

Chapter 2

Illicit firearms in Australia: quantity and source

2.1 This chapter considers the illicit firearms market in Australia, its composition and the relative contribution from different methods of diverting firearms into the illicit market.

What are illicit firearms?

2.2 The illicit firearms market in Australia comprises grey market and black market firearms. The Australian Institute of Criminology (AIC) explained:

The licit market comprises all firearms that are subject to registration and held by a person with the approved authority to do so. The grey market consists of all long-arms that were not registered, or surrendered as required during the gun buybacks, following the National Firearms Agreement (1996). Grey market firearms are not owned, used or conveyed for criminal purposes but may end up in the illicit market. Illicit market firearms are those which were illegally imported into or illegally manufactured in Australia, diverted from the licit market or moved from the grey market.¹

2.3 This definition of illicit firearms is well accepted. The use of the term 'grey market', however, caused debate amongst submitters to the inquiry. The Australian Crime Commission (ACC) disagreed with the explanation provided by the AIC and argued that grey market firearms formed part of the illicit market without needing to be diverted for an illicit purpose:

There appears to be some inconsistency in evidence that has been presented to the committee, particularly in relation to the definition of the grey market and methods of diversion. The illicit firearm market is primarily made up of firearms that have been diverted from licit markets through various means. The grey market is comprised only of long-arm firearms which should have been either registered or surrendered in firearm buybacks following the 1996 National Firearms Agreement but were not. Handguns are not included in the grey market as they required registration prior to the 1996 agreement. The black market includes all firearms, both long-arms and handguns, illicitly obtained by individuals and criminal entities. While the use of these terms and related definitions may be debated, both the grey and black market are part of the illicit firearm market. The ACC's ongoing firearm trace activities, which we would like to elaborate on further in camera, continue to indicate that the majority of illicit firearms are derived from Australia's grey market. Theft, failure to reconcile the interstate movement of firearms, and importation of undeclared firearms and firearm parts are all key components of the illicit market.²

1 Australian Institute of Criminology (AIC), *Submission 76*, p. 4.

2 Mr Paul Jevtovic, National Manager, Strategic Intelligence and Strategy, Australian Crime Commission (ACC), *Committee Hansard*, 31 October 2014, p. 34.

2.4 Detective Chief Superintendent Finch of the New South Wales Police Force stated that the terminology was misleading:

[It] is a term that gives people comfort, and it should not. It is a benign term. People who possess firearms—and they may be firearms that were not handed back under the 1996 provisions—may well be committing criminal offences and, in fact, serious criminal offences. I think the term 'grey market' gives people comfort that it is not such a bad thing. The problem with that is that when firearms are stolen from those people it may not ever be reported. That is a problem in itself. [Grey market] is a term that was perhaps coined by the [Australian Crime Commission]. I understand the reason for it, but I do not agree with its use. I obviously understand the difference between that and the black market, but it is something I think we should be constantly vigilant about. We remind people strongly that it is an offence—and a serious criminal offence, at that—to have possession of firearms that are unregistered and so on.³

2.5 The Firearm Traders Association of Victoria argued that the grey market was mainly comprised of firearms owned by people who had disagreed with the 1996 reforms and was not a source of illicit firearms:

It became a very emotive issue, and those people who did not have registration and could get away with it said they are going to get away with it because they believed it was an unjust piece of legislation. We believe it has demonised us. We are normal, law-abiding people. I would use the words 'normally law-abiding' because they did not abide by that one. There is no evidence by anybody, including the people who are self serving with their statistics, to prove that grey market guns are actually any threat to society.⁴

2.6 By contrast, the Firearm Safety and Training Council stated:

In respect of the grey firearms, it is our firm belief within the firearms industry, which I represent, that those people who have chosen not to have their firearms bought under the regulatory regime should be dealt with harshly. There is no benefit whatsoever in the grey firearms.⁵

2.7 Regardless of whether they fall within the definition of the illicit market, grey market firearms pose a significant risk to the community by virtue of remaining undetected.

Size of the illicit firearms market

2.8 The evidence provided to this inquiry indicated that it is exceedingly difficult, if not impossible, to ascertain the number of firearms that comprise the grey and illicit

3 Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police Force, *Committee Hansard*, 13 October 2014, pp 41–42.

4 Mr Robert Schwarz, Firearms Traders Association of Victoria, *Committee Hansard*, 14 October 2014, pp 34–35.

5 Mr Gary Bryant, General Manager, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 6.

markets. In its *Firearm trafficking and serious and organised crime gangs* report, the AIC stated that 'it is not possible...to estimate the size of either the grey or illicit market'.⁶

2.9 The ACC, as part of its *2012 National Illicit Firearm Assessment*, has provided the only accurate estimate:

Whilst the exact size of the illicit firearm market is unknown, our 2012 assessment conservatively estimated the market contained around 260,000 firearms comprised of more than 250,000 long-arms and around 10,000 handguns.⁷

2.10 This estimate included both grey and black market firearms and was derived from 'analysis of importation numbers, seizures, firearms data from industry, in particular, and historical legislation and other relevant data'.⁸ While the actual data used to determine these figures was classified, the ACC stated that the next national assessment, to be finalised in 2015, will 'be accompanied with appropriate unclassified and publicly available materials'.⁹

2.11 In preparing the *2012 National Illicit Firearm Assessment*, the ACC 'identified significant national issues relating to the quality and accuracy of data'.¹⁰ This was a view shared by other witnesses,¹¹ who argued that data provided by the states and territories to the ACC contained inconsistencies and that the ACC's role was limited to analysing the data provided as opposed to collecting its own.¹²

2.12 The quality of information shared by the Commonwealth and states and territories was also identified as an issue. The Joint Commonwealth-New South Wales Review of the events that took place during the Martin Place siege in 2014 referred to a number of flaws in national firearm databases:

While indeterminate results are clearly inadequate for time-sensitive policing, they are unsurprising given weaknesses in Australia's national system for maintaining and sharing firearms information between jurisdictions. In this case, the NSW specific firearm database showed the relevant, accurate information but there was poor interoperability between the state and national databases giving a result that required further checks,

6 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, p. 23, <http://www.aic.gov.au/publications/current%20series/rpp/100-120/rpp116.html> (accessed 2 October 2014).

7 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

8 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

9 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, pp 33–34.

10 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 33.

11 Mr Luca Scribani Rossi, President, National Firearm Dealers Association Inc., *Committee Hansard*, 14 October 2014, p. 28; Mr Greg Chan, General Manager, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 39.

12 Mr Chan, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 39.

if being viewed by a police force outside NSW. The forthcoming introduction of a [National Firearms Interface] will significantly improve this situation by creating a single national firearms repository.¹³

2.13 The report of the joint review identified the grey market as a major concern and also highlighted the inability to track firearms over time as a problem.¹⁴ These issues are discussed further later in this chapter.

Methods of diversion

2.14 There are three ways in which firearms enter the illicit market: they are diverted from the licit market or moved from the grey market, often by theft, or they are illegally imported into or illegally manufactured in Australia.

2.15 The extent to which theft and illegal importation contribute to the pool of illicit firearms in Australia proved to be one of the most contentious points of this inquiry, with witnesses divided over whether the issue was one of theft from licensed individuals and firearms dealers or porous borders.

Theft of firearms

2.16 Various representatives of the firearms industry argued that, based on statistics provided by government agencies and state and territory police, the overall number of firearms stolen was quite small.¹⁵

2.17 The Sporting Shooters' Association of Australia submitted that 'stolen firearms are not the main source of supply for the illegal gun trade' and argued that data on firearms thefts was unreliable:

In South Australia, for example, the figure submitted for legal handguns was inverted, leading the AIC to believe that there were 41,300 instead of 14,300 owned handguns in that jurisdiction. Western Australia at one stage provided no information on firearms or firearms theft, while Victoria inadvertently recorded firearm parts as actual stolen firearms. Even the AIC's senior research analyst, Dr Samantha Bricknell, has stated that the number of illegal firearms in the community is impossible to estimate. As we have said in our written submission, the origin of illegal handguns, according to the AIC, has an 'unknown' rate of 70 per cent. Handguns in particular are the least likely to be stolen or ever used in a subsequent crime. In the state of Victoria, only six handguns were stolen last year.

13 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth–New South Wales Review*, February 2015, p. 48, <http://www.dpmc.gov.au/pmc/publication/martin-place-siege-joint-commonwealth-new-south-wales-review> (accessed 23 February 2015).

14 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth–New South Wales Review*, February 2015, pp 48–49.

15 For example: Mr Bryant, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 5; Field & Game Australia Inc., *Submission 81*, p. 2; Shooters Union Australia, *Submission 101*, p. 4; Dr Jim Lemon, *Submission 215*, p. 4; and Mr Geoffrey Jones, President, Sporting Shooters' Association of Australia, *Committee Hansard*, 31 October 2014, p. 33.

Illegal long-arm ownership is more likely to have come from the grey market, where rifles and shotguns are not registered.¹⁶

2.18 Shooting Australia could neither dispel nor substantiate whether theft of firearms from licensed owners was a significant source of illicit firearms but acknowledged that sporting shooters 'are very conscious of the fact that our sporting equipment is a firearm and therefore something that we need to keep secure as far as any theft is concerned'.¹⁷

2.19 Other submitters and witnesses argued that firearm theft plays an important role in the diversion of firearms from the licit market.¹⁸ Dr Terry Goldsworthy, Assistant Professor of Criminology at Bond University, noted that the 'issue of stolen illegal guns is still reasonably concerning to most Australians':

The rate of gun theft in Australia continues to go up by about six per cent per year. We have fairly strong rule of law in Australia, we have fairly rigorous border protection and services. On the basis of that I would think that, if I were a criminal looking to source a weapon that is probably the route I would take.¹⁹

2.20 The AIC stated that there was an average six per cent increase in the number of firearms reported stolen in the five years from 2004–05 to 2008–09²⁰ and confirmed that theft was a significant source of handguns for illicit purposes:

We found that of non-restricted handguns theft contributed 50 per cent of handguns to the overall illicit pool that had been seized and around 30-odd per cent to the restricted handguns. So theft did represent a significant contributor to the illicit handgun market based on the data that was available at the time.²¹

2.21 More specifically, statistics provided by the AIC show that theft or loss was the second most likely source of restricted handguns in Australia, with 31 per cent diverted to the illicit market in this way.²² The AIC also provided a summary of gun

16 Mr Jones, Sporting Shooters' Association of Australia, *Committee Hansard*, 31 October 2014, p. 33.

17 Mrs Catherine Fettell, President, Shooting Australia, *Committee Hansard*, 31 October 2014, p. 13.

18 For example: Mr Roland Browne, Vice-President, Gun Control Australia, *Committee Hansard*, 14 October 2014, p. 1; Dr Terry Goldsworthy, Assistant Professor, Criminology, Faculty of Society and Design, Bond University, *Committee Hansard*, 14 October 2014, p. 23; and Mr Chan, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 41.

19 Dr Goldsworthy, Bond University, *Committee Hansard*, 14 October 2014, p. 23.

20 AIC, *Submission 76*, p. 18.

21 Dr Samantha Bricknell, Research manager (Violence and Exploitation), AIC, *Committee Hansard*, 31 October 2014, p. 46.

22 AIC, *Submission 76*, p. 18.

thefts by state which demonstrated that the number of firearms stolen each year has increased and remained above 1500 per year since 2006–07:²³

	1994–2000 ^a	2004–05	2005–06	2006–07	2007–08	2008–09	2013–14
NSW	1,048	371	401	432	410	592	na
Vic	538	302	211	276	332	302	525
Qld	750	329	302	320	352	319	585
WA	602	207	191	232	297	na	410
SA	823	250	198	204	193	211	246
Tas	306	83	114	52	107	99	212
ACT	36	8	9	na	9	22	8
NT	92	20	19	10	12	25	na
Australia	4,195	1,470	1,445	1,526 ^b	1,712 ^c	1,570	

2.22 The AFP advised that its holdings reveal that 'genuine theft from licensed owners' is a main source of firearms trafficked within Australia and of those firearms obtained by theft, many are stolen from licensed owners, dealers and security, sometimes 'by aggravated circumstances'.²⁴ The ACC concurred:

Theft remains a primary method for diverting firearms to the illicit market. An average of 1,545 firearms per annum was reported stolen to Australian state and territory police during the period 2004–05 to 2008–09.²⁵

2.23 The ACC described how easily firearm theft can be executed, stating '[t]he fact of the matter is that if firearms are not stored properly, yes—they will be readily available for theft'.²⁶ This statement was supported by statistics from the AIC that demonstrated:

The main location for firearm theft between 2005–06 and 2008–09 was a private residence, either the house or the garage/shed (76%, n=1,956). Ten percent of incidents involved theft from vehicles (n=246) and eight percent involved business premises (n=217).

Almost a fifth of thefts from private residences and business premises were aided by the premises not being secured at the time of theft (eg unlocked door or window). Vehicles were particularly vulnerable with over a third (38%) unlocked at the time of the theft.

...

Stolen firearms represent a ready source of firearms for the illicit firearm market.²⁷

23 AIC, *Submission 76*, p. 18.

24 Australian Federal Police (AFP), *Submission 182*, p. 9.

25 ACC, *Submission 75*, p. 4.

26 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 37.

27 AIC, *Submission 76*, p. 10.

2.24 The AIC continued:

Firearms were stolen from an approved firearm safe or other secure receptacle in 58 percent (n=1,493) of reported firearm incidents in 2005–09 (see Figure 6), although not all these receptacles were determined to be secure at the time of the theft (ie unlocked, easily breached or the key was located by the offender). Firearms had been left in vehicles in just under 10 percent (n=236) of incidents and in 11 percent (n=269) of incidents firearms were described as unsecured or in the open.

Firearms not stored appropriately at the time of the theft comprised almost a fifth (18%) of all reported stolen firearms during 2005–09 (Bricknell 2010).²⁸

2.25 Victoria Police noted that while the number of stolen firearms in Victoria had decreased from 800 in the 2011–12 period to 500 in the last period,²⁹ 'the more weapons that are available to the wrong hands from the grey market or the black market the more the potential for them to facilitate crimes and/or injure or kill people'.³⁰

Geographic patterns of firearm theft

2.26 In addition to discussing the location (for example, private residence or licensed dealer) from which firearms are stolen, a number of state police discussed geographic patterns of firearm theft.

2.27 For example, Victoria Police informed the committee it had recently seen an increase in firearm thefts in rural areas:

There had been a significant increase in the burglaries of registered firearms owners' homes or farms in the western district of Victoria over the preceding 12 months. There has been concerted operations conducted in relation to trying to find the perpetrators of those offences. There was a significant spike across remote-rural locations of the thefts of those firearms which corresponded with an escalation in firearm-related violence in our north-west metro region. Victoria is divided into four policing regions—north-west, east, western and southern metro. There was found to be quite a big spike in firearm-related violence which corresponded with the thefts and burglaries on those premises, of which some of those firearms were used in north-west metro area.³¹

28 AIC, *Submission 76*, p. 12.

29 Detective Superintendent Peter De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 53.

30 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 56.

31 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 54.

2.28 NSW Police suggested that firearm thefts in rural areas could be attributed to a number of factors including attitudes toward firearms, storage and geographic isolation:

In some areas of Australia, of course, the attitude to gun ownership and security of guns is different from the attitude of people in metropolitan Sydney, for example. I understand, having lived and worked in rural areas in New South Wales, the reasons for that. That does not mean, however, that the storage requirements should be any less in those areas because, at times, you will see hobby farmers who have safe storage areas in sheds away from the main dwelling. They may not be resident on the premises for weeks or months, and they will then return and find that their firearms have been stolen. We would receive a report, but it might be weeks or months later. That is a problem. The location of the safe storage area away from main dwelling houses is a problem. Often they are in storage sheds stored with angle grinders and other implements that can open the storage areas. We see that regularly.³²

Illegal importation of firearms

2.29 The other significant source of illicit firearms in Australia is illegal importation. Like theft, the committee heard contested evidence about the extent to which illegal importation contributes to the illicit firearms market in Australia.

2.30 The Firearm Safety and Training Council argued that illegal importation of firearms into Australia was a more significant source of illicit firearms than theft:

...on the established data that has been presented, there are very few firearms that have been stolen and subsequently used in illegal acts or established as coming from a pathway from a registered firearm owner, through theft, into a recorded crime. We then had to rely on press reports, including on such things as the post office in Sydney that was being used for illegal importation of firearms—from Germany, as I recall. They were, in fact, semiautomatic handguns. We are also aware of the fact that there have been press reports of particular organisations—and I am not singling out particular bureaucracies here—including Customs officers who have been involved in, and I believe charged with, illegal importation on occasion.³³

2.31 The NSW Police Force noted that the 'the illegal importation of firearms, especially modern handguns and assault rifles, is a key driver of gun crime in NSW'.³⁴ Detective Chief Superintendent Finch, Director of the Organised Crime Directorate informed the committee that there has been a 'big influx in illegal importation in NSW', though it is impossible to quantify:

32 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

33 Mr Bryant, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 5.

34 NSW Government Justice Cluster, *Submission 391*, p. 2.

To steal someone else's words, we do not know what we do not know. The reality is that there are obviously guns being illegally imported regularly. We detect some. There has been a slight change in the way importations are reported. Prior to last year, the Australian Customs and Border Protection Service and the New South Wales Police had primacy in terms of the legal importations. Last year, a unilateral decision was taken that the AFP would take control of investigations of illegal imports. That is in line with their charter and their primacy in relation to narcotics. We work very closely with the Australian Federal Police.³⁵

2.32 In particular, NSW Police referred to the use of "shot-gunning", where firearms are broken into parts and brought into the country illegally by post:

In the case of firearms, to some extent they do it because they are able to break the firearm down, and if certain parcels are X-rayed it might not show up. If, for example, there is a barrel from a semiautomatic, it might show up as a metal tube, but that does not make it readily identifiable as a firearm part if it has been misdescribed. So they are broken up, and sent—en masse, at times—and then reassembled... They only have to be successful with one importation, obviously, to make a significant profit.³⁶

2.33 NSW Police gave an example, citing its recent operation Strike Force Maxworthy, which resulted in the detection of 12 Glock pistols that had been sent in pieces to Australia via international mail.³⁷ The NSW Police Force gave further evidence to the committee about the impact the internet has had in facilitating the illegal importation of firearms, with some overseas retailers even advertising that they can assist in overcoming customs regulations.³⁸

2.34 It was NSW Police's view that this practice will continue to pose a threat. A lack of detection cannot be linked to the number of firearms that are imported illegally:

...because of the volume of air freight and parcel post they may not be detected. Modern firearms are very easily disassembled. There is a large amount of material other than metal in them. So at times they can be misdescribed, as was the case in Strike Force Maxworthy, and they may never be X-rayed. Certainly I think illegal importation is an area that needs to be looked at closely. To the credit of the Australian Customs and Border Protection Service, they have markedly increased their response. The

35 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 42.

36 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, pp 47–48.

37 NSW Government Justice Cluster, *Submission 391*, p. 3.

38 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 46.

firearm squad have an analyst from Customs embedded with them. They work very closely with Customs and the AFP, for that matter.³⁹

2.35 Victoria Police also raised the issue of illegal importation, noting that internet-facilitated firearm trafficking is an emerging trend.⁴⁰ In explaining its impact to the committee, Detective Superintendent De Santo commented that it has opened the door to individuals who previously would not have had the connections or resources to import firearms:

Currently they are imported into Australia via online and through parcel post. I am talking about the one-off purchasers or two-off purchasers, possibly in the dark net side of the internet. They are imported into Australia and may be able to bypass screening, or may not be detected in screening, and then they go out to the recipients who have ordered them online.⁴¹

2.36 He noted that 'there is a whole varying element of individuals out there who try to buy certain things', as opposed to just being limited to serious and organised crime groups.⁴²

2.37 Victoria Police also discussed the traditional method used by organised crime groups of shipping large numbers of illegal imports on the assumption that not all containers would be x-rayed by Customs and the need for better resourcing and intelligence.⁴³ In particular, Detective Superintendent De Santo discussed the emergence of firearms manufactured to avoid metal detectors:

They are probably not as sophisticated as what you may see depicted in some of the movies, but they are relatively well manufactured, not manufactured in backyards. Those are the next ones I am going to go to, where we have also seized firearms. Again, they are single shot, within the confines of a mobile phone or within the confines of a belt buckle, a fashion accessory worn around the waist. Insofar as avoiding detection, the components are sometimes not picked up on X-ray, and the parts are disassembled for easy transportation. It would be quite easy within some of our airlines. Components can be separated, placed in cargo hold luggage and go through a lesser degree of screening than hand luggage. That is the

39 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 42.

40 Victoria Police, *Submission 389*, p. 3.

41 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 57.

42 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

43 Detective Superintendent 4 De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

way they are transported across border lines, other than being concealed in cars or about the person.⁴⁴

2.38 Both the AIC and the ACC were questioned about the impact of illegal importation in facilitating the illicit firearm trade. The ACC stated that 'firearms and firearm parts illegally imported into Australia comprise a small proportion of all firearms diverted into the black market' and, based on data from the NFTMP, illegal importation only made up one per cent of total diversions.⁴⁵ Figures from the ACC's *National Illicit Firearm Assessment* released in 2012 'revealed there are tens of thousands of illegal firearms' in Australia and that only three of 237 handguns seized by police had originated overseas.⁴⁶ The assessment:

...identified that the Australian illicit firearms market is predominantly comprised of firearms diverted from licit domestic sources. Firearms tracing found that less than one per cent of firearms traced were illegally imported, however, the risk of illicit importation was likely to continue to increase.⁴⁷

2.39 The AIC expressed similar views:

In terms of illegal importation, we can only go on the analysis that we did of the firearm trace database. It certainly demonstrated that from that data illegal importation was a fairly small contributor to handguns and to long-arms as well. I appreciate that there are different views about that, that the New South Wales police do believe that illegal importation is playing a pretty predominant role in terms of handguns coming into the country. Other jurisdictions and other entities within the Commonwealth have differing views. Obviously, in the last couple of years we have had some significant importation issues with handguns coming into New South Wales.⁴⁸

2.40 The Australian Customs and Border Protection Service (ACBPS) acknowledged the ACC's findings in relation to the contribution of illegal importation to the illicit firearms market but assured the committee it was not complacent:

We are conscious of evidence previously given and the report by the Australian Crime Commission with respect to the view that the vast majority of firearms in the Australian illicit market are diverted from the

44 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 56.

45 ACC, *Submission 75*, p. 4.

46 'Black market supplying illegal guns, according to Home Affairs Minister Jason Clare', *Daily Telegraph*, 14 May 2012, available: <http://www.dailytelegraph.com.au/black-market-supplying-illegal-guns-according-to-home-affairs-minister-jason-clare/story-e6freuy9-1226354243081> (accessed 21 March 2015).

47 Australian Customs and Border Protection Service (ACBPS), *2012–2013 Annual Report*, available: <http://www.customs.gov.au/aboutus/annualreports/2013/p3d.html> (accessed 21 March 2015).

48 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

domestic licit market...However, we are conscious within Australian Customs and Border Protection that we are vulnerable to illicit importations of firearms, particularly in relation to whole firearms and firearms parts, and that that risk has the potential to increase as criminal entities seek weapons. But we are very vigilant to that issue.⁴⁹

2.41 The ACBPS also confirmed that it is impossible to quantify the number of firearms that enter the country undetected. Instead, this information is derived from the organisation's detection data as well as intelligence information:

We are talking about an illicit market. So in relation to how many times it happens, the answer is: we do not know what we do not know. However, we do have a tracing mechanism now through the Australian Crime Commission and if guns were being imported into the illicit market using criminality and seized, we would be aware of those and be able to do that work in relation to a post-detection analysis. Operation Maxworthy relates to that particular seizure. Even with the work that we do with New South Wales we are making seizures at the border, so we are not complacent about it, but what we have not got is examples where those sorts of large importations are occurring. We do a lot of work with international partners. We do a lot of work with the firearms manufacturers. I think if those were happening on a regular basis, they would be a lot more visible in the environment, and we do not have an intelligence picture to suggest that that is the case.⁵⁰

2.42 With regards to intelligence, Mrs Karen Harfield, National Director of Intelligence, explained that detecting firearms was about understanding the various risk factors, which include factors such as high-risk destination or departure countries or type of items.⁵¹ She also discussed situations where the ACBPS has worked with overseas partners in sharing intelligence, which helps in targeting onshore arrivals:

In the channels, say, for passengers—and we do have finds on passengers—with air cargo and sea cargo we are supplied with information that gives us an opportunity to do analytical work while that individual or that cargo is in transit. That leads us to targeting in a particular way. Then, once onshore, we have got those detection capabilities such as the X-ray machines. We have chemical detection capabilities and, obviously, the people part of that is a really important aspect—in particular, in international mail because we do not have electronic data prior to mail arriving. Those are the types of work that we do. We clearly have an ability where partners might have intelligence through a number of their sources that would impact on what we might do and how we might intervene at the border. We are also able to provide intelligence offshore so, where we can impact offshore and reduce and mitigate risk, we will do so. For example, if we are looking at a

49 Mrs Karen Harfield, National Director Intelligence, ACBPS, *Committee Hansard*, 31 October 2014, p. 61.

50 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 62.

51 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 66.

particular network of criminality, we might provide information offshore so that actual importation never departs.⁵²

2.43 The committee heard that during 2013-14, the ACBPS detected 1737 firearms and firearm parts (49 handguns, 21 rifles, 10 shotguns, 525 parts and accessories and 1132 magazines).⁵³ The ACPBS also noted that serious criminal penalties exist with respect to illegal importation, with a penalty on conviction up to \$425 000 or 10 years imprisonment, or both.⁵⁴

2.44 The ACBPS discussed the practicalities of conducting screening at its international mail gateways:

It is a factory environment. There are massive volumes and a continual requirement around the conveyor belt system that they have there. On a practical day-to-day basis the intelligence piece provides support to the managers and the staff around detection methodologies and the types of concealments that we see on a regular basis. We have done training around recognition of firearms parts and what anomalies might look like within some of the detection technologies that we employ. We have a sort of layered approach to the use of detector dogs in particular circumstances, depending on the types of items we are looking at. There is that sort of broad level agreement on what risk looks like and therefore on how we deploy people physically in the environment. The main gateways are Sydney and Melbourne, and the predominant number of staff and detections are there.⁵⁵

Site visit: National Detector Dog Program Facility

2.45 In order to gain a better understanding of the role detector dogs play in locating firearms, the committee undertook a site visit to the National Detector Dog Program Facility located in Bulla, Victoria.

2.46 Originally focused on the detection of narcotics, the Detector Dog Program was expanded in 2003 'to include firearms and component parts, ammunition, explosives and chemical precursors'.⁵⁶ While visiting the facility, the committee observed dogs in the early stages of training learning to search pallets of goods to detect explosives (Figures 2.1 and 2.2). Customs officers explained that these exercises are used to teach the dogs the correct searching technique.

52 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 66.

53 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 64.

54 ACBPS, *Submission 61*, p. 3.

55 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 67.

56 ACBPS, *Detector dog program*, July 2006, http://www.customs.gov.au/webdata/resources/files/FS_detectDogProg040819.pdf (accessed 18 February 2015).

Figure 2.1: Customs' officer and dog searching pallet for explosives as part of a training exercise



2.47 The committee also observed younger dogs honing their natural instincts for searching through exercises conducted with their trainers:

Training is based on channelling each dog's inherent hunt and play drive. Dogs are conditioned to detect specific target odours and are rewarded by playing a vigorous game of tug-of-war with a rolled up towel. Training is based on positive reinforcement and strives to produce a dog that is self-driven and able to make independent decisions.⁵⁷

2.48 Detector dog teams are trained to find goods hidden in luggage, parcels, mail, cargo containers, vessels, vehicles, aircraft and on people:

Customs focuses on the training of various methodologies, including multi-purpose response dogs. These dogs are capable of searching both people and cargo and can work in Customs search areas. A multi-purpose response dog is trained to give a passive or "sit" response to people carrying or concealing items or a pawing or scratching response to cargo or areas where items might be hidden. This dual capability allows Customs to more effectively deploy detector dogs.⁵⁸

2.49 In 2012-13, detector dogs 'contributed to the detection of 2272 illegal imports and exports totaling 92.8kgs'.⁵⁹

57 ACBPS, *Training detector dog teams*, <http://www.customs.gov.au/site/page4305.asp> (accessed 18 February 2015).

58 ACBPS, *Detector dog program*, July 2006.

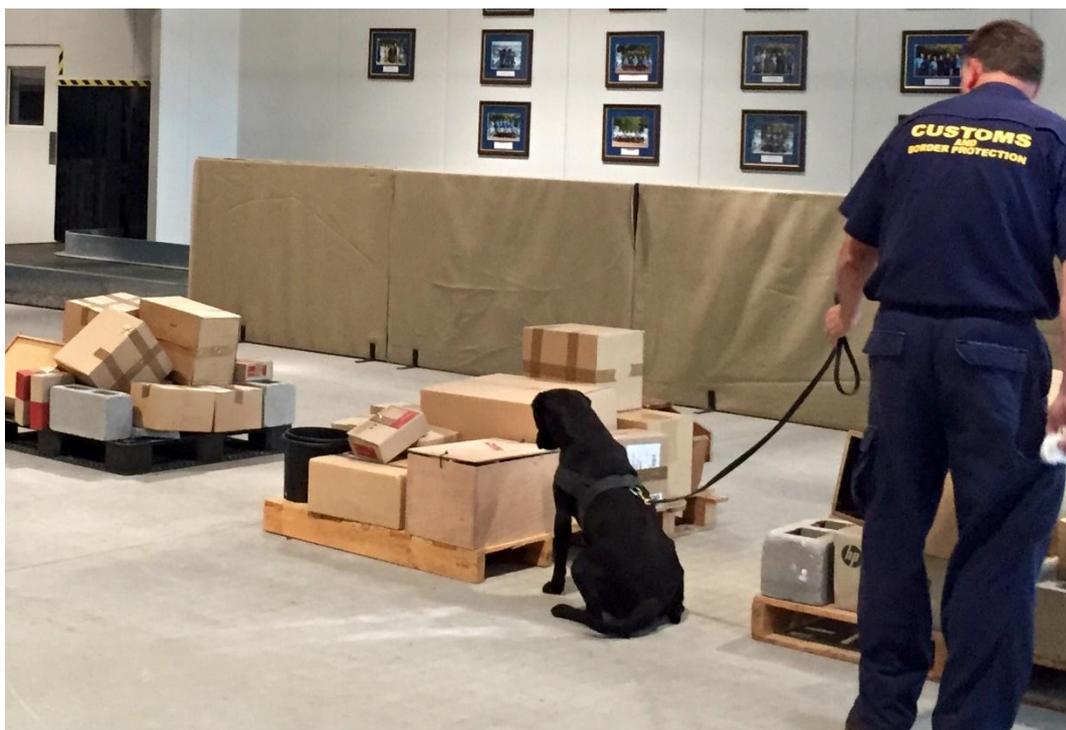
59 Senator the Hon Michaelia Cash, 'Minister Cash commends ACBPS Detector Dog Program', Media release, 29 November 2013.

2.50 Due to the difficulties finding dogs capable of completing the Program, Customs developed its own breeding program in the early 1990s which has been responsible for the birth of over 2500 Labrador Retrievers. The majority of these dogs have gone on to work as detector dogs, though not all as Customs dogs:

Many other agencies also use dogs bred by Customs, including the Australian Defence Force, the Australian Federal Police, the Australian Quarantine and Inspection Service and State and Territory police. Customs-bred dogs have been deployed in a variety of fields, including arson detection, food detection and/or explosives and firearms detection.⁶⁰

2.51 The committee was interested to learn that dogs are trained to detect narcotics, firearms, currency or explosives. In the past, dogs had been trained to detect both firearms and explosives. However, a positive response from a dog (see Figure 2.2) for a firearm results in a very different course of action (a more thorough inspection of an article) to that taken for an explosive (evacuating the area). For this reason, Customs no longer trains dogs to detect both—dogs now specialise in one or the other.

Figure 2.2: Detector dog alerting handler to the presence of explosives in the package as part of a training exercise



2.52 The committee would like to thank the customs officers at the National Detector Dog Program Facility for their time and the knowledge they imparted and commends them on the important role they play in protecting the community.

60 ACBPS, *Detector dog program*, July 2006.

Figure 2.3: Committee members with Mr Glenn Scutts and Mr Smyl Fischer at the ACBPS Detector Dog Program facility



Manufacture of illicit firearms

2.53 With the exception of the potential for firearms to be manufactured through the use of 3D printing technology (discussed in chapter 6), the committee heard little evidence about the illegal manufacturing of firearms in Australia and the extent to which this might contribute to the illicit firearms market.

Identifying the source of illicit firearms

2.54 The main resource for identifying the source of illicit firearms in Australia relied upon by submitters and witnesses appeared to be research prepared by the AIC. The two main research projects undertaken by the AIC were the National Firearms Monitoring Program (NFMP) and the National Firearm Theft Monitoring Program (NFTMP). Both of these programs were established in response to particular firearm issues and had funding for a set period of time.⁶¹ Consequently, the majority of data focuses on the period from 2004-05 to 2008-09.

2.55 In 2012, the AIC also published a report into *Firearm trafficking and serious and organised crime gangs*, which included analysis of data from the National

61 Mr Doug Smith, Chief Executive Officer, CrimTrac, *Committee Hansard*, 31 October 2014, p. 32.

Firearm Trace Database (NFTD).⁶² The NFTD is based on traces conducted by the ACC between 2002 and 2012:

On behalf of Australian law enforcement agencies, the ACC conducts serial number tracing of both registered and unregistered firearms through the Firearm Trace Program. It provides insights into the points of diversion at which firearms enter the illicit market and the types of firearms used and seized as well as highlighting the changes in the illicit firearms market. Firearm trace data and sales information may also assist in the identification and initiation of investigations.⁶³

2.56 The ACC provided the committee with detailed information on the various processes involved in conducting a firearm trace, which include:

- Confirming that the information supplied is sufficient for tracing purposes;
- Checking the firearm factory frame/receiver serial number against the ACC Firearm Transaction Database (FTD), which currently stores some 1.5 million records of historical firearm transactions and the CrimTrac Agency National Firearm Licensing and Registration System (NFLRS), which consists of records submitted by states/territories. If no record of the firearm is identified on the NFLRS then searches are made for the same make and model firearms that have similar serial number structure – this provides an important avenue for potential identification of these firearms; and
- Contacting foreign law enforcement agencies where the firearm has been manufactured overseas and cannot be identified as recorded either in the FTD or NFLRS. In the case of US manufactured firearms the ACC can submit a firearm trace request to the USA Department of Justice. The ACC signed a memorandum of understanding with the Bureau of Alcohol, Tobacco, Firearms and Explosives in 2007 for the sharing of firearm related information, which also supports the United Nations Program of Action on Small Arms and Light Weapons for the tracing of illicit firearms.⁶⁴

2.57 The data obtained from the NFTD indicates that the majority of illicit firearms are diverted from the grey market.⁶⁵ The ACC noted that 'theft, failure to reconcile the interstate movement of firearms, and the importation of undeclared firearms and firearm parts are all key components of the illicit market' and that the means of diversion varied depending on the type of firearm.⁶⁶

62 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012.

63 ACC, *Submission 75*, p. 5.

64 ACC, *Answers to a questions taken on notice*, received 17 November 2014.

65 ACC, *Submission 75*, p. 4.

66 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

2.58 For illicit long-arms (shotguns and rifles) the grey market is the main source (92 per cent of restricted and 86 per cent of non-restricted long-arms)⁶⁷ with theft from licensed individuals and dealers the next most common source (4 per cent of restricted long-arms and 10 per cent of non-restricted long-arms).⁶⁸ The AIC noted that other methods of supply include illicit domestic manufacture, false deactivation, failure to notify of interstate transfer and illegal import, though these accounted for very few of the long-arms recorded in the NFTD.⁶⁹

2.59 According to the AIC, the primary sources of illicit restricted handguns are false deactivation (39 per cent) and theft or loss (31 per cent).⁷⁰ Non-restricted handguns are most commonly diverted to the illicit firearms by theft or loss: 50 per cent of all non-restricted handguns are stolen from legal owners.⁷¹ The ACC cited historical deactivation and technical loopholes, theft from licensed individuals and dealers, failure to reconcile the interstate movement of a firearm and importation of undeclared firearms and firearm parts as the main methods of diverting handguns into the illicit market.⁷² The ACC gave further evidence that the theft of handguns was quite small and that while it estimates there are 10,000 handguns on the illicit market 7500 of these are deactivated firearms.⁷³

2.60 While the NFTMP demonstrated that the majority of firearms lost or stolen constituted long-arms, with handguns only comprising 7 per cent of thefts between 2005-06 to 2008-09,⁷⁴ data from the NFTD found that a significantly high proportion of handguns were seized from serious and organised crime groups (SOCG).⁷⁵

2.61 According to the AIC, 40 per cent of firearms seized from SOCG were rifles and 39 per cent were handguns.⁷⁶ The AIC remarked that 'SOCG and non-SOCG seizures contrasted in the prevalence of handguns, with a significantly greater proportion of handguns found in association with SOCG'.⁷⁷

2.62 The AIC's *Firearm Theft in Australia* reports were also cited during the course of the inquiry, for example by the ACC. However, as highlighted by the Firearm Safety and Training Council, this series of reports is not currently produced by the AIC with the *Firearm Theft in Australia 2008–09* report 'the last of a series of

67 AIC, *Submission 76*, p. 6.

68 AIC, *Submission 76*, p. 6.

69 AIC, *Submission 76*, p. 6.

70 AIC, *Submission 76*, p. 7.

71 AIC, *Submission 76*, p. 8.

72 ACC, *Submission 75*, p. 4.

73 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

74 AIC, *Submission 76*, p. 10.

75 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

76 AIC, *Submission 76*, p. 4.

77 AIC, *Submission 76*, p. 4.

such reports funded by the Australian Government under the *Proceeds of Crime Act 2002*.⁷⁸ The Firearm Safety and Training Council argued that unless funding is provided to the AIC for the production of the *Firearm Theft in Australia* reports, this 'valuable source of reliable information' will cease.⁷⁹

2.63 Other submitters to the inquiry were critical of data provided by the AIC, particularly in regard to its findings regarding the sources of illicit firearms. Some of this conjecture appears to arise from the complexity of the AIC's datasets (both the NFTMP and the NFTD) and the definitions used for different types of firearms. The AIC attempted to clarify:

Firstly, the grey market is only long-arms, so we cannot talk about handguns in that respect. Definitely a lot of them would have been imported legally into Australia before the firearm reforms and then entered the grey market with reforms that came in either because the owner chose not to register the firearm or because they were not aware of the reforms.

I think there is a sort of conflation between some of the figures and a misunderstanding of how they work together. Again, based on the firearm trace database, it indicated that the theft was an important conduit to the illicit firearm market. That somewhat straddles the firearm theft monitoring program data that we have which showed that handguns contributed about seven per cent of all stolen firearms that were reported each year. I would like to add that there has been a lot of focus on, 'It's only seven per cent of firearms that are reported stolen are handguns.' It is proportionate with the number of registered handguns in the country, as we have found with rifles and shotguns as well. Just because we are finding that only a small proportion of handguns are being reported stolen I do not think there is necessarily a problem to show that it is an important conduit through to the illicit market. I do not think those figures are necessarily at odds with each other.⁸⁰

2.64 In terms of the completeness of data, the AIC noted that there was 'a high unknown response rate' (that is, untraceable firearms) with regards to the NFTD, predominantly with regards to long-arms.⁸¹ The ACC stated that there are a number of reasons for this 'which include defaced serial numbers, the firearm having no record of being registered in Australia or overseas, or the trace analysis not being finalised pending further information from industry sources'.⁸²

2.65 Questions were also raised regarding the completeness of the NTMP statistics, with some jurisdictions not providing data for certain years or providing incomplete datasets. Yet, overall, the AIC seemed pleased by the level of co-operation provided by the state and territory police forces:

78 Firearm Safety and Training Council, *Submission 73*, p. 3.

79 Firearm Safety and Training Council, *Submission 73*, p. 3.

80 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 49.

81 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

82 ACC, *Submission 75*, p. 5.

We have received excellent data, particularly from a number of jurisdictions. I would like to highlight Queensland in particular. Their data is excellent and has always been excellent in terms of the firearm theft monitoring program. It is very thorough. I must say the database that was developed for this monitoring program is extremely thorough. The data, for the most part, that we collected over that period of time has been complete and has allowed the analysis that we have done. But, as said, the majority of reported incidents that are included in the monitoring program are from private owners. Dealer stock, I think, represented less than 10 per cent. Then we have had the occasional theft from security organisations, and I think one or two from police. But for the most part it is from private owners.⁸³

2.66 The AIC itself advised that the study was based around reported firearm theft and therefore owners of unregistered or illegal firearms, or those who had failed to comply with the relevant storage requirements, were less likely to have reported their firearm stolen.⁸⁴

Need for more comprehensive data

2.67 A number of organisations called for stronger reporting requirements and more reliable data. For example, the Honourable Mr David Hawker shared his views regarding the dangers of inaccurate data:

One of the problems that you have, and will always have, with anything illegal is that your data is never going to be complete—in fact, it is going to be very incomplete—which means that it is wide open to interpretation and possibly exaggeration by vested interests. That in itself is something that has to be elicited through all the discussions. In the meantime, the bodies that could do more and have done more in the past, like the Institute of Criminology, have probably been discouraged from doing some of the work that they used to do.⁸⁵

2.68 The National Farmers' Federation (NFF) spoke about the importance for registered firearm owners of being able to protect their firearms from the criminal element and the need for more qualitative data:

I think one of the things that this inquiry really needs to get to is the data that is out there and available. There are statistics on guns, illegal gun use and gun theft, but there is not much qualitative data [about] what actually happens—how a gun actually falls into the wrong hands. Particularly when you are talking about regional areas and the farming community, if there is a concern around the current laws not already having their required effect because, for example, there is some issue with the use of gun safes or whatnot, that is something I think needs to be given some attention. There

83 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 49.

84 AIC, *Submission 76*, p. 9.

85 The Honourable David Hawker, *Committee Hansard*, 14 October 2014, p. 61.

are good laws are in place but, if gun thefts are happening...we need to understand why and how.⁸⁶

2.69 Mr Howard Brown, from the Victims of Crime Assistance League, stated that more data was certainly required to determine how firearms enter the illicit market:

...there has clearly been a great deal of discussion about the number of weapons that have been stolen from premises and used in the commission of crimes. There is such paucity of detail on that. According to the New South Wales Police submission, four per cent of handguns that were stolen were used in the commission of crimes. Is there a problem there or not? Clearly, four per cent is actually quite a small figure. If you go to the Victorian police, they have their own way of gathering data, so we do not know if we have a problem with the security of weapons or a problem elsewhere. Look at the last 2½ years in Sydney specifically. We have, unfortunately, become the drive-by capital of the world. We have had an enormous number of drive-bys and yet we know through the Integrated Ballistics Investigation System that the New South Wales Police use that a number of those weapons have been used on multiple occasions by different perpetrators, so you cannot say that that was caused by incorrect storage. But we still have the problem, and the person who has their house shot up does not really care whether the gun was stolen or brought into the country illegally. We need to determine what the cause of the problem is, because you cannot fix it unless you know what the problem is.⁸⁷

86 Ms Sarah McKinnon, Manager, Workplace Relations and Legal Affairs, National Farmers' Federation (NFF), *Committee Hansard*, 13 October 2014, p. 18.

87 Mr Howard Brown OAM, Vice-President, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, pp 10–11.

