

Dissenting report by the Australian Greens

1.1 The Australian Crime Commission Amendment (National Policing Information) Bill 2015 (the bill) seeks to amend the *Australian Crime Commission Act 2002* to merge CrimTrac and its functions into the Australian Crime Commission (ACC). The Australian Crime Commission (National Policing Information Charges) Bill 2015 provides the legislative basis for the ACC to charge for national policing information services.

1.2 This is the second bill introduced into Parliament recently that seeks to merge an entity into the ACC. The Australian Crime Commission Amendment (Criminology Research) Bill 2015 proposed to merge the functions of the Australian Institute of Criminology into the ACC.

1.3 The National Commission of Audit in 2014 recommended that CrimTrac be merged with the ACC 'to better harness their collective resources'.¹

1.4 The Australian Greens have concerns with the bill's potential impact on personal privacy.

1.5 CrimTrac holds considerable personal information obtained from police and other sources.

1.6 Currently, the activities of CrimTrac are covered by the *Privacy Act 1988*. The Office of the Australian Information Commissioner (OAIC) submitted:

Under s7 of the *Privacy Act 1988* (Cth) (Privacy Act), the ACC is not required to comply with the obligations of the Privacy Act, including the Australian Privacy Principles (APPs), unlike CrimTrac (whose activities are covered by the Privacy Act). Therefore if the Bill is enacted as drafted, I understand that:

- the information currently held (and the functions currently exercised in relation to this information) by CrimTrac will no longer be subject to the protections in the Privacy Act, and
- the Australian Information Commissioner would no longer have oversight or enforcement powers in relation to that information or those functions.²

1.7 While it appears that states, as the primary collectors of CrimTrac information, will continue to be subject to privacy principles, the principles will not be binding on information actually stored in CrimTrac systems within the merged agency.³

1 National Commission of Audit, *Towards responsible government: the report of the National Commission of Audit: Phase 1*, pp 208-09.

2 Office of the Australian Information Commissioner (OAIC), *Submission 2*, p. 2.

3 Attorney-General's Department, Australian Crime Commission and CrimTrac, *Submission 3, Attachment 1*, p.13.

1.8 In addition to general privacy issues, the Australian Greens have particular concerns relating to missing persons information. It is reasonable for adults to exercise their free choice to not associate with family and friends, particularly where an individual may have been subject to a violent or harmful environment. The OAIC submitted:

If the Bill is enacted, the *Privacy (Persons Reported as Missing) Rule 2014* would no longer apply to the personal information currently held by CrimTrac (ie national policing information), and the ACC would not be obliged by the Rule to respect any known wishes of persons reported as missing when using or disclosing information about them.⁴

Conclusion

1.9 The ACC and CrimTrac already share information for enforcement-related activities including intelligence gathering.

1.10 Information sharing between the ACC and CrimTrac could be enhanced through other mechanisms such as Memoranda of Understanding.

Recommendation 1

1.11 The Australian Greens recommend that the bills not be passed.

Senator Nick McKim
Senator for Tasmania

4 OAIC, *Submission 2*, p. 4.