

Chapter 7

Committee comment and recommendations

7.1 As discussed in the preceding chapters, this inquiry focussed particularly on illicit firearms and in doing so examined a range of issues relating to the illicit firearms market in Australia. The inquiry was predominantly concerned with understanding the impact illicit firearms have on the community and examining the effectiveness of current regulatory arrangements.

7.2 The committee heard evidence from a range of stakeholders regarding the composition of the illicit firearms market, the way in which firearms enter this market and the lack of data in relation to both of these. Submitters and witnesses also discussed the way in which the legal firearms market is regulated and the need for registering and licensing of firearms. The emergence of 3D manufacturing technology and the need for future regulation of this technology were also the subject of debate during the course of the inquiry.

7.3 The committee reiterates that it was not its intention to target law-abiding firearms owners. The committee received many submissions from firearms owners and heard evidence at its public hearings from shooting groups. These individuals and organisations made a valuable contribution to the inquiry, particularly in relation to regulations currently applied to firearms owners and the different regulatory regimes across the states and territories, as well as concerns around the privacy of personal information. The committee acknowledges that the majority of firearm owners do abide by the laws applying to them and their firearms, and use their firearms in a responsible way. Indeed, the statistics suggest there has been a decrease in the firearms death rate in Australia (see chapters 1 and 3) and Australia has not in recent years suffered a mass shooting of the kind seen in the United States.

7.4 Illicit firearms and their impact on the community are clearly a problem which encompasses far more than law-abiding firearms owners. It is, however, disingenuous to suggest that all registered firearms owners abide by the law all the time or that no firearms owners have relationships with, or connections to, people who seek to use firearms for illicit purposes. It would be complacent to ignore the problems with current firearm regulation which have been raised during the course of this inquiry and naïve to quarantine law-abiding firearms owners from reform. The committee cannot ignore the challenges faced by law enforcement authorities, particularly in identifying, discovering, seizing and tracing firearms. Those challenges include issues arising from emerging 3D manufacturing technology.

7.5 In response to some of these challenges, the remainder of this chapter considers a number of options for reform.

The illicit firearms market

7.6 One of the clear revelations arising out of this inquiry was the lack of accurate, comprehensive data with regard to illicit firearms in Australia. As discussed in chapter 2, due to the insufficiency of information available, it is difficult to make

conclusions regarding the size of the illicit firearms market or the manner in which firearms transition from the licit market to the illicit.

Size of the illicit firearms market

7.7 It is nearly impossible to estimate the size of the illicit market. This is due largely to the inability of law enforcement authorities to determine how many undetected firearms are illegally manufactured in or imported to Australia (black market firearms) and to an unknown quantity of so called 'grey market' firearms. Grey market firearms in Australia are those that became subject to new regulation in 1996, following the Port Arthur massacre, having been legal beforehand. The Australian Crime Commission (ACC) estimated the total number of unaccounted firearms in the community at 260,000.¹ The committee accepts the evidence provided by the ACC that this is a conservative estimate.²

7.8 The committee heard contested evidence about the extent to which grey market firearms are used for illicit purposes (see chapter 2). The committee notes the joint report of the Department of Prime Minister and Cabinet and NSW Premier and Cabinet on the Martin Place siege (*Martin Place siege report*), which concluded that the firearm used in that incident was most likely diverted from the grey market.³ This is a tragic example of a firearm obtained from the grey market being subsequently used for illicit purposes. The committee believes that a better understanding of the illicit firearms market would assist in preventing such incidents from occurring and that one way to achieve this is with more accurate data about the diversion of firearms to the illicit market.

7.9 The committee acknowledges the challenges of obtaining accurate data about illicit firearms but is concerned that the evidence presented during the course of the inquiry indicates that we do not know the size of the problem. It is clear that further measures are required to improve the quality and accuracy of the data collected and held nationally.

Quantifying methods of diversion

7.10 Witnesses and submitters consistently presented differing views about the source of illicit firearms and how they are diverted to the illicit market. This is hardly surprising, given the lack of visibility over the diversion of firearms into the illicit market, as discussed above.

7.11 As outlined in chapter 2, the committee received evidence from both the ACC and the Australian Institute of Criminology (the AIC) regarding the availability of data

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

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

3 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 45, <http://www.dpmc.gov.au/dpmc/publication/martin-place-siege-joint-commonwealth-new-south-wales-review> (accessed 23 February 2015).

on methods of diversion. During the inquiry, submitters and witnesses—including the ACC and AIC—identified shortcomings with this data.⁴ For example, the ACC is responsible for maintaining the National Firearm Trace Database (NFTD), which is based on serial number traces of registered and unregistered firearms conducted over a limited ten year period (from 2002 to 2012) and was intended to identify at what point a firearm entered the illicit market.⁵ An analysis of this data was last undertaken in 2012.⁶ By contrast, the AIC relies on research undertaken as part of the National Firearms Monitoring Program (NFMP) and the National Firearm Theft Monitoring Program (NFTMP).⁷ Both of these programs were only funded for a set period of time and therefore the majority of the data focuses on the period from 2004-05 to 2008-09.⁸ Further, data for the NFMP and NFTMP was provided by state and territory police which were not required to provide data in a consistent, uniform and comparable format.

7.12 It became clear during the course of the inquiry that there is concern among stakeholders regarding the accuracy of available data. Concerns included:

- the use of alternative datasets by the AIC and ACC which rely on different data collection methods;
- the age of the data available;
- the inability of the ACC to trace firearms in some circumstances;
- the quality of data provided by state and territory police; and
- the likelihood that owners of unregistered or illegal firearms, or those who fail to comply with the relevant storage requirements, are less likely to report their firearm stolen.

4 Dr Samantha Bricknell, Research Manager (Violence and Exploitation), Australian Institute of Criminology (AIC), *Committee Hansard*, 31 October 2014, p. 46; the Hon David Hawker, *Committee Hansard*, 14 October 2014, p. 61; Ms Sarah McKinnon, Manager, Workplace Relations and Legal Affairs, National Farmers' Federation (NFF), *Committee Hansard*, 13 October 2014, p. 18; Mr Howard Brown OAM, Vice-President, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, pp 10–11.

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

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

7 The NFMP was established to monitor the effects of the 1996 reforms and included information on the use of firearms to commit crime; firearm theft and illegal importation; firearm-related morbidity and mortality; patterns in licensing of firearm owners and registration of firearms; and firearm offences in general. The NFTMP examined the prevalence of firearm theft and the adequacy of storage requirements for firearms.

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

7.13 The cessation of the AIC's *Firearm Theft in Australia* series was also the subject of concern. These reports were identified by various submitters and witnesses as an important resource and it was suggested that funding for these reports, previously from the *Proceeds of Crime Act 2002*, should be reinstated to allow for continuation of the series.

7.14 These shortcomings in the currently available data on illicit firearms should be addressed. While the committee does not wish to suggest that improving the quality of data is a panacea for eliminating illicit firearms or resolving crime and violence associated with their use, more accurate data is a useful tool for identifying how and where law enforcement authorities should direct their effort and resources.

7.15 The committee is therefore persuaded that both the collection methods for, and reporting of data about firearms generally, and in particular their movement into the illicit market, must be improved. Comprehensive and accurate data will assist with the development of policies and regulatory arrangements, and empower both law enforcement authorities and other stakeholders to assess the effectiveness of those strategies. In order to achieve this, the committee recommends that the Commonwealth government review current data collection and reporting arrangements.

Recommendation 1

7.16 The committee recommends the Commonwealth government provide funding to allow programs, such as the National Firearms Monitoring Program and the National Firearm Theft Monitoring Program, and reports, such as those in the Firearm Theft in Australia series, to continue on an ongoing basis.

Recommendation 2

7.17 The committee further recommends the Australian Institute of Criminology conduct within three years a review of current data collection and reporting arrangements, with a particular focus on:

- **the need for more accurate data on firearm thefts, the recovery of stolen firearms and seizures of illegally imported firearms;**
- **the quality and comparability of data provided to Commonwealth agencies by state and territory police; and**
- **greater inter-agency co-operation with regards to data sharing.**

The need for consistent regulatory standards

7.18 The need for greater consistency between state and territory jurisdictions and the possible expansion of the Commonwealth's role in regulating firearms were raised during the course of the inquiry. In particular, submitters and witnesses discussed the need for consistent regulatory standards in relation to a range of issues including the regulation of firearm parts, accessories and ammunition; the adequacy of the current storage requirements for firearms; the security of personal information about firearm ownership; and the effectiveness of firearm amnesties (see chapter 4).

7.19 Some submitters discussed whether it was necessary for firearm parts to be subject to registration.⁹ The Law Institute of Victoria (LIV) noted that while some states and territories currently require that firearm parts be registered, the definition of what constitutes a firearm part varies across the different jurisdictions.¹⁰ The AIC noted that inconsistencies such as this had led to firearms being diverted to the illicit market, as firearms could then be sold without barrels or frames/receivers.¹¹ The committee believes that firearm parts should be subject to the same level of monitoring as firearms and recommends that the NFA be amended to require the registration of firearm parts.

7.20 Different storage requirements in different states and territories have led to unsafe practices, such as the sale of gun safes that do not comply with the relevant legislation, and confusion as to how and where firearms should be stored. Some submitters and witnesses advocated for uniform storage requirements in all jurisdictions.¹² Reforming storage requirements so that they are consistent across the nation would ensure that all states and territories have implemented adequate storage arrangements and would prevent confusion or inadvertent breaches of the law where firearm owners travel or relocate interstate.

7.21 The committee believes that the National Firearms Agreement (NFA) should be updated to include nationally consistent standards for the storage of firearms. These standards should reflect best practice and the highest standards currently observed in Australia, as opposed to the lowest common denominator.

7.22 Regulation of the deactivation of firearms was raised by a number of submitters.¹³ As discussed in chapter 3, while the majority of states and territories have now introduced legislation requiring deactivated firearms to be registered, others have yet to do so. The committee accepts that inconsistencies in this area have led to cases where firearms have been diverted to the illicit market. The Attorney-General's Department (AGD) suggested that jurisdictions should have similar legislative requirements for the deactivation of firearms in order to 'further restrict the movement of firearms to the illicit market'.¹⁴ The committee also recommends adoption of a national standard for how firearms are physically deactivated and understands that the

9 Law Institute of Victoria (LIV), *Submission 124*, p. 2; AIC, *Submission 76*, p. 18.

10 LIV, *Submission 124*, p. 2.

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

12 LIV, *Submission 124*, p. 7; Ms McKinnon, NFF, *Committee Hansard*, 13 October 2014, p. 20; Mr Peter Skillern, Policy Manager, Tasmanian Farmers and Graziers Association, *Committee Hansard*, 13 October 2014, p. 20; Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

13 For example AIC, *Submission 76*, p. 17; Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, pp 36-37.

14 AGD, *Submission 42*, p. 5.

Firearms and Weapons Policy Working Group is currently working to implement this standard.¹⁵

7.23 Both the LIV and AGD¹⁶ highlighted that the Commonwealth government currently has a limited role in the regulation of firearms and argued that it would be inappropriate for the Commonwealth's role to be expanded.¹⁷ The committee agrees that, given the states' and territories' current responsibilities in this regard, they should continue to regulate firearms but with far more consistency. The committee believes that the Commonwealth government should provide leadership and facilitate a process to encourage nationally consistent regulation for firearms, firearm parts and ammunition across all states and territories.

7.24 The committee is persuaded that the best way to achieve this is by updating the NFA. The committee notes that the *Martin Place siege report* contains a similar recommendation.¹⁸

Recommendation 3

7.25 The committee recommends that the National Firearms Agreement be updated to implement nationally consistent regulation in the following areas:

- **firearms, firearm parts and firearm accessories;**
- **ammunition; and**
- **the storage of firearms.**

7.26 The security of gun ownership data was explored in chapter 4. The committee acknowledges the need to guarantee the safety of information about gun ownership to prevent registered owners being targeted for theft. Evidence given during the course of the inquiry indicated that gun and shooting clubs are not currently required to follow any particular rules or standards in relation to the security of their membership records. The committee was alarmed that the main protection afforded gun ownership information by these clubs seemed to be their storage on a computer that is mostly disconnected from the internet.

7.27 The vulnerability of gun ownership records held by gun clubs should be rectified. The committee therefore recommends that the Commonwealth government work with state and territory governments to establish national standards for the security of membership data held by gun clubs.

15 AGD, *Submission 42*, p. 5.

16 AGD, *Submission 42*, p. 5.

17 AGD, *Submission 42*, p. 5; Mr Albert Yu, LIV, *Committee Hansard*, 14 October 2014, p. 13.

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

Recommendation 4

7.28 The committee recommends that the Commonwealth government, together with state and territory governments, establish national standards for the security of membership data held by gun clubs.

7.29 The use of firearm amnesties and their effectiveness as a method of removing firearms from the illicit markets, and especially the grey market, was considered in chapter 4.

7.30 NSW Police raised the ability to pursue individuals and investigative leads where a firearm used in a serious crime is forfeited and the sheer volume of firearms to be processed as challenges posed by gun amnesties for law enforcement authorities.

7.31 The committee acknowledges the continued use of a firearm amnesty in Tasmania and the huge number of firearms forfeited in the Australia-wide amnesty following the tragedy at Port Arthur in 1996. The committee is of the view that amnesties are an effective way of reducing the pool of illicit firearms in the community and recommends that an ongoing and Australia-wide gun amnesty should be implemented.

7.32 The committee is also cognisant of the issues described by NSW Police. With regard to processing potentially large volumes of forfeited firearms, police should be appropriately resourced to do so. The issue of identifying individuals and pursuing investigative leads where a firearm used in the commission of a serious crime is forfeited is more problematic. On the one hand, the purpose of an amnesty is to allow people to forfeit illicit firearms without penalty; on the other, serious crimes, particularly those where a firearm is used, should not go unpunished. The committee is not equipped to offer a solution to this particular problem but consideration should be given to it in the implementation of an ongoing gun amnesty.

Recommendation 5

7.33 The committee recommends that an ongoing, Australia-wide gun amnesty is implemented, with consideration given to ways in which this can be done without limiting the ability of police to pursue investigative leads for serious firearm-related crimes.

Registration and licensing of firearms

7.34 The committee supports the current requirements for registering and licensing firearms and considers them necessary in preventing firearms from being diverted to the illicit market. However, as part of its inquiry, the committee received evidence that there are weaknesses in the current registration and licensing systems which impact on their effectiveness. The National Firearm Licensing and Registration System (NFLRS), which was implemented following the adoption of the NFA, and the National Police Reference System (NPRS) are the two main systems currently used by police to track firearms. In particular, the NFLRS 'captures a "point-in-time picture" of

firearm information held by State and Territory police agencies' own firearm registries'.¹⁹

7.35 Submitters were generally of the view that the NFLRS has a number of flaws.²⁰ CrimTrac acknowledged these and advised that the National Firearms Interface (NFI) has been developed to replace the NFLRS.

7.36 The committee welcomes the development of the NFI and understands that it will provide a range of benefits to law enforcement agencies, including the ability to track a firearm over its lifespan. However, the committee is also concerned that the NFI will still rely on information provided by the states and territories.

7.37 The committee refers to the recent *Martin Place siege report* which 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 before transferring it to the NFI'.²¹

7.38 The committee concurs with the recommendation of the *Martin Place siege report* and supports the suggestion from the NSW Police Force for a national approach for the registration of firearms.²² It is the committee's view that there needs to be greater consistency in the data provided by state and territory police forces regarding the registration and licensing of firearms. The committee therefore recommends that all jurisdictions update their firearm data holdings and transfer these to the NFI.

Recommendation 6

7.39 The committee recommends that all jurisdictions update their firearm data holdings and ensure the data is transferred to the National Firearms Interface.

Development of 3D printed firearms

7.40 The innovation of 3D manufacturing technology and the possibilities it offers were an interesting aspect of the inquiry.

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

20 Mr Edward Stanley, *Committee Hansard*, 14 October 2014, p. 56; Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 77; Detective Acting Superintendent Jason Herbert, Commander, State Crime Command, Firearms and Organised Crime Squad, NSW Police, *Committee Hansard*, 31 October 2014, p. 50; S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, p. 26; CrimTrac, *Submission 87*, p. 3.

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

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

7.41 The committee heard about the significant developments that have occurred in this area and the opportunities it presents for Australia's manufacturing industry. In particular, the committee recognises the benefits 3D printing will provide to society in fields such as manufacturing, industry, medicine, arts and design. The committee acknowledges the significance of 3D manufacturing for many Australian industries and the potential for job creation, innovation and entrepreneurship in the sector.

7.42 However, the committee is also concerned that this technology will allow individuals to manufacture firearms. While submitters were generally of the view that 3D printed firearms did not pose a high risk to the community, there have already been cases where law enforcement authorities have uncovered individuals using this technology to manufacture firearm parts. The committee notes the challenges that 3D printed firearms pose for law enforcement, due to their disposable nature and the difficulty associated with detection using traditional methods.

7.43 It seems that current laws pertaining to firearms would apply equally to 3D printed firearms and firearm parts. However, the LIV argued that given the inconsistencies across the different jurisdictions regarding firearm regulation and the rapid changes in 3D manufacturing, uniform regulations covering 3D manufacturing should be considered.²³ The committee supports this view and recommends that uniform legislation regulating the manufacture of 3D printed firearms and firearm parts be introduced in all jurisdictions.

Recommendation 7

7.44 The committee recommends that Australian governments investigate the requirement for uniform regulations in all jurisdictions covering the manufacture of 3D printed firearms and firearm parts.

7.45 The committee recognises that rapid developments in 3D manufacturing technology are likely to enable the production of metal firearms. The committee considers it important that the government ensure that the law keeps pace with technological advances, without stifling innovation.

7.46 Submitters were generally of the view that although some regulation of 3D printing should be implemented, over-regulation should be avoided. The committee recognises these views and does not accept that banning the individual use of 3D printers or introducing a character test for ownership is either necessary or practical.

7.47 The committee recommends that Australian governments continue to monitor potential risks associated with the manufacture of dangerous items, such as firearms, posed by the emergence of 3D manufacturing.

Recommendation 8

7.48 The committee recommends that Australian governments continue to monitor the risks posed by 3D manufacturing in relation to the manufacture of firearms and consider further regulatory measures if the need arises.

23 LIV, *Submission 124*, p. 11.

Resourcing for law enforcement agencies

7.49 The committee recognises that a number of its recommendations impose an additional burden on law enforcement authorities and other government agencies both at a national and state and territory level.

7.50 The committee considers that in order to implement these recommendations, both Commonwealth and state and territory governments may require additional resources. Further funding for law enforcement agencies would also help ensure that these recommendations are implemented in a timely manner. The committee therefore recommends that consideration be given to the allocation of additional funding for this purpose.

Recommendation 9

7.51 The committee recommends that Australian governments consider committing further funding and resourcing to assist in implementing the preceding recommendations.

**Senator Penny Wright
Chair**

**Senator the Hon Joe Ludwig
Labor Senator for Queensland**