

## Chapter 5

### Effectiveness of registering and licensing firearms

5.1 One of the main changes that occurred as a result of the National Firearms Agreement (NFA) was the introduction of compulsory registration and licensing of firearms (see chapter 1). All states and territories in Australia committed to introducing firearms registration schemes and requiring individuals to apply for a licence before they could possess and use firearms.<sup>1</sup>

5.2 The ongoing need for and effectiveness of registration and licensing were raised by some submitters.

#### *Need for registration and licensing of firearms*

5.3 Some submitters to this inquiry questioned the need for registration and licensing. For example, the Shooters' Union of Australia Inc. questioned the need for registering firearms:

Our position is that causing the individual registration of long-arms post 1996 in the majority of Australia, which did not exist before, created the state based registries, which have cost most of the money since, in ongoing costs, and have caused most of the regulatory burden on a lot of shooters. They are very inaccurate. Removing those would take away the onus on the owner of the firearm. Therefore, if someone was already a licensed and approved shooter, then whichever firearm they had which was a legal type of firearm would be legal again, and it would eliminate or minimise a lot of the grey market, because the simple reality is that a lot of people, post 1996, did not turn firearms in to the compensated confiscation program known as the buyback. One of the things you are talking about in this hearing in is the numbers that are out there which are unknown. The numbers are unknown because people did that as an act, in most cases, not of criminal intent but of civil disobedience.<sup>2</sup>

5.4 Other submitters supported the requirement that firearms be registered and licensed, arguing that it did not impose an unreasonable burden on firearm owners:

As a private citizen and as a firearms owner, I think it is a public safety issue. It is not a popular view amongst the shooting fraternity, but firearms hold a unique position in our consciousness. They may well be no deadlier than a knife and they may well not be the weapon of choice for thieves and gangs, but they loom large in our consciousness. I have no objection as a gun owner to having my firearms registered by an appropriate authority.

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1 For further information see: S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, pp 6–22, <http://www.aic.gov.au/publications/current%20series/rpp/100-120/rpp116.html> (accessed 2 October 2014).

2 Mr Graham Park, President, Shooters Union of Australia, *Committee Hansard*, 31 October 2014, p. 18.

Prior to 1996, I had my firearms registered and I did not really have to. I do not think it is a huge impost. We register our cars and we do not object to that. I think it is a reasonable safety issue. Importantly, from this point of view, what it does do is isolate legitimate firearms owners so that you can actually concentrate on the illegal firearms. If you are just looking after the mass of firearms you have an impossible job and you will never manage illegal firearms. If you can say that 99 per cent of them are identified and in good hands, your job of identifying the one per cent and controlling them is much reduced.<sup>3</sup>

5.5 Mr Roland Browne, from Gun Control Australia, spoke about the importance of registration in preventing firearms from being diverted to the illicit market:

Registration has its own importance within the field of firearms control. It ensures that firearms that are bought and sold can be traced such that they are only bought from or sold to a person with a licence. Secondly, and most significantly, registration of firearms has a major role to play in the solving of crimes involving firearms. In terms of a link between registration of firearms and reduction of gun violence, my answer to that is, firstly, that if there is a consequence whereby the reduction of regulation, as you call it, leads to any change, I think that would be some years down the track. Secondly, I suspect it would be hard to pick how a reduction in gun violence, or any change in the levels of gun violence, could be sheeted home directly and solely to a reduction in registration requirements.<sup>4</sup>

5.6 The Attorney-General's Department (AGD) gave evidence that removing the licensing requirements would undermine the system used when determining import approvals:

The licensing of not just dealers but any individuals who might be seeking to import what would otherwise be a prohibited weapon, but fall into the exemptions in the Customs regulations that allow them to import guns for vertebrate pest control or for testing and demonstration, or any other of the range of exemptions that are set out in the Customs Act. We will always check that those people are licensed, and licensing is done through the states and territories, so that would obviously have an impact.<sup>5</sup>

5.7 Overall, there was strong support to retain the current requirements for registration and licensing, which were implemented following the adoption of the NFA. The NFA also recommended that these systems be linked, which led to the introduction of the National Firearm Licensing and Registration System (NFLRS):

The National Firearm Licens[ing] and Registration System (NFLRS) was developed in response to a recommendation of the Australasian Police Ministers' Council to ensure "effective nationwide registration of all

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3 Mr Edward Stanley, *Committee Hansard*, 14 October 2014, p. 60.

4 Mr Roland Browne, Vice-President, Gun Control Australia (GCA), *Committee Hansard*, 14 October 2014, p. 6.

5 Mr Andrew Warnes, Director, Firearms Section, Attorney-General's Department (AGD), *Committee Hansard*, 31 October 2014, p. 59.

firearms". The National Firearms Agreement (1996) recommended that New South Wales, Queensland, and Tasmania immediately establish an integrated license and firearms registration system. The remaining jurisdictions were required to review their existing registration systems to ensure compatibility so that the databases could be linked. The NFLRS was designed to address this recommendation, serving as a national 'reference library' for police and law enforcement agencies.<sup>6</sup>

5.8 When CrimTrac was established in 2002 it took over the management of the NFLRS. CrimTrac noted in its submission that the NFLRS 'provides information to police and law enforcement agencies on past and present firearm licence holders; licensed firearm dealers; registered and handed in/destroyed firearms; and lost, stolen and transferred firearms'.<sup>7</sup> The NFLRS operates in conjunction with the National Police Reference System (NPRS) which 'supports police and other law enforcement agencies by providing key reference data to support first responders, investigators and analysts'.<sup>8</sup>

### ***Effectiveness of current registration and licensing systems***

5.9 Some submitters questioned the adequacy and effectiveness of the registering and licensing systems to provide an accurate record of where registered firearms are located. Mr Stanley explained that the current system is based on individual state and territory records which are not linked with each other:

All police jurisdictions, with the exception I think of Western Australia, have their own systems, the ACC presumably has its system and the Federal Police have their systems. They are not integrated. They do not talk to each other. They communicate via an elementary system, run by CrimTrac, which we are very familiar with, having used it as the basis of the 2003 handgun buyback, which is riddled with inconsistencies, mistakes, errors and simply does not record things that should be there. We attempted and we established relationships with a couple of jurisdictions, New South Wales and Queensland. We established low-level information interchange. At best, it was ad hoc and it was not timely. It was periodic. We have suggested that this needs to be integrated in real time.<sup>9</sup>

5.10 The committee heard from some law enforcement authorities that the current registration and licensing systems suffer from certain weaknesses and are in need of improvement. For example, the Australian Federal Police (AFP) discussed problems arising from the inability of law enforcement bodies to track individual firearms:

There is obviously a lot of leakage—I mentioned earlier the [National Firearms Interface], this national register that is intended to prevent that leakage—where firearms are not re-licensed or change hands when they go

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6 CrimTrac, *Submission 87*, p. 3.

7 CrimTrac, *Submission 87*, p. 3.

8 CrimTrac, 'Our services', 2011, [http://www.crimtrac.gov.au/our\\_services/index.html](http://www.crimtrac.gov.au/our_services/index.html) (accessed 3 March 2015).

9 Mr Stanley, *Committee Hansard*, 14 October 2014, p. 56.

interstate and the records are lost and they are out there in the communities. That is one of the sources for firearms that can potentially end up in that illicit space. And then there are thefts, and that is quite clearly the case. Certainly the data I have seen recently in relation to thefts are numbers that are substantially greater than what we are seeing seized at the border, but really that is about as far as I can go.<sup>10</sup>

5.11 The NSW Police also raised concerns regarding tracking the movement of firearms, particularly when firearms are sold interstate:

To assist, we embarked on a recent audit of a prominent Sydney gun dealership—a shop as opposed to a private sale. I can report that, at the conclusion of the audit of the gun shop, there were errors found in their record-keeping for some 44 firearms. I think they were able to rectify those anomalies within a 24-hour period, indicating that some of those guns had in fact been sold interstate. So, in terms of the recording mechanisms for the interstate movement of firearms, I think at this point in time it would be safe to say that, for the most part, it is really on a case-by-case basis as to how those recordings are actually maintained, whether they are maintained on a database at the individual gun shop or in a handwritten ledger. So there is some work to be done there and there are some improvements to be made. They are certainly not classified as lost firearms from New South Wales police's perspective.<sup>11</sup>

5.12 The AIC also commented on the weaknesses of the current system, advising the committee:

Diversion by interstate transfer is potentially facilitated by a mix of legislative and administrative loopholes. Until recently, there was no structured system agreed to by all state and territories in the reconciliation of firearm transactions between jurisdictions. Aware of this anomaly, some dealers have diverted licit firearms to the illicit market by falsely declaring on their dealer returns disposal of firearms to other companies or individuals interstate, when in fact the firearm never left the dealer's possession. This vulnerability assisted in the intra and inter-state diversion of firearms, predominantly handguns.<sup>12</sup>

5.13 CrimTrac acknowledged that 'in its current state, the NFLRS no longer meets the information needs of police and law enforcement'.<sup>13</sup> CrimTrac discussed some of the limitations with regards to the current system:

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10 Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 77.

11 Detective Acting Superintendent Jason Herbert, Commander, State Crime Command, Firearms and Organised Crime Squad, NSW Police, *Committee Hansard*, 31 October 2014, p. 50.

12 For further information see: S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 26.

13 CrimTrac, *Submission 87*, p. 3.

The NFLRS, the National Firearms Licensing and Registration System, is a capability which does its best to bring that information to a single place, but it does not take the place of the local system. It is a high-level aggregation of information that is known locally, but it does not take the place of the local system. At the port of import when a B709 is issued under the Customs Regulation to import a firearm, that is recorded in a Customs system. When that firearm goes into the Northern Territory firearms dealer in Cavanagh Street in Darwin, it will then go into the Northern Territory licensing system and then be uploaded into the national system from the Northern Territory system. Obviously, that is not a good system. It is inefficient; it creates a whole series of potential problems for the transference of information. What has recently been approved by all state and territory police ministers is for CrimTrac to build a new system to replace the current one. Over next couple of years CrimTrac will build a better capability to ensure that we do it better.<sup>14</sup>

5.14 As discussed earlier, the Joint Commonwealth-New South Wales Review of the events that took place during the Martin Place siege (*Martin Place siege report*) referred to a number of flaws in national firearm databases.<sup>15</sup>

5.15 The *Martin Place siege report* identified three major flaws with the operation of the NFLR and the NPRS:

- Gaps in the data—due to the lack of registration and licensing requirements pre-1996 a large number of firearms remain unaccounted for and make up the grey market. The lack of sharing arrangements between the State and Territory regarding firearm data was also viewed as an issue;
- Inconsistency across data holdings—the issue of whether Monis had lawful access to a gun was complicated by the fact there was no automatic interconnectivity between the NPRS and NFLRS; and
- Firearms are not tracked over time—the NFLRS does not give an indication of a person’s firearms possession history without more detailed interrogation. The system is person-focussed, rather than tracking firearms throughout Australia. This creates the potential for firearms to drop off the system if they are not registered with new owners, by owners who have relocated or where registration lapses.<sup>16</sup>

5.16 While certain weaknesses have been identified with the current systems, no law enforcement authority recommended that these systems should be removed.

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14 Mr Doug Smith, Chief Executive Officer, CrimTrac, *Committee Hansard*, 31 October 2014, p. 27.

15 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, pp 48-49, <http://www.dpmc.gov.au/pmc/publication/martin-place-siege-joint-commonwealth-new-south-wales-review> (accessed 23 February 2015).

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

Rather, CrimTrac informed the committee that these problems had been recognised and a new system has been approved by state and territory ministers for development:

To summarise, the current system started back in the early 1990s. Its intention was to create a national view of known records that were accurate and consistent at the time. It is not transactional in that it follows the life of the firearm. It is only a point-in-time record. The state and territory ministers in particular recognise that we need to have a better system. The current system is called the National Firearms Licensing and Registration System. We are now approved by ministers to move to get a better system. Implicitly, one of the outcomes of the new system will be better data. Finally, if I could just make the point that the system is aimed at the regulatory knowledge we have about firearms and shooters. It is not a system that is built as an intelligence capability and it is not a system that will necessarily identify weapons that are not known to police or dealers or whatever.<sup>17</sup>

### ***Development of the National Firearms Interface***

5.17 In 2012, the Australian government introduced a range of measures aimed at targeting the illicit firearms market, which included the establishment of a National Firearms Interface (NFI).<sup>18</sup> The NFI is intended to be 'a national shared firearms solution for law enforcement that provides a single, shared record for each firearm, firearm owner, and event in a firearm's existence in Australia'.<sup>19</sup>

5.18 CrimTrac noted that the NFI is expected to provide a range of benefits, including:

- more accurate information for law enforcement agencies regarding the presence of firearms;
- reduction in the number of firearms transferred to the grey market;
- increase in the automation of firearm management capabilities;
- improvement of the efficiency and effectiveness of firearm registry and shopfront processes;
- shortening the turnabout time for routine licensing procedures;
- reduction in the number of duplicated firearm records and other relevant entities; and

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17 Mr Smith, CrimTrac, *Committee Hansard*, 31 October 2014, p. 27.

18 Australian Crime Commission (ACC), *Illicit Firearms fact sheet*, 2013, <https://www.crimecommission.gov.au/sites/default/files/ILLICIT%20FIREARMS%20JULY%202013.pdf> (accessed 2 October 2014).

19 CrimTrac, *Submission 87*, p. 6.

- improved information sharing between state, territory and Commonwealth law enforcement agencies, and better information on firearm event history and status.<sup>20</sup>

5.19 As there are currently '30 different registers and databases across federal, state and territory agencies which are not linked', the establishment of the NFI is seen as 'critical to sharing information between law enforcement agencies around the country—and allows a firearm to be tracked through the course of its life'.<sup>21</sup> CrimTrac submitted that the NFI will 'address the research data needs of police and law enforcement agencies as well as researchers and academia'.<sup>22</sup>

5.20 With regard to the NFI, the *Martin Place siege report* recommended:

CrimTrac, in cooperation with Commonwealth and State Police and law enforcement agencies should prioritise bringing the National Firearms Interface into operation by the end of 2015.

And:

States and Territories' police forces should conduct an urgent audit of their firearms data holdings before the National Firearms Interface is operational where this has not already occurred.<sup>23</sup>

#### *Issues with state and territory registration systems*

5.21 While the NFI will be a step forward and should deliver a range of benefits, it will still rely on information provided by the states and territories. The NFI can only be as good as the data upon which it relies and submitters noted that a number of inconsistencies exist with regards to the various police registries and the way in which firearm sales are recorded.<sup>24</sup> Indeed, the recent *Martin Place siege report* stated that 'the information in the new system will only be as good as the information already in the state databases' and included a recommendation that 'State and Territory police agencies, that have not already done so, should as a matter of urgency, audit their firearms data and work to upgrade the consistency and accuracy of their own holdings

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20 CrimTrac, *Submission 87*, p. 6.

21 The Hon Julia Gillard MP, the then Prime Minister, 'National Plan to Tackle Gangs, Organised Crime and the Illegal Firearms Market', Media release, 6 March 2014.

22 CrimTrac, *Submission 87*, p. 6.

23 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. ix.

24 Mr Russell Pearson, Consultant, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 42; Mr Jeffery Gordon, Sales and Marketing Manager, Winchester Australia Ltd, *Committee Hansard*, 14 October 2014, p. 42; Mr Barry Howlett, Executive Officer, Australian Deer Association Inc., *Committee Hansard*, 14 October 2014, pp 47-48; Mr Stanley, *Committee Hansard*, 14 October 2014, p. 56.

before transferring it to the NFI'.<sup>25</sup> The report also recommended that CrimTrac fast-track the introduction of the NFI to make it operational in 2015.<sup>26</sup>

5.22 Some submitters offered suggestions as to how the inconsistencies between state and territory registries could be addressed. The NSW Police Force discussed the need for a national approach for the registration of firearms and recommended that firearms dealers be required to keep computer records:

At the risk of completely upsetting the people in the industry, I think we could look at some better ways. We have spoken for a number of years about automating the way dealers keep records. Pawnbrokers have kept automated records and provided them for many years, and that is not even for goods that are dangerous weapons like firearms. There should be no reason why that should not happen, apart from the suggestion that sometimes the security of information is at risk. While potentially information can be compromised, if it is maintained on a secure database that possibility is restricted.<sup>27</sup>

5.23 Winchester Australia Ltd discussed the benefits of online registration systems:

I am nodding because the feedback I get from dealers all over the country is that the Victorian registration of firearms, with their online system, is superior to that of other states. The online registration of firearms is a lot more efficient than the systems other states are using and has kind of been the benchmark within the industry. In terms of helping the industry keep itself regulated and accurate in terms of data, that online registering of firearms is extremely good, and it helps businesses to keep doing business legally.<sup>28</sup>

5.24 The AIC has previously noted that the different approaches used to classify and record firearm and licensee records has led to the NFLRS containing misclassified and miscoded records.<sup>29</sup> CrimTrac submitted that the introduction of the National Firearms Identification Database (discussed below), will increase the cross-jurisdictional integrity of firearm data holdings by improving data consistency and completeness'.<sup>30</sup>

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25 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 49.

26 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 50.

27 Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police, *Committee Hansard*, 13 October 2014, pp 51–52.

28 Mr Gordon, Winchester Australia Ltd, *Committee Hansard*, 14 October 2014, p. 42.

29 CrimTrac, *Submission 87*, p. 5.

30 CrimTrac, *Submission 87*, p. 5.

### *Other firearms systems*

5.25 In addition to development of the NFI, in February 2013, the National Firearm Identification Database (NFID) was deployed to all Australian police agencies, ACBPS, the ACC and AGD. The NFID is:

...a reference tool that assists with the identification of firearms. The database consists of templates that define the common attributes used to identify and characterise a firearm, such as make, model, calibre and capacity. Consistent with INTERPOL's Firearms Reference Table (IFRT), the NFID provides a reference to enable the consistent identification and recording of firearms.<sup>31</sup>

5.26 CrimTrac explained the purpose of the NFID:

The idea of the NFID, the identification database, is to have an accurate record of known firearms so that people can look at the library and say, 'If I am looking for a serial number, a model number or the make of a firearm, and this is the firearm.' So if it was a Model 70 Remington, for example, where there are a lot of iterations, it tells you where to look, what the serial number is, as opposed to a model number and things such as that, to make sure you get an accurate description. It is based on the information that is available from dealers and importers and our known information. I will point out that it is also consistent with international descriptions that are used by Interpol and the North American police forces, for example.<sup>32</sup>

5.27 CrimTrac also discussed the launch of the Australian Ballistic Information Network (ABIN) in May 2014, which 'is a national capability for the electronic collection, storage and analysis of recovered ballistic evidence'.<sup>33</sup> It was described to the committee as 'fingerprints for guns' and has been in place in New South Wales for a number of years:

The Ballistic Information Network does not care whether or not it is a registered firearm. It is purely concerned about crime scene material, cases or whatever, and it matches that to a firearm. That will help by enabling police to know that that firearm is known, through crime scene material. The success we have had both within New South Wales for many years, and now nationally, is that we are connecting those firearms. Just reading the evidence on the difference between a hot weapon and a cold weapon, obviously the fact that it is known to police makes it a pretty cold weapon, to use the terms used by some of your witnesses. What we cannot do of course is capture information about weapons that have never been known through a registration process. If it has never been brought into existence in a registration—illegal imports, or weapons that were not registered following the firearms agreement—we cannot capture that, of course. The system can help. When police do seize firearms that have never been

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31 CrimTrac, *Submission 87*, p. 3.

32 Mr Smith, CrimTrac, *Committee Hansard*, 31 October 2014, p. 28.

33 CrimTrac, *Submission 87*, p. 4.

registered they too will be entered, so we do know about the weapon at that point. But we cannot capture that which is not known.<sup>34</sup>

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34 Mr Smith, CrimTrac, *Committee Hansard*, 31 October 2014, p. 28.