

# Chapter 1

## The inquiry

### Introduction and the role of the JPC

1.1 On 26 June 2003, the Committee adopted the following terms of reference:

That, in accordance with paragraph 55(1)(a) and (d) of the *Australian Crime Commission Act 2002*, the Parliamentary Joint Committee on the Australian Crime Commission inquire into and report on the Australian Crime Commission's response to the emerging trend of trafficking in women for sexual servitude with particular reference to:

1. the Australian Crime Commission's work in establishing the extent of people trafficking in Australia for the purposes of sexual servitude;
2. the Australian Crime Commission's relationship with the relevant State and other Commonwealth agencies; and
3. the adequacy of the current legislative framework.

1.2 The Inquiry was conducted under the authority of paragraph 55 (1)(d) of the *Australian Crime Commission Act 2002* (the Act). The paragraph states:

#### Duties of the Committee

(1) The duties of the Committee are:

...

(d) to examine trends and changes in criminal activities, practices and methods and report to both Houses of the Parliament any change which the Committee thinks desirable to the functions, structure, powers and procedures of the ACC;

1.3 The Australian Crime Commission's role is set out in section 7A of the Act which may be found at Appendix 3. At the core of the ACC's investigative role is 'federally relevant criminal activity' which involves 'serious and organised crime'. Section 4 of the Act sets out the characteristics of serious and organised crime.

### Origins of the inquiry

1.4 The Committee's inquiry stemmed in part from the emergence in the media of allegations of mishandling of cases of trafficked women by government agencies. Of particular concern was the allegation that women, who were in effect prisoners of

traffickers who forced them into the sex trade against their will, were simply deported by government agencies with no regard for their condition as victims of crime.<sup>1</sup>

1.5 During the course of the Committee's inquiry, the government announced several major initiatives to address these concerns and combat the problem of trafficking in women. These comprised first, a national program of measures released by the Australasian Police Ministers' Council (APMC), and second, a Commonwealth government package.

### ***National action plan to combat trafficking in women***

1.6 The Australasian Police Ministers' Council (APMC) committed all law enforcement agencies to the development of a National Action Plan to enhance efforts to combat these serious crimes. The APMC agreed that:

- All jurisdictions will review their legislation on sexual servitude and other offences related to trafficking.
- All jurisdictions will examine their current intelligence and information sharing practices.
- All jurisdictions will review current operational arrangements with the Department of Immigration and Multicultural and Indigenous Affairs to ensure victims of trafficking and sexual servitude are identified as victims of crime.
- The Commonwealth will work with States and Territories to develop the National Action Plan.
- Final proposals will be referred to the Board of the Australian Crime Commission for endorsement.

### ***Commonwealth Action Plan to Eradicate Trafficking in Persons***

1.7 This national approach will be led at the Commonwealth level by the development of the Commonwealth Action Plan to Eradicate Trafficking in Persons, which provides for:

- A new community awareness campaign to raise awareness of trafficking issues within Australia.
- A new 23-member Australian Federal Police (AFP) mobile strike team (the Transnational Sexual Exploitation and Trafficking Team) to investigate trafficking and sexual servitude.

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1 See for example: 'Sick and alone ... tragic end for a sex slave', *The Australian*, 13 March 03, p. 3; 'Sold at 12: nightmare ends in death', *Sydney Morning Herald*, 13 March 03, p. 7; 'Officials impotent on sex slave trade', *Weekend Australian*, 29 March 03, p. 15; 'Officials ignored sex slave's offer of help', *the Australian*, 1 April 03, p. 13.

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- A new Senior Migration Officer (Compliance) in Thailand, focused on trafficking in persons.
  - Closer links between the AFP and Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) officers in the detection and investigation of trafficking and enhanced training on trafficking issues.
  - New visa arrangements for potentially trafficked persons.
  - Comprehensive victim support measures provided through contracted case managers, including appropriate accommodation and living expenses and access for victims to a wide range of social support, legal, medical and counselling services.
  - Enhancement of arrangements, including access to additional support, for the small number of potential victims who may be required to remain in immigration detention.
  - Development of a reintegration assistance project for trafficking victims who are returned to key source countries in South East Asia.
  - Improvements to legislation to comprehensively criminalise trafficking activity.
  - Legislative amendments to make telecommunications interception available for investigating trafficking offences.<sup>2</sup>
  - Ratification, once all domestic requirements are in place, of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.<sup>3</sup>

1.8 Overall, the package is designed to 'focus on the full cycle of trafficking from recruitment to reintegration and to giving equal weight to the three critical areas of prevention, prosecution and victim support.'<sup>4</sup>

1.9 Also of relevance has been the introduction, in March 2004, of the Surveillance Devices Bill 2004, which (among other things) would enable surveillance devices to be used as part of the investigation into people trafficking and child sex tourism offences. The bill also seeks to expand the range of surveillance devices that may be used, to include data surveillance devices, optical surveillance devices and tracking devices.

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2 Made via the *Telecommunications Interception and Other Legislation Amendment Act 2003*, which came into force on 12 November 2003.

3 AGD, Submission 36 and Attachment: News Release, 'Australian government announces major package to combat people trafficking', 13 October 2003.

4 Ms Blackburn, *Proof Committee Hansard*, 26 February 2004, p. 14

### **Conduct of the inquiry**

1.10 The Committee advertised the inquiry in 'the Australian' newspaper on 26 June and 13 August 2003. In addition, the Committee wrote to a number of interested individuals and organisations, including the Australian Crime Commission, the Australian Federal Police, State and Territory police services, and non-government organisations. In response, the Committee received 39 submissions. These are listed at Appendix 1.

1.11 The Committee also held public hearings in Melbourne on 18 November 2003; in Sydney and Canberra on 25 & 26 February 2004; and a second hearing in Canberra on 30 March 2004. Details of these hearings are listed at Appendix 2.

1.12 As always, the Committee wishes to record its thanks to all those who took the time to prepare submissions to the inquiry and to those who participated in the hearings.

### **Outline of the report**

1.13 The following three chapters of this report essentially follow the terms of reference. Thus: Chapter 2 addresses the nature and extent of the problem; Chapter 3 examines the ACC's role in the overall Australian government's response to the problem, while Chapter 4 assesses the legislative framework that underpins Australia's response to the trafficking of women for sexual servitude.

1.14 Although the terms of reference focus on the role of the Australian Crime Commission, each of the chapters necessarily takes a broader view of the issues in order to ensure a thorough examination of the ACC's role in its wider context.