

# Chapter 7

## Addressing complex crime

7.1 For states struggling to deal with law and order at the community level, transnational criminal activity presents a significant series of challenges. As crime becomes more complex, states are required to develop new and increasingly sophisticated tracking and surveillance capabilities. This chapter examines the capacity of Pacific island states to manage the threat of complex transnational crimes such as money laundering and terrorism, before considering what the region is doing to build this capacity. Finally, in turning to the matter of cooperation and data and information sharing, the committee examines the efforts of the AFP, through the Pacific Transnational Crime Network, to improve intelligence sharing and coordination throughout the region.

7.2 The committee has already noted the various capacity constraints that reduce the ability of states to deal with transnational crime, and how bureaucracies and law enforcement agencies struggle to deliver services that require both technical skills and advanced technology. Dealing with highly organised and well-funded crime places even greater demands on the limited physical and human resources of law and order agencies in the region. The Pacific Islands Forum Secretariat suggested that because of capacity constraints, Pacific island states find it difficult to keep pace with transnational criminal activity:

Transnational organised crime has adapted faster and more efficiently than law enforcement and arguably continues to do so. They network more effectively and they trust and share more easily. The domestic response however, of legislation and law and order institutions is slow and the international response is even slower.<sup>1</sup>

7.3 As the AFP suggested, 'As crimes become more complex, the level of capacity to deal with them diminishes and a greater level of support is needed'.<sup>2</sup>

7.4 Of all the challenges faced in relation to combating transnational crime, the Pacific Islands Forum Regional Security Committee identified the limited capacity of states to share information as the greatest challenge:

The biggest impediment to effective law enforcement is communication and collaboration between law enforcement agencies. For too long, law enforcement agencies have been working in isolation from each other and with anecdotal information. No law enforcement agency is able to

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1 *Submission 69*, p. 22.

2 Australian Federal Police, answers to questions taken on notice, 8 September 2009.

effectively address criminal activity by itself; hence the need for better and stronger collaboration among agencies.<sup>3</sup>

7.5 Because transnational crime is, by definition, not contained to one state—and no single law enforcement agency is able to effectively address transnational criminal activity—it is critical that Pacific island states improve their coordination and cooperation. Ideally, any improvement in intelligence gathering and analysis in individual states must be supported by data and information sharing throughout the region.

### **Anti-money laundering and counter-financing of terrorism**

7.6 As suggested in Chapter 5, evidence received by the committee suggested that Pacific island states are vulnerable to money laundering and terrorism financing. The Asia/Pacific Group on Money Laundering (APG) is an international organisation which plays a key role in supporting the regional development of Financial Intelligence Units (FIUs). It also provides research and analysis on money laundering and terrorism financing trends and coordinates technical assistance and training.<sup>4</sup> The APG consists of 39 members and a number of international and regional observers, including the United Nations, International Monetary Fund, World Bank, Asian Development Bank and the Egmont Group of Financial Intelligence Units.<sup>5</sup> Members from the Pacific include: Cook Islands, Fiji, the Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tonga and Vanuatu. PNG is a Priority Observer, and Kiribati is an Observer. The Australian Transaction Reports and Analysis Centre (AUSTRAC), Australia's anti-money laundering and counter-terrorism financing regulator and specialist FIU, is taking an active role in supporting PNG through the APG membership process.<sup>6</sup> Australia is the permanent co-chair to APG, a position held by the Australian Federal Police Commissioner.<sup>7</sup>

7.7 The APG is closely affiliated with the Financial Action Task Force (FATF), an international body whose purpose is to develop and promote national and international policies to combat money laundering and terrorist financing. All APG members commit to implement the FATF international standards referred to as the 40+9 Recommendations.<sup>8</sup> The Attorney-General's Department informed the

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3 Opening Address by Mr Tuiloma Neroni Slade, Secretary General, Pacific Islands Forum Secretariat, Forum Regional Security Committee Meeting, 4–5 June 2009.

4 *Submission 45*, p. 5.

5 An international group comprising 108 financial intelligence units.

6 Somewhat confusingly, while Attorney-General's refer to 'counter-financing of terrorism' or CFT, AUSTRAC refer to counter-terrorism financing, or CTF. This usage should be standardised and CFT would appear a more logical expression.

7 AUSTRAC, *Submission 45*, p. 5.

8 See APG website: <http://www.apgml.org/default.aspx> (accessed 29 September 2009).

committee that no country, including Australia, is scoring 100 per cent compliance against those standards but that this is an evolving process.<sup>9</sup>

### *Australian initiatives*

7.8 In recent years, Australia has committed substantial resources to assisting Pacific island states deal with anti-money laundering and counter-financing of terrorism (AML/CFT), through systems assisting with the collection and analysis of suspicious financial activity. This work is undertaken by the Attorney-General's Department and AUSTRAC.

7.9 The Attorney-General's Department has an Anti-Money Laundering Assistance Team (AMLAT) of seven technical advisors that assists 14 Pacific island states implement anti-money laundering/ counter-financing of terrorism arrangements. These advisers provide technical assistance to FIUs, and assist police investigators, customs officials, prosecutors and judges. The committee notes that AMLAT has developed useful technical assistance programs which include providing Pacific prosecutors with short-term placements with the Director of Public Prosecutions and the mentoring of police in the Cook Islands and Fiji on the investigations of financial crimes.<sup>10</sup>

7.10 AUSTRAC has assisted Pacific island states establish FIUs and has assisted them with training in the reporting of suspicious transactions. This has given states the capacity to record cross-border movement of currency, transactions above a threshold amounts and other suspicious activities. AUSTRAC offered the following description of the role of FIUs:

FIUs are responsible for receiving, analysing, and disseminating suspicious transaction reports and details of large transactions to the competent authorities (such as law enforcement and anticorruption agencies). By collecting and analysing transaction reports, FIUs provide critical information that assists in detecting criminal activity. Conversely, a lack of access to financial intelligence can dramatically slow investigations and limit the capacity for law enforcement to detect, investigate and disrupt crime.<sup>11</sup>

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9 *Committee Hansard*, 21 November 2008, p. 54.

10 Attorney-General's Department and Australian Customs Service, *Submission 40*, p. 6.

11 *Submission 45*, p. 2. *A Pacific engaged* reported that many countries of the Pacific were now in the process of implementing anti-money laundering and counter terrorism programs but lacked Financial Intelligence Units (FIUs) to facilitate the exchange of financial intelligence. The committee therefore recommended that the government: '...provide dedicated additional funds to Austrac to enable the agency to strengthen its support for Pacific Island efforts to address money laundering and terrorist financing'. Senate Standing Committee on Foreign Affairs, Defence and Trade, *A Pacific engaged: Australia's relations with Papua New Guinea and the island states of the south-west Pacific*, August 2003, p. xxix.

7.11 All members of the Pacific Islands Forum have passed legislation to deal with anti-money laundering and counter terrorism financing. AMLAT is also involved in reviewing the AML/CFT legislation that Pacific island states have introduced. Many, however, struggle to enforce the legislation.<sup>12</sup> Attorney-General's has also appointed a 'mentor' who assists Pacific states with investigations and prosecutions.<sup>13</sup>

7.12 Since 2004, AUSTRAC has assisted six Pacific states establish FIUs: Cook Islands, Samoa, Tonga, Vanuatu, Palau and Solomon Islands, and are currently working on establishing a FIU in PNG.<sup>14</sup> Australia has assisted Pacific island states with developing their capacity through developing a database application support project or the FIU-in-a-box. The FIU-in-a-box system is an application designed to assist developing FIUs in the collection, storage, analysis and dissemination of financial intelligence. AUSTRAC explained:

We developed a microcosm of our technical solutions, our database, and put that into what we call a 'black box', so that it cannot be pulled apart and broken, and provided that to a number of the nations in the Pacific. We found that we had to do some more work with the Cook Islands because of the quantity of information that they were getting and the type of information that they were getting. We found that, with Fiji being a larger nation, we needed to develop a larger system for them. We have done all of that work. We have put those programs into place. We have trained the people using those programs.<sup>15</sup>

7.13 The FIU-in-a-box system has been one of the more significant advances in the area and the Egmont Group of FIUs is considering the application of FIU-in-a-box globally.<sup>16</sup>

7.14 Because the technical expertise may not be readily available in the Pacific, AUSTRAC have also been involved in training officers in analytical techniques that will assist with the use of the FIUs.<sup>17</sup>

### ***Continuity of funding***

7.15 When AUSTRAC appeared before the committee, it explained that some of the funding for its activities in the Pacific is non-recurrent and delivered through the

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12 In its submission, AUSTRAC cited the joint Pacific Anti-Money Laundering project/IMF/Commonwealth Secretariat regional workshop (December 2007) where it was reported that most Pacific island states have a jurisdictional or legislative framework for regulating and reporting money laundering activities, but struggle to enforce or implement these, *Submission 45*, pp. 4–5.

13 *Committee Hansard*, 21 November 2008, p. 51.

14 *Submission 45*, p. 4.

15 *Committee Hansard*, 21 November 2008, pp. 44–45.

16 AUSTRAC, *Annual Report 2005–6*, p. 74.

17 *Committee Hansard*, 21 November 2008, p. 45.

Pacific Governance Support Program, which is a specific program of AusAID. AUSTRAC further explained, 'We have again submitted a proposal for funding through that program, and we are awaiting the outcome of that process'.<sup>18</sup>

7.16 The committee also acknowledges evidence given by the Department of Infrastructure, Transport, Regional Development and Local Government about non-recurrent funding:

Currently, the restrictive conditions of annual funding programs and the lengthy application process prohibit meeting resource needs. A more flexible aid program, reinforced by proactive initiatives (as opposed to reactive responses) would address needs effectively with a relatively small amount of funding.<sup>19</sup>

7.17 As noted in Volume I, the committee raised concerns about non-recurrent funding through the Pacific Governance Support Program (PGSP) with AusAID. AusAID acknowledged that non-recurrent funding for these projects 'undermines the partnership objectives' and does not give sufficient certainty to program operators. Explaining that 'multiyear funding would alleviate some of the limitations on the scheme', AusAID informed the committee that they are 'looking at opening up all grants (under the PGSP) to a multiyear basis to give them certainty'.<sup>20</sup>

## **Recommendation 5**

**7.18 The committee repeats its recommendation from Volume I (recommendation 14) that the Australian Government provide for longer-term funding for projects that are to span a number of years, as distinct from year-to-year funding approvals. This would provide greater certainty for AUSTRAC projects in the region.**

## **Pacific Transnational Crime Network**

7.19 As outlined above, the Pacific Islands Forum has identified the capacity of states to share information on transnational criminal activity as the greatest challenge. To assist states coordinate their efforts to fight transnational crime, Australia has helped establish the Pacific Transnational Crime Network (PTNC). The AFP described the PTNC as a 'proactive, tactical transnational criminal intelligence network for Pacific law enforcement agencies'.<sup>21</sup> In evidence provided to the committee, the AFP explained that the initiative establishes a core group of police, immigration and customs officials:

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18 *Committee Hansard*, 21 November 2008, p. 45.

19 *Submission 43*, p. 6.

20 *Committee Hansard*, 12 March 2009, pp. 11, 12.

21 *Submission 62*, p. 12.

...housing them in a quarantined piece of infrastructure with secure communications, intelligence analysis capability and modern police training to address those crime threats.<sup>22</sup>

7.20 The network connects Transnational Crime Units (TCUs) which have been established in different Pacific island countries.

7.21 The AFP has assisted in the establishment of TCUs in Fiji (2002), Samoa and Tonga (2003), Vanuatu and Papua New Guinea (2004). These TCUs are established within their existing policing organisations.<sup>23</sup> In April 2008, a sixth TCU was opened. A joint initiative between Australia, the United States and the Federated States of Micronesia (FSM), the AFP provided the FSM TCU with \$300,000 worth of equipment and support, including a new vehicle, intelligence training and an AFP advisor for the first 12 months.<sup>24</sup> All TCUs have received training and development to enhance their interoperability, including intelligence, investigations, operational security and specialist training.<sup>25</sup>

7.22 The TCUs feed into a central coordination centre, the Pacific Transnational Crime Coordination Centre (PTCCC) which is based in Samoa and has one AFP advisor attached to it.<sup>26</sup> The PTCCC analyses criminal intelligence data in the Pacific region and coordinates law enforcement intelligence provided by the network of TCUs and regional law enforcement agencies. It provides a central point for the exchange of criminal intelligence, not only between Pacific nations, but also the wider international law enforcement community.<sup>27</sup> The AFP also advised the committee that it is looking to expand the capacity of the PTCN to include the PPBP and information sharing on illegal fishing activity.

...collect and coordinate intelligence on illegal fishing activity, especially in terms of organised crime involvement and coordinating that information with the Pacific Patrol Boat Program so that we can better assist them in their planning, patrolling and interdiction efforts.<sup>28</sup>

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22 *Committee Hansard*, 21 November 2008, p. 70.

23 *Submission 62*, p. 12.

24 AFP media release, 'Joining together to fight crime in the Pacific', 24 April 2008, [http://www.afp.gov.au/media\\_releases/national/2008/joining\\_together\\_to\\_fight\\_crime\\_in\\_the\\_pacific](http://www.afp.gov.au/media_releases/national/2008/joining_together_to_fight_crime_in_the_pacific) (accessed 29 September 2009).

25 *Submission 62*, pp. 11–12.

26 *Submission 62*, p. 12.

27 The PTCCC was first opened in Fiji in 2004, bringing together law enforcement, customs and immigration agencies from across the Pacific. In 2008, the PTCCC was moved from Suva to Apia, Samoa. Minister for Home Affairs, Bob Debus, 'Pacific Crime Coordination Centre Opens in Samoa', [http://www.ag.gov.au/www/ministers/ministerdebus.nsf/Page/MediaReleases\\_2008\\_Secondquarter\\_10June2008-PacificCrimeCoordinationCentreopensinSamoa](http://www.ag.gov.au/www/ministers/ministerdebus.nsf/Page/MediaReleases_2008_Secondquarter_10June2008-PacificCrimeCoordinationCentreopensinSamoa) (accessed 23 February 2009).

28 *Committee Hansard*, 21 November 2008, p. 79.

7.23 The TCUs and the PTCCC are supported by regional police training initiatives and liaison between Australian and Pacific police. They have been responsible for several drug seizures in the Pacific.<sup>29</sup> The AFP claims that the establishment of the PTCN 'has significantly improved and enhanced relationships across Pacific law enforcement agencies resulting in a greater exchange and sharing of law enforcement intelligence'.<sup>30</sup>

### *Committee view*

7.24 While some Pacific island states have a reputation for lacking accountability when it comes to money laundering and offshore banking, efforts by the Australian Government and the Pacific Islands Forum Secretariat have helped to create or strengthen legislation to address money laundering. The Australian effort to establish financial intelligence units across the Pacific has improved monitoring and regulatory capacity. The committee acknowledges the success that the Attorney-General's Department and AUSTRAC have had in developing FIUs and their important work training Pacific officers in analysis. The committee believes that it is important that there is continuity of funding for these programs and that training be expanded to include maintenance, technical assistance and other forms of follow-up support. The committee acknowledges the benefit of ongoing technical training becoming supplemented with legal training that would assist states in their capacity to prosecute offenders who have breached anti-money laundering and counter-terrorism financing legislation.

7.25 This chapter has also noted that the limited capacity of Pacific island states to monitor activity and share information makes them vulnerable to transnational organised crime. However, because transnational crime, by definition, crosses borders, no law enforcement agency is able to effectively address transnational criminal activity by itself. Therefore, it is critical that Pacific island states improve coordination and cooperation on such issues. As suggested in the discussion on maritime security, the committee believes that cooperation and data and information sharing is critical to combating transnational criminal activity. The committee acknowledges the effort of the AFP, through the Pacific Transnational Crime Network, to improve intelligence sharing and coordination.

7.26 In this chapter, the committee noted the work done by AUSTRAC and the Attorney-General's Department to establish Financial Intelligence Units (FIUs) in six Pacific island states. It also noted the work undertaken by the AFP to establish Transnational Crime Units (TCUs) in six states. The committee has already expressed concerns about the potential for overlap or duplication between various security-related initiatives. Based on the evidence it received, the committee sees that there is

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29 Susan Windybank, 'The Illegal Pacific, Part 1: Organised Crime', *Policy*, vol. 24, no. 1, Winter 2008, [http://www.cis.org.au/policy/winter08/windybank\\_winter08.html](http://www.cis.org.au/policy/winter08/windybank_winter08.html) (accessed 24 November 2009).

30 *Submission 62*, p. 12.

an opportunity, at least in Samoa, Tonga and Vanuatu (where there are both FIUs and TCUs) to integrate them. The committee considers it important to ensure that there is no unnecessary duplication of programs and that the endeavours of intelligence gathering units are coordinated in terms of their objectives, their information sharing and their delivery.

### **Recommendation 6**

**7.27 The committee recommends that the relevant Australian government agencies (Attorney-General's, AUSTRAC and AFP) investigate ways to eliminate overlap and duplication in delivering their responses to combat transnational crime. In particular, the committee recommends that the Australian Government examine the possibility of integrating existing initiatives to deal with transnational crime, such as the Financial Intelligence Units and Transnational Crime Units.**