, going forward with this merger.¹

2.5 The Australian Crime Prevention Council (ACPC) raised the AIC's reputation and the value of its work:

The AIC's research and its impact on practice, legislation and policy has been of immense value in setting budgets and forming policy in the law and order field. It has been quoted in many academic and practitioner publications and is of great assistance to others working in the area. It has been a well respected and highly regarded professional source of criminological data which has the same value as does medical research in the formulation of the health budget.

...

The AIC is highly respected in all of these jurisdictions and the diminution of its research, publications, overseas assistance and conference organizing functions would have an adverse effect on Australia's criminal justice

1 Professor Janet Ransley, Acting Director, Griffith Criminology Institute (GCI), *Committee Hansard*, 19 November 2015, p. 8.

influence and role in the region. It is clear from information provided by our international colleagues that the AIC has been highly respected and valued in the Asia Pacific region in particular as a source of sound research information and advice.²

2.6 With regard to the establishment of the Australian Crime and Justice Research Centre (ACJRC), Professor Ransley argued:

If there is not only the actuality of independence, but also the perception of independence, I think there could be a problem with stakeholders who have traditionally worked very closely with the AIC. I think, internationally, the AIC is highly regarded. Its research certainly punches above its weight in terms of its impact on international debates. You really only have to look at the guns debates in the US. A lot of the data that is provided there emanates from the AIC and from research that it has funded.

I think once you put this research function in a law enforcement agency there is a capacity for it to be perceived as co-opted by law enforcement. It will lose that aura of independence. That would be a great shame for Australia.³

2.7 The Australian and New Zealand Society of Criminology (ANZSOC) was similarly keen to ensure that the integrity and independence of the AIC's work, under the ACJRC, was maintained via mechanisms such as public scrutiny and peer review.⁴

2.8 In response to concerns about the integrity and independence of criminology research in Australia under the ACJRC, Mr Chris Dawson, Interim Director of the AIC, explained that:

I confirm that the Australian Crime and Justice Research Centre will continue to do its existing role. Thematically, there are three matters that I envisage and plan and certainly have had discussions with [Dr Rick Brown], his colleagues and the Criminology Research Advisory Council as it is presently constituted. I can confirm that the intention is that it continue the statistical monitoring on a range of crime and justice issues, just as it does now, and also continue a fee for service. We are very well advanced on that this current year, since the machinery of government announcement... On a wide range of justice issues I would also see it maintain independence by ensuring that the same quality standards are adhered to. Presently, the Australian Crime Commission does not have an ethics committee, for instance, but I would see that it is critically important that we maintain an ethical oversight in terms of the research projects and that we continue the peer review type process as it is presently conducted.⁵

2 Australian Crime Prevention Council (ACPC), *Submission 1*, pp 1–2 and 3.

3 Professor Ransley, GCI, *Committee Hansard*, 19 November 2015, p. 10.

4 Professor Rick Sarre, President, Australian and New Zealand Society of Criminology (ANZSOC), *Committee Hansard*, 19 November 2015, pp 5–6.

5 Mr Chris Dawson, Interim Director, Australian Institute of Criminology (AIC), *Committee Hansard*, 19 November 2015, p. 12.

2.9 The ACC emphasised the synergies between the AIC and ACC's work, and the benefits which could be derived from the merger:

Already, in that very short period of time we have worked out that the ACC actually does some work that looks very similar, albeit with a very different dataset that the AIC does in relation to [drug use monitoring in Australia] and homicide monitoring. There has been an immediate identification of some synergies where we can put some teams together and put some data and capability together, out of which will come good things in terms of much greater understanding of crime and justice problems. Personally, I do not think that you will get that whilst the agencies remain as separate entities.⁶

2.10 The Attorney-General's Department also assured the committee that:

...the merged agency...will continue to provide independent research with continued access to the existing datasets, it will provide open access to its research, and it will operate without funding restrictions. I might say something very briefly about each of those. Firstly, as you have heard, the proposal is that the Australian Crime and Justice Research Centre be set up as a branch of the ACC, headed by a senior criminology researcher and overseen by an ethics committee. It will continue to have the same arrangements with respect to research being overseen by robust ethical and peer-reviewed processes.⁷

Setting the research agenda and priorities

2.11 Related to the integrity and independence of criminological research in Australia, submitters and witnesses raised questions about setting the research agenda and priorities for the ACJRC.

2.12 For example, ANZSOC explained the importance of the ACJRC conducting research with a broader focus than just law enforcement and intelligence, given the causes of crime are wide-ranging. In this context, Professor Sarre was concerned by a comment in the Minister's second reading speech that the ACC Board would be responsible for determining the ACJRC's high level research priorities:

What this appears to be saying in that second reading speech is that it is going to become even more focused: "You will do this work in relation to crime and intelligence with secure and classified information, and that's what our research will be." If that is what it is going to be then my members would have enormous difficulty with that because it would cut out the sorts of broad-ranging things. It is the sort of thing that the Australian Crime Prevention Council would say as well. If you are looking at crime prevention and bringing safety and security to our communities, anti-terrorism is one arm, and the sort of intelligence gathering that the ACC has

6 Ms Judy Lind, Executive Director of Strategy and Specialist Capabilities, Australian Crime Commission (ACC), *Committee Hansard*, 19 November 2015, p. 29.

7 Mr Iain Anderson, First Assistant Secretary, Criminal Justice Division, Attorney-General's Department, *Committee Hansard*, 19 November 2015, p. 21.

done so well for so many years is another arm. But, if you are talking about community development and you are talking about education, health, housing, welfare—all those sorts of things—and the things that the sociologists and psychologists are telling us are the grave risks to our community development, an intelligence-gathering body is not likely to engage in that sort of behaviour. It would cut off the sorts of things that have been so beneficial to us, to universities, to practitioners and to academics generally not only in Australia but around the world.

...

Our real concern here is that the Australian Crime Commission would tend to see crime as the sort of thing that you combat by having good policing, good intelligence and the sort of weaponry...you would have to fight crime. We know that is a very, very small aspect of crime and that the vast majority of crime is caused by factors well and truly outside the control of policing generally. It is caused by lack of education. It is caused by social deprivation. It is caused by psychological illness. It is caused by poverty. It is caused by all the sorts of things that police simply cannot solve...⁸

2.13 The ACPC echoed the concern about retaining a broad criminological research remit and noted that the AIC's work has focused on little studied public policy areas.⁹

2.14 To ameliorate the risk of research by the ACJRC becoming too focussed on policing and law enforcement, Professor Sarre recommended that 'a broadly based advisory council' should be consulted when setting the research agenda and priorities for the ACJRC:

I think that it would probably be advisable...to have something of an advisory body of not just people who are appointed to the ACC but also people from whom advice can be gleaned. I am suggesting that I would be very happy to have someone who would have been nominated by our organisation. We are not about to go away; we have been around 50 years. Something that would require someone on an advisory committee—a nomination of ANZSOC would be one way. An advisory committee which was more broadly based from the public service, not just those people in the ACC but academic advisers generally. I am not suggesting that, for example, there are no criminologists in the Australian Crime Commission now. There may be; criminology is a very broad church. I would like to think there is synergy amongst those people who have been doing, for example, research into cybercrime. Without looking at who they are I imagine that there are people there who are criminologically, sociologically legally or psychologically trained. I would like to think that they would have some role to play in advising the research arm of the ACC for the foreseeable future.¹⁰

8 Professor Sarre, ANZSOC, *Committee Hansard*, 19 November 2015, p. 3.

9 ACPC, *Submission 1*, p. 2.

10 Professor Sarre, ANZSOC, *Committee Hansard*, 19 November 2015, p. 3.

2.15 The GCI was also concerned about how the ACJRC's research agenda and priorities would be determined. Professor Ransley argued:

The ACC board, as it is currently constituted—by my understanding—comprises largely law enforcement-related personnel from the states and territories and federal agencies. I think that is an inappropriate body to be setting research directions as we would understand criminological research. I think it does show a lack of understanding about the distinction between law enforcement-related intelligence gathering—which is a legitimate and important function—and criminological research, which is about understanding the underlying factors that contribute to and worsen or reduce crime. I think that is not a great solution, to have the board—as currently constituted—directing research. I think it would result in a diminution of the research function, and it would be a disaster, actually.¹¹

2.16 ANZSOC suggested that the requirement for such an advisory body to be consulted should be enshrined in the Bill.¹²

2.17 Mr Chris Dawson, Interim Director of the AIC, told the committee that 'certainly my undertaking is that such [an advisory] body should remain, and I have briefed the existing board and the existing advisory cohort of that' as well as the Commonwealth, state and territory ministers.¹³ In respect of the membership of an advisory body in the future, Mr Dawson stated:

We are proposing that the advisory body could be reconstituted to retain justice representation, to include two law enforcement representatives and to include Crime Commission staff, so Dr Brown and/or other people that are pure criminologists, to also provide that representation. At the moment, it is my view that the representation is not broad enough. We have had discussions continuing in that vein, and tomorrow there will be, yet again, another opportunity to consult.¹⁴

2.18 The Attorney-General's Department, ACC and AIC confirmed that:

Under the section 7C of the ACC Act, the ACC Board has the functions of providing strategic direction to the ACC and determining the priorities of the ACC. Following a merger, this function will include determining the Australian Crime and Justice Research Centre's strategic direction and criminological research priorities. While the ACC Board includes law enforcement representatives from the Australian Federal Police and each state and territory police force, it also includes Commonwealth representatives that have broader policy interests, including the Attorney-General's Department and Australian Taxation Office.

It is proposed that the ACC Board will take advice from a non-legislated Research Advisory Committee. The Research Advisory Committee is

11 Professor Ransley, GCI, *Committee Hansard*, 19 November 2015, p. 10.

12 Professor Sarre, ANZSOC, *Committee Hansard*, 19 November 2015, p. 4.

13 Mr Dawson, AIC, *Committee Hansard*, 19 November 2015, p. 16.

14 Mr Dawson, AIC, *Committee Hansard*, 19 November 2015, p. 14.

intended to perform a similar role to the current Criminology Research Advisory Council. This will ensure that justice agencies continue to play a central role in advising on the Australian Crime and Justice Research Centre's priorities.

At the most recent Criminology Research Advisory Council meeting on 20 November 2015, it was agreed that the new Research Advisory Committee would consist of the Advisory Council's existing members plus two representatives from the ACC, two law enforcement representatives (to be selected by the ACC Board) and a representative from the Australia and New Zealand Society of Criminology. These changes are intended to broaden range of stakeholders from which advice is received regarding crime and justice research priorities. The ACC CEO also proposes that the Research Advisory Committee would meet twice per year, with one meeting focused on research priorities and another on Criminology Research Grants (CRG).¹⁵

2.19 In response to the suggestion that the advisory body and a requirement to consult it be enshrined in legislation, the ACC argued that this was undesirable because advice to the ACJRC about its research agenda must be 'both contemporary and relevant to the existing environment'.¹⁶ The Attorney-General's Department concurred, telling the committee that:

The intention here is not to in any way derogate the very fine work that the AIC has done; it is actually just to take advantage of the opportunity, as Mr Dawson said, that we think can be presented by combining the two agencies and their respective capabilities and resources.

It is worth noting that the bill does ensure that the merged body will be able to maintain all of the existing key functions of the AIC in conducting research and disseminating the results of that research—all of those key things, including engaging in things that are necessarily incidental like conferences and so on. The ACC would be able to continue all of those functions. I understand the concerns; I think that putting something in legislation that would actually hamper the flexibility of the operational arrangements is not the most desirable way of responding to those concerns.¹⁷

Allocation of grants

2.20 The GCI discussed the allocation of Criminology Research Grants (CRGs) by the AIC and the importance of these to early career academics and small-scale trial projects:

The criminology research grants are small grants in the scheme of academic grants. Typically how they have been used in universities like ours is for

15 Attorney-General's Department, ACC and AIC, *Submission 3*, pp 5–6.

16 Mr Chris Dawson, Chief Executive Officer, ACC, *Committee Hansard*, 19 November 2015, p. 23.

17 Mr Anderson, Attorney-General's Department, *Committee Hansard*, 19 November 2015, p. 25.

early career scholars, for late-stage PhD students and for very small trial projects. Our major sources of government funding come from the Australian Research Council schemes, which more experienced scholars can access. So I think the danger would be the loss of opportunity for early career academics starting out. The message that what counts in Australia is this very applied law enforcement related research and that more difficult, long-term research about the causes and treatment of crime and criminogenic factors in society are not going to be funded or appreciated in this way. If you are asking if we have got much in the way of dollars to lose, the answer is no. It is a tiny fraction of our research budget, but I think we will lose opportunities for younger scholars in particular, and that would be a shame.¹⁸

2.21 The AIC told the committee that the allocation of grants and the funding for them was the subject of ongoing discussion with the CRAC.¹⁹ The department, ACC and AIC jointly advised:

The ACC CEO also proposes that the Research Advisory Committee would meet twice per year, with one meeting focused on research priorities and another on Criminology Research Grants (CRG).

It is also proposed that the Research Advisory Committee would still have a role in advising the CEO on CRG applicants through a CRG subgroup. Membership of the CRG subgroup will consist of Research Advisory Committee members who provide a financial contribution to the CRG fund. These arrangements will create a strong and independent committee structure to provide advice to the ACC Board on research priorities for the ACJRC.²⁰

Public access to data and library resources

2.22 The public accessibility of the AIC's datasets and library resources under the ACJRC was raised by some witnesses.

2.23 ANZSOC was concerned that merging the AIC into the ACC would reduce the accessibility of data previously available to researchers and the public.²¹ Professor Sarre outlined his fear and described a conversation with Mr Chris Dawson, CEO of the ACC:

...we did talk generally about the databases. You have mentioned deaths in custody, Indigenous and other databases that the AIC has been collecting—the homicide database et cetera—over the last couple of decades. I will not suggest that he guaranteed that those databases would be continuing for the foreseeable future, but I did talk about the library access. The JV Barry Library is one that is held in high acclaim amongst criminologists in this

18 Professor Ransley, GCI, *Committee Hansard*, 19 November 2015, p. 9.

19 Dr Rick Brown, Deputy Director (Research), AIC, *Committee Hansard*, 19 November 2015, p. 17.

20 Attorney-General's Department, ACC and AIC, *Submission 3*, p. 6.

21 Professor Sarre, ANZSOC, *Committee Hansard*, 19 November 2015, p. 2.

country—and internationally, I should add—and I raised some concerns with him that there may be some problems with internationals trying to access information from behind the walls of the ACC if the JV Barry Library were to go into some sort of brick wall or curfew. I asked him about the peer reviewing of publications which would continue to flow from the ACC by the researchers. I asked him about whether or not there would be roundtables, internships, fellowships and those sorts of things. You mentioned corrections, which I mentioned before—those sorts of things which would be in the broad remit of a general criminology understanding and not necessarily at all in the general remit of the ACC.²²

2.24 The GCI acknowledged the value of the AIC's data and library resources and emphasised the importance of continued access to this valuable information, stating:

It has been a national repository and library, and we would want to see the library maintained. The JV Barry Library makes a major contribution to research around Australia. The data resources it has collected are invaluable. I am talking in particular about the national monitoring programs on deaths in custody, homicide, drug use and firearms trafficking. The website has been a go-to resource—I speak not just as a researcher but also as an educator—for students in criminology and criminal justice. The very first place we tell them to look for any data on anything about crime in Australia is the AIC website. It is essential that that be maintained and continued.²³

2.25 Civil Liberties Australia argued that the secrecy associated with the ACC's work could reduce public confidence in the ACJRC reports, stating:

Given the inherent—indeed, legislated—secrecy of the ACC and the reluctance to subject their reports to peer review of external scrutiny, there will certainly be a rapid loss in public confidence in the data/reports produced.²⁴

2.26 The AIC acknowledged that determining what information from the ACJRC could be published and reported would be a matter of balance, and that the Bill provides for that balance.²⁵ Mr Dawson stated:

...we see that the access to the existing website should continue. To that end, we have already been embarking on digitising a lot of the JV Barry research holdings. Presently, a lot of them are in hard copy, so the crime commission has been funding the JV Barry librarians to digitise a lot of those holdings. We see that as an enhanced opportunity for both criminological research and, indeed, for the public. Should they want to access that, they should not have to physically come to Canberra to the library, although we are moving to a new premises and we have designed it so that people can publicly access that. That is an opportunity, but we see

22 Professor Sarre, ANZSOC, *Committee Hansard*, 19 November 2015, p. 6.

23 Professor Ransley, GCI, *Committee Hansard*, 19 November 2015, p. 8.

24 Civil Liberties Australia, *Submission 2*, p. 2.

25 Mr Dawson, AIC, *Committee Hansard*, 19 November 2015, p. 18.

an opportunity to grow the digital database so that people can virtually access it. That, of course, is very important.

I am confident that the centre will provide and combine the best of what the AIC has historically provided. But we see that, while law enforcement research will form part of the mix, it should by no means characterise the full extent of what I see that criminological research can contribute.²⁶

2.27 The Attorney-General's Department informed the committee:

In terms of the datasets, not only will the centre continue to have access to the existing datasets available to the AIC; it will continue to carry out the AIC's three work streams: statistical monitoring programs—and you have heard about those; fee-for-service research, which is about a third of the work that it does; and thematic research on crime and justice priorities. In addition to those datasets, the researchers will also get access to existing sensitive, classified law enforcement information. So they will actually get access to more and richer datasets than they currently are able to access.

The bill does propose a new information disclosure regime for the ACC Act to deal with criminological research figures. The ACC Act does actually set up very restrictive arrangements with respect to disclosure of the sensitive information that the AIC holds. The bill actually creates an entirely new regime to enable the ongoing dissemination of criminological research. That is seen as being a very important thing to continue. As you have heard from Mr Dawson earlier, the library is not only going to continue to be open publicly; it is also being digitised so that its holdings will, in fact, become more accessible to more people both domestically and internationally.²⁷

Committee view

2.28 The Bill's broad objectives are to enhance the ability of the ACC to support and inform the work of Australian law enforcement agencies, and to create central access to a consolidated criminal research and intelligence resource.²⁸ The proposed merger of the AIC and ACC recognises the expertise of the two agencies and is intended to make better use of synergies between them, such as applying the criminological research expertise of the AIC to the ACC's data holdings and intelligence.

2.29 The committee is supportive of these objectives and accepts the assurances of the ACC and Attorney-General's Department that the independence and integrity of criminological research in Australia will be maintained under the ACJRC.

2.30 The committee is pleased that a Research Advisory Council (RAC) will provide advice to the ACC Board about the research agenda and priorities of the

26 Mr Dawson, AIC, *Committee Hansard*, 19 November 2015, p. 13.

27 Mr Anderson, Attorney-General's Department, *Committee Hansard*, 19 November 2015, p. 21.

28 The Hon Kelly O'Dwyer MP, Assistant Treasurer and Minister for Small Business, *House of Representatives Hansard*, 15 October 2015, p. 11312.

ACJRC. The committee believes it is important that the RAC includes representation by a criminology expert and the committee acknowledges the government's undertaking to appoint a member of ANZSOC to the RAC.

2.31 In addition to advising on the research agenda for the ACJRC, the committee notes that the RAC will also have a role in determining the allocation of CRGs. The committee believes this will ensure that criminological research in Australia continues to have a broad focus, including social risks and determinants of crime, and is not inappropriately skewed towards law enforcement and policing.

2.32 In respect of access to data, the ACC and the Attorney-General's Department explained that the ACJRC's access to data and its subsequent research will be enriched by access to the ACC's data holdings. The committee also welcomes advice from the ACC and the department that the research holdings at the JV Barry Library will be more accessible to the public following the merger.

2.33 The committee therefore recommends that the Senate pass the Bill.

Recommendation 1

2.34 The committee recommends that the Senate pass the Bill.

**Senator the Hon Ian Macdonald
Chair**