



# CHAIR ANNUAL REPORT 2013-14

## BOARD OF THE AUSTRALIAN CRIME COMMISSION



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ISSN 1832-1291

# Letter of transmittal

30 January 2015

The Hon Michael Keenan MP  
Minister for Justice  
Parliament House  
Canberra ACT 2600

Dear Minister

On behalf of the Board of the Australian Crime Commission, I am pleased to present our annual report for the financial year ended 30 June 2014.

The *Australian Crime Commission Act 2002* (ACC Act) requires that the Chair of the Board prepare a report on the Australian Crime Commission's operations during the year as soon as practicable after 30 June. In accordance with the ACC Act, I have provided our report to the Inter-Governmental Committee on the Australian Crime Commission for transmission and then to the Commonwealth Minister and the appropriate Minister of the Crown of each participating state. The ACC Act requires the report be laid before each House of Parliament, within 15 sitting days of that House, after you receive the report.

This report outlines the Australian Crime Commission's operations during 2013–14. It has been prepared in accordance with section 61 of the ACC Act.

During 2013–14, the Board contributed to the Crime Commission's strategic direction, considered key areas of work and supported national initiatives against serious and organised crime.

The Board would like to acknowledge the contributions of former Australian Crime Commission Chief Executive Officer, Mr John Lawler AM APM and former Chair of the Australian Crime Commission Board, Commissioner Tony Negus APM following their respective retirements during the year.

We also congratulate the Australian Crime Commission on its achievements this year, including investigative and intelligence outcomes that have contributed to a reduction in the threat and impact of serious and organised crime.



Andrew Colvin APM OAM  
Chair  
Board of the Australian Crime Commission

## About this report

This report by the Chair of the Australian Crime Commission Board documents the operations of the Crime Commission for 2013–14, as required by the *Australian Crime Commission Act 2002* (ACC Act). The Board does not have its own staff or budget so there are no financial statements to report.

This report is presented to the Commonwealth Minister for Justice and appropriate ministers of each participating state and territory.

The separate annual report by the Australian Crime Commission Chief Executive Officer (CEO) fulfils the requirements of government agencies under the *Financial Management and Accountability Act 1997* and the *Requirements for Annual Reports* issued by the Department of the Prime Minister and Cabinet.

It includes information about the Australian Crime Commission's progress against Portfolio Budget Statement performance indicators as well as details about the agency's structure, staffing and audited financial statements.

By producing separate reports, the Chair and the CEO are able to directly address requirements of the respective legislation.

## Contact details

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An electronic version of this report, along with further information about the Australian Crime Commission and its work, is available on the website at [www.crimemission.gov.au](http://www.crimemission.gov.au)

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## Coercive powers

The Australian Crime Commission's coercive powers are similar to those of a Royal Commission and may only be exercised by an Examiner for special operations or special investigations.

The special powers allow the Commission to summon a person to give evidence under oath, require the production of documents, demand information from Commonwealth agencies, apply for a search warrant, and require the production of a passport.

The Australian Crime Commission Board is responsible for determining if an operation or investigation is 'special', thereby authorising the use of coercive powers. These powers may only be used where traditional law enforcement methods have either not been, or are unlikely to be, effective.

## Chair's review

### Tony Negus APM



#### A year of collaboration and change

When the Australian Crime Commission was established in 2003, it provided an opportunity for law enforcement to come together under one banner to work collaboratively to manage nationally significant crime. In 2013–14, the need for this collaborative approach is as apparent as ever.

In a time when the sophistication and reach of serious and organised crime is growing, the Australian Crime Commission—with support of the Board—continues to bring together experts from a range of Commonwealth, state and territory law enforcement, national security and regulatory agencies to build the intelligence picture and strengthen Australia's response to serious and organised crime.

In October 2013, Chief Executive Officer (CEO), Mr John Lawler AM APM retired following a distinguished career in law enforcement and five years at the helm of the Australian Crime

Commission. The Board would like to acknowledge and thank Mr Lawler for his service and leadership during his tenure. Under his guidance the Australian Crime Commission truly became a national intelligence agency and has set the foundation for the innovative and collaborative responses required to tackle serious and organised crime.

In April 2014, the Board welcomed Mr Chris Dawson APM to the Australian Crime Commission. Mr Dawson's distinguished career in the Western Australia Police has provided him with the fortitude to lead and continue the important work of the agency. In welcoming Mr Dawson as Chief Executive Officer, the Board would also like to acknowledge and thank Mr Paul Jevtovic APM for his leadership of the agency following Mr Lawler's retirement.

During the course of 2013–14, the Board observed the practical application of the Australian Crime Commission's *Strategic Plan 2013–18*.

The Plan focuses on building the agency's capability and working with its partners to deliver effective results with the underpinning philosophy of 'discover, understand, respond'. This was the first year the Plan was in action, and the positive development of these focus areas was evident in the results achieved during 2013–14.

#### Innovation and action

As the sophistication and reach of serious and organised crime continues to increase, law enforcement must exceed the innovation demonstrated by organised criminals. In response, this year the Australian Crime Commission's activities led to 39 disruptions of criminal behaviour or entities—the highest in five years—the seizure of illicit drugs worth more than \$386 million and the arrest of 371 people on 617 charges.

However, these statistics are not the only notable achievements for the agency.

Through cross-jurisdictional collaboration, the sharing of intelligence and resources, harnessing new technologies, and drawing on the capabilities of both traditional and non-traditional partners—including the private sector—the agency and its partners are developing innovative techniques to identify and respond to policy, legislative and operational gaps in order to achieve effective outcomes.

The Eligo National Task Force is proving to be one of Australia's most successful money laundering investigations to date. Established by the Board in December 2012, the outcomes are unprecedented—just this year activities conducted by the Task Force resulted in 12 disruptions, the identification of 95 previously unknown criminal targets, the seizure of more than \$21 million in cash and drugs worth an estimated street value of more than \$140 million, and 227 charges against 110 people.

Established to reduce money laundering risks in the alternative remittance sector, Eligo is taking an innovative approach to investigative and intelligence activities. Using the tried and tested method of 'following the money', the Task Force is broadening its scope to track multiple targets involved in suspicious money movements, rather than focusing on one individual at a time.

As a result, Eligo is increasing understanding of money laundering methodology which is leading to not only arrests and seizures, but also the development of long-term prevention strategies which will drive professionalism within the sector making it more resistant to organised crime.

In June the Board authorised the extension of the Eligo National Task Force for a further 12 months until 30 June 2015. This will enable the continued delivery of strategies to mitigate the money laundering risks inherent in the industry.

Approved by the Board in June 2012, the Attero National Task Force continues to garner results and strengthen Australia's efforts to combat serious and organised crime. Attero was established to disrupt the criminal activities of the Rebels outlaw motor cycle gang.

Collaboration across jurisdictions has led to significant results for Attero, including 2276 arrests, the seizure of 39 firearms and other weapons and the recovery of more than \$15.5 million in tax debt. However, it is not just these results which demonstrate Attero's success.

Through enhanced cross-jurisdictional coordination, shared resources and capabilities, as well as the promotion of collaborative arrangements between traditional and non-traditional partners, the Task Force has created mechanisms for the ongoing identification and targeting of policy, legislative and operational gaps which support both jurisdictional and national responses to serious and organised crime.

The Australian Gangs Intelligence Coordination Centre commenced operations within the Australian Crime Commission's headquarters in December.

The Centre works across the Australian Crime Commission-led National Criminal Intelligence Fusion Capability and Joint Analyst Groups in providing a dedicated intelligence capability to the Australian Federal Police-led National Anti-Gangs Squad and its associated strike teams, and has provided invaluable strategic intelligence to its partners—including Board agencies—which has supported more than 28 state and territory investigations targeting outlaw motor cycle gangs.

The AGICC's unique and innovative data collection and information sharing capabilities have resulted in collaboration across the jurisdictions, influenced operational decision making and the formation of investigations, as well as improved understanding of outlaw motor cycle gangs.

## Now and into the future

The Board of the Australian Crime Commission continues to work with the agency to ensure it is focused on the highest criminal threats. In 2013–14, the Board authorised nine new special investigations and operations which effectively replaced previous Determinations, and authorised an additional special operation targeting outlaw motor cycle gangs.

The Board considered a range of strategic issues and advice throughout the year. In addition to intelligence products and advice provided by the agency, representatives also considered advice from the Australian Criminal Intelligence Forum and the Serious Organised Crime Coordination Committee.

Both these forums provide an opportunity to strengthen engagement across jurisdictions and with national security, policy and regulatory agencies, to support a consistent and collaborative approach to serious and organised crime.

Advice received from the agency and these forums assist to inform strategic direction and priorities, which enables the Board to lead the response to national criminal issues. For example, the Board considered a paper outlining the increasing risk posed by the uptake, diversity and sophistication of encrypted communications technology and the challenges faced by law enforcement and national security agencies as criminals increasingly use these technologies.

Related to issues around encrypted communications, the Board also considered data retention issues and the proposed legislative amendments to the *Telecommunications (Interception and Access) Act 1979*.

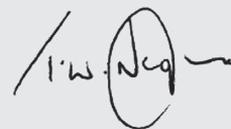
Recognising the need to continue to develop national collectively owned and used technologies, the Board considered options for the long-term future of the Australian Criminal Intelligence Database and Australian Law Enforcement Intelligence Network and supported the development of the National Criminal Intelligence System which will facilitate real-time collaboration and intelligence sharing.

The Board also considered a number of strategic intelligence products throughout the year including the *Organised Crime Threat Assessment 2014* which identifies the key nationally significant organised crime threats to allow for an integrated and collaborative Commonwealth response to organised crime, and the *National Criminal Target Report 2014* which provides a strategic overview of the threat and risk posed by serious and organised crime targets recorded on the National Criminal Target List.

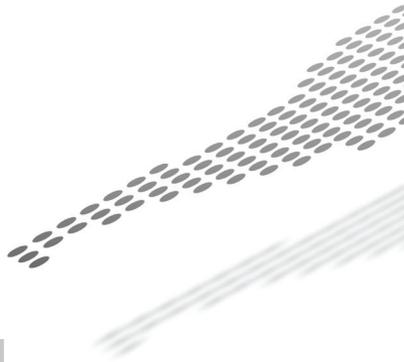
Through a combination of strategic, operational and tactical intelligence and investigative activities—as well as harnessing innovative technologies—the Australian Crime Commission will continue to develop and harness skills and resources from traditional and non-traditional partners and be able to achieve its vision of reducing serious and organised crime threats of most harm to Australians and the national interest.

## In conclusion

In September 2014, I will leave my role as Chair, Board of the Australian Crime Commission. While this report has provided me the opportunity to reflect on the achievements of the agency this year, I note that over the last five years—and indeed 10 years as celebrated in 2013—the agency has grown its intelligence and investigative capabilities to achieve very tangible outcomes for the benefit of the community. I have no doubt the Board will continue to drive successful collaborative responses to serious and organised crime now and into the future.



Commissioner Tony Negus APM  
Chair, Board of the Australian  
Crime Commission  
5 September 2014



The importance of working  
**collaboratively** to respond to  
nationally significant crime  
is as apparent as ever.



# 1

## Introduction

About the Board

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Board members and meetings

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# About the Board

The Australian Crime Commission Board is chaired by the Commissioner of the Australian Federal Police and is comprised of the heads of a number of Commonwealth, state and territory agencies, and the Chief Executive Officer of the Australian Crime Commission as a non-voting member. For more information about the composition of the Board see page 10.

## Board functions

The Board is responsible for providing strategic direction to the Australian Crime Commission and determining which investigations and operations will be authorised to include the use of the agency's coercive powers. The functions of the Board are outlined by the *Australian Crime Commission Act 2002* (the Act) and are to:

- determine National Criminal Intelligence Priorities
- provide strategic direction to and determine the priorities of the agency
- authorise—in writing—the agency to undertake intelligence operations or investigations relating to federally relevant criminal activity

- determine—in writing—whether the operations or investigations are deemed 'special' and as such coercive powers may be used
- determine—in writing—the class or classes of persons able to participate in an operation or investigation
- establish task forces
- disseminate strategic criminal intelligence assessments provided to the Board by the agency to domestic or foreign law enforcement agencies or to any other agency or body of the Commonwealth, state or territory prescribed by the *Australian Crime Commission Regulations 2002*
- report to the Inter-Governmental Committee on the agency's performance<sup>1</sup>.

The Board also undertakes other functions as conferred by other provisions under the Act.

## Strategic framework

The Board carries out its legislative functions under a formal strategic framework. The framework sets out the decision-making cycle which links the Australian Crime Commission's operating model with the Board's statutory decision making responsibilities.

The framework supports effective participation in processes and discussions to identify the agency's strategic direction and priorities, and achieve the Australian Crime Commission's outcome.

## Decision making

There are three phases to the Board's decision making process:

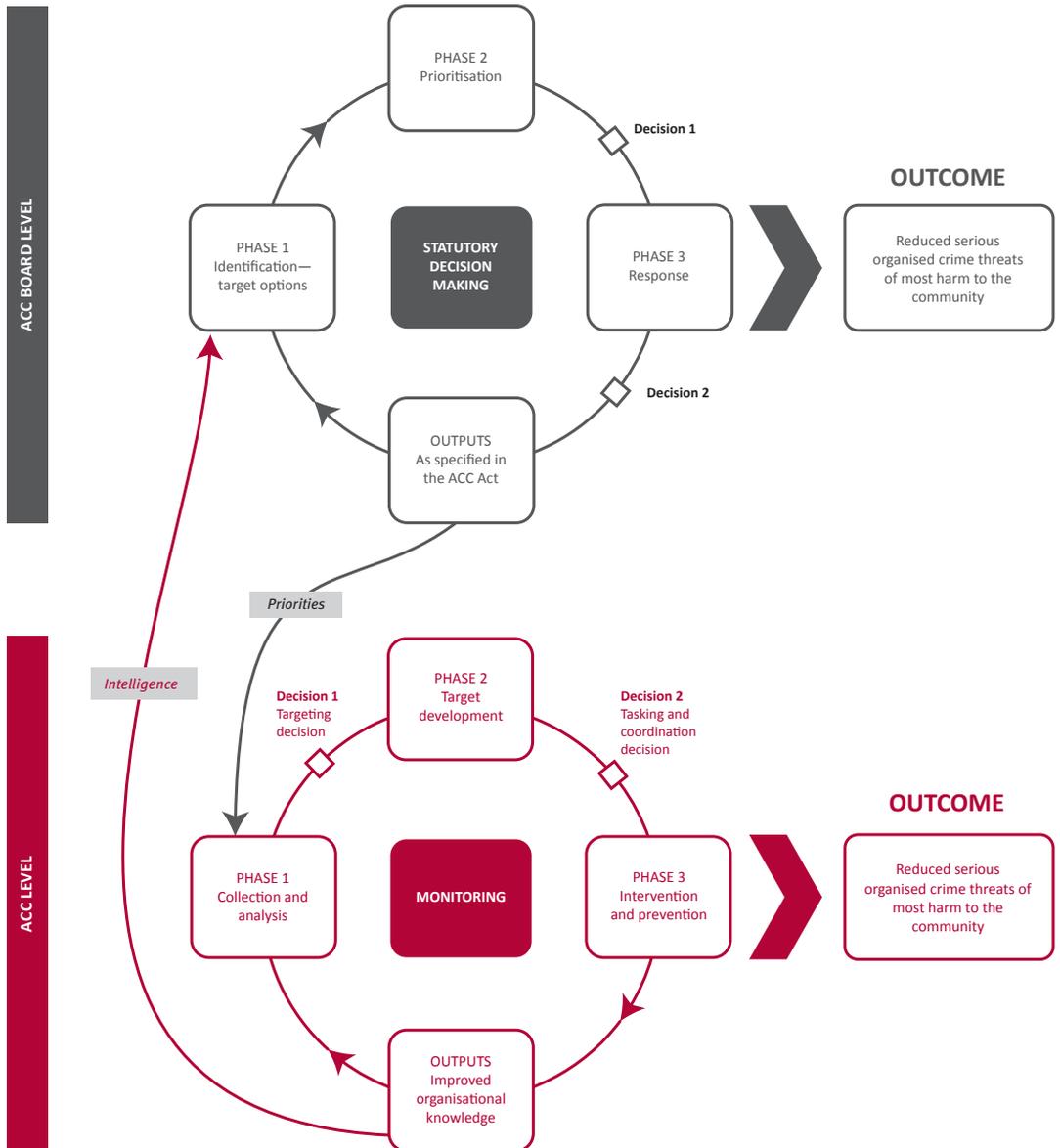
- Phase 1: identification—target options
- Phase 2: prioritisation
- Phase 3: response.

The Board receives and considers a range of intelligence products and information from the Australian Crime Commission. In considering advice from the agency—and drawing on their own experience as leaders in law enforcement, national security and regulatory arenas—Board members endorse the National Criminal Intelligence Priorities. This is a legislated function of the Board.

The Australian Crime Commission Board considers a range of matters throughout the year including strategic issues, significant areas of current agency work and potential new areas of work. Taking these matters into account, the Board sets priorities for the agency by authorising investigations and intelligence operations and confirms if these operations are deemed 'special' to enable the use of coercive powers.

<sup>1</sup> The functions of the Australian Crime Commission Board are outlined in Section 7C of the Act available [http://www.austlii.edu.au/au/legis/cth/consol\\_act/acca2002289/s7c.html](http://www.austlii.edu.au/au/legis/cth/consol_act/acca2002289/s7c.html)

### Strategic framework



# Board members and meetings

The Australian Crime Commission Board has 15 standing members, including the Chief Executive Officer who is a non-voting member. Under the Act, the Board is required to meet at least twice a year, however—in practice—the Board meets at least four times a year.

## Attendance at Board meetings 2013–14

	4 Sep 2013	27 Nov 2013	12 Mar 2014	11 June 2014
 Commissioner Tony Negus APM, Australian Federal Police [Chair]	✓	✓	✓	✓
 Mr Roger Wilkins AO, Secretary, Attorney-General's Department	✓	✓	✓	✓
 Mr Michael Pezzullo, CEO, Australian Customs and Border Protection Service	✓	✗	✓	✓
 Mr Greg Medcraft, Chairman, Australian Securities and Investments Commission	✓	✓	✓	✓*
 Mr David Irvine AO, Director-General of Security, Australian Security Intelligence Organisation	✓	✓	✓	✓
 Commissioner Andrew Scipione APM MM, NSW Police Force	✓	✓	✗	✓
 Chief Commissioner Ken Lay APM, Victoria Police	✓	✓*	✓	✓
 Commissioner Ian Stewart APM, Queensland Police Service	✓	✓	✓	✓

	4 Sep 2013	27 Nov 2013	12 Mar 2014	11 June 2014	
 Commissioner Gary Burns BM APM, South Australia Police	✓	✓	✓	✓	
 Commissioner Karl O'Callaghan APM, Western Australia Police	✓	✓	✗	✓	
 Commissioner Darren Hine APM, Tasmania Police	✓	✓	✓	✓	
 Commissioner John McRoberts APM, Northern Territory Police	✓	✓	✓	✗	
 Assistant Commissioner Rudi Lammers APM, Chief Police Officer, ACT Policing	✓	✓	✓*	✓*	
 Mr Chris Jordan AO, Commissioner of Taxation, Australian Taxation Office	✓	✓	✓*	✓	
 Mr John Lawler AM APM, CEO, Australian Crime Commission	✓				
 Mr Paul Jevtovic APM, Acting CEO, Australian Crime Commission			✓	✓	
 Mr Chris Dawson APM, CEO, Australian Crime Commission				✓	

\* Represented by a person officially acting in the Board member's position.  
Shading denotes person was not a Board member at the time of the meeting.

In 2013–14, the Board considered and approved applications to establish, extend or close existing agency work priorities (Determinations) and other activities:

### Board authorisations 2013–14

	Type	Decision type and date	Current until
Highest Risk Criminal Targets No.2	Special Investigation	Established 4 September 2013	30 June 2016
Targeting Criminal Wealth No.2	Special Investigation	Established 4 September 2013	30 June 2016
High Risk and Emerging Drugs No.2	Special Operation	Established 4 September 2013	30 June 2016
National Security Impacts from Serious and Organised Crime No.2	Special Operation	Established 4 September 2013	30 June 2016
Making Australia Hostile to Serious and Organised Crime No.2	Special Operation	Established 4 September 2013	30 June 2016
Indigenous Violence or Child Abuse No.3	Special Operation	Established 4 September 2013	30 June 2014 (closed)
Child Sex Offences No.2	Special Operation	Established 4 September 2013	30 June 2016
Highest Risk Criminal Targets—South Australia	State Special Investigation	Established 4 September 2013	30 June 2016
Highest Risk Criminal Targets—Victoria	State Special Investigation	Established 4 September 2013	30 June 2016
Outlaw Motor Cycle Gangs	Special Operation	Established 4 September 2013	30 June 2016
Eligo National Task Force	Task Force	Extended 11 June 2014	30 June 2015
Attero National Task Force	Task Force	Extended June 2014	31 December 2014

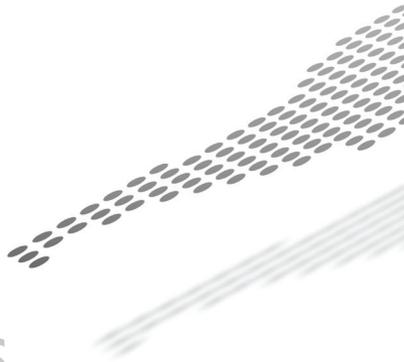
## Existing Board authorisations

The following authorisations were closed during 2013–14.

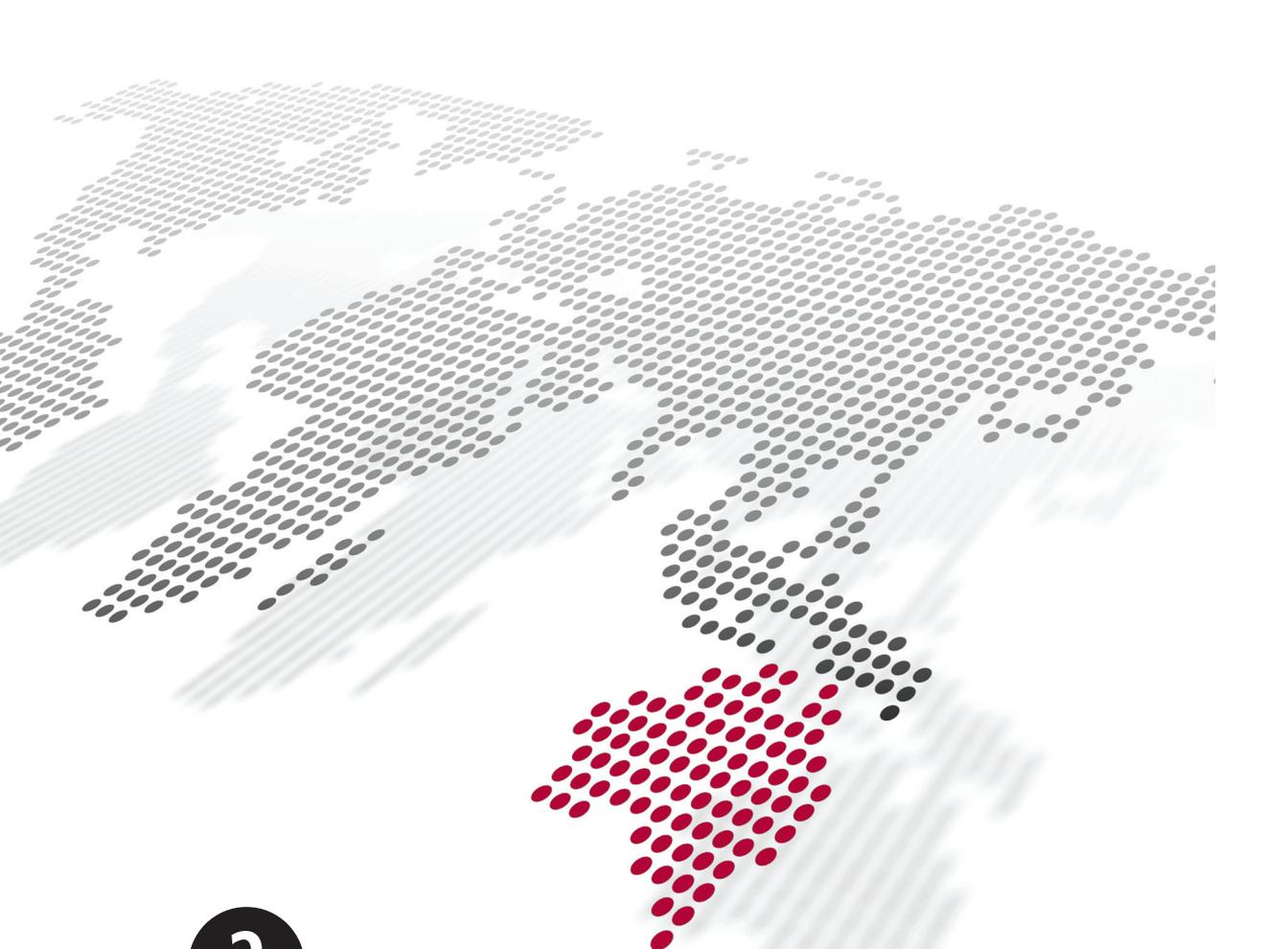
	Type	Decision type (month/year)	Current until
Task Force Galilee	Task Force	Extended 12 June 2012	30 June 2014
Indigenous Violence or Child Abuse No.2	Special Intelligence Operation	Extended 12 June 2012	30 June 2014
National Indigenous Violence or Child Abuse Task Force	Task Force	Extended 12 June 2012	30 June 2014

In addition, in 2013–14 the Board:

- considered a number of strategic issues, including:
  - the increasing risk posed to Australia’s law enforcement and national security agencies by increased uptake, diversity and sophistication of encrypted communications technology used by serious and organised crime groups
  - findings from the Australian Crime Commission’s 2012–13 Stakeholder Survey
  - proposed legislative amendments to the *Telecommunications (Interception and Access) Act 1979*, with a specific focus on data retention
  - options for the longer-term future of the Australian Criminal Intelligence Database and Australian Law Enforcement Intelligence Network
- received reports from the Chair of the Australian Criminal Intelligence Forum
- received reports on progress of key Australian Crime Commission activities, as well as reports from Chair of the Serious and Organised Crime Coordination Committee and Australian Crime Commission Audit Committee Chair
- discussed initiatives being progressed in response to the threats posed by outlaw motor cycle gangs
- considered the final lessons learned from the National Organised Crime Task Force
- considered three of the four intelligence products that make up the Picture of Criminality in Australia suite: *Organised Crime Threat Assessment 2014* and *National Criminal Target Report 2014* and *Illicit Drug Data Report 2012–13*.



As the **sophistication** of serious and organised crime continues, law enforcement must **exceed** the **innovation** demonstrated by these criminals.



# 2

## Description of activities

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# Special Investigations

The Australian Crime Commission Board establishes Special Investigations to disrupt and deter criminal groups by collecting evidence and intelligence about criminal activity. When the Board determines an investigation to be 'special' it enables the agency to use its coercive powers (see page 2).

In 2013–14, the Board approved four special investigations:

- Targeting Criminal Wealth No.2
- Highest Risk Criminal Targets No.2
- Highest Risk Criminal Targets—Victoria
- Highest Risk Criminal Targets—South Australia.

## Targeting Criminal Wealth No.2

Almost all organised crime is motivated by profit. Identifying and stopping illicit money flows is one of the most effective ways of disrupting serious and organised crime activities.

In September 2013, the Board approved the Targeting Criminal Wealth No.2 special investigation to continue the agency and its partners' work into financially motivated crime. The Targeting Criminal Wealth special investigation covers a broad range of criminal activities including, money laundering, serious and organised superannuation and investment fraud, and sophisticated tax evasion.

During 2013–14, the special investigation supported a number of multi-agency task forces or projects, including:

- Australian Crime Commission-led Eligo National Task Force
- Australian Federal Police-led Criminal Assets Confiscation Taskforce
- Australian Taxation Office-led Project Wickenby
- Australian Crime Commission-led Task Force Galilee.

Under the special investigation, 69 examinations were conducted and 419 intelligence products were shared with partners through 1084 disseminations. The intelligence products aim to build a greater understanding of emerging issues including:

- money laundering techniques and methodologies
- previously unknown entities laundering money between Australia and other countries
- involvement in money laundering schemes by high risk criminal targets.

In 2013–14, the Targeting Criminal Wealth No.2 special investigation contributed or led to the:

- seizure of more than \$21 million cash
- seizure of illicit drugs with a combined estimated street value of more than \$140 million

- seizure of precursor chemicals with an estimated street value of \$6.19 million
- restraint of more than \$132 million worth of assets
- issuing of tax assessments worth \$66 million and recoveries worth \$14.50 million
- disruption of 13 serious and organised criminal groups/networks
- arrest of 105 people on 216 charges.

The Targeting Criminal Wealth No.2 special investigation is authorised until 30 June 2016.

## Following the money—Eligo National Task Force

The Eligo National Task Force is proving to be one of Australia's most successful money laundering investigations. Approved by the Board in December 2012 and extended until 30 June 2015, the Task Force has already achieved significant traditional law enforcement outcomes, including:

- seizing more than \$37.86 million cash
- seizing drugs and precursors with a combined estimated street value of more than \$642 million through seizures in all states
- dismantling the largest ever clan lab discovered in Victoria
- discovering the largest indoor hydroponic cannabis crop in New South Wales
- seizing one of the largest amounts of liquid methylamphetamine in Victoria (365 litres in April 2013 in Melbourne)
- restraining more than \$30 million worth of assets and the referral of over 150 entities to the Australian Taxation Office (ATO) for suspected money laundering/tax evasion
- disrupting 25 serious and organised criminal groups/networks
- identifying more than 180 targets previously unknown to law enforcement
- arresting 167 people on 362 charges, including many serious drug offences.

In 2013–14, law enforcement outcomes included the:

- seizure of more than \$21 million in cash
- seizure of more than \$140 million in drugs and \$6.19 million in precursor chemicals
- discovery of 95 targets previously unknown to law enforcement
- disruption of 12 serious and organised crime entities resulting in 227 charges against 110 people.

However, it is the innovative methodologies the Task Force is using to respond to the identified criminality which has not only resulted in successful operational outcomes, but will also have an ongoing impact in how law enforcement continue to respond to serious and organised crime. Rather than using past methodologies which have focused on a single criminal entity, the Task Force broadened the net to simultaneously track multiple individuals involved in suspicious money movements.

Analysing information drawn from a variety of sources including the Australian Crime Commission-led National Criminal Intelligence Fusion Capability, foreign partners, human sources and the agency's special powers, the Task Force has been able to discover and understand emerging money laundering techniques and methodologies previously unknown to law enforcement.

In addition, the Task Force has been able to monitor the displacement that occurs—who moves in and how they take over—following arrests and seizures, meaning law enforcement does not have to start from scratch after each separate disruption.

The intelligence outcomes from Eligo are creating longer-term prevention options for law enforcement, government and the private sector. For example, with its partners, the Task Force is educating and assisting to drive professionalism in the remittance sector, as well as identifying legislative and other changes to make it harder for money laundering to occur.

The Task Force is also working with international partners to coordinate global efforts against money laundering as a number of identified high risk targets which are impacting Australia are based offshore. The Eligo model is now being replicated overseas.

The operational and intelligence outcomes are assisting the Eligo National Task Force—and more broadly law enforcement—to achieve its aim in making it too hard for money launderers to do business in Australia.

## Think across agencies to fight crime wave

## ATO in crackdown on wealthy tax cheats

### Reducing tax crime—Project Wickenby

In 2004, the Australian Crime Commission established Operation Wickenby to strengthen law enforcement and compliance activities against tax fraud. In 2006, it grew to the multi-agency Australian Taxation Office-led Project Wickenby. Today, Project Wickenby includes unprecedented Australian and international inter-agency cooperation.

The Australian Crime Commission's main contribution is to assist partner agencies by gathering intelligence to disrupt and deter tax fraud of national significance, advance proceeds of crime aspects of partner investigations, and recommend ways to enhance the legal and regulatory environment.

Key Wickenby highlights for the agency during 2013–14 included:

- providing intelligence to Wickenby partners which advanced their investigations and contributed to Criminal Assets Confiscation Taskforce referrals
- working with partners to develop the intelligence picture on the size and threat of serious financial crime impacting on the Commonwealth, assisting to focus and prioritise operational responses
- the conviction and jailing for seven years of alleged tax scheme promoter, Gregory Dunn for tax fraud in the Perth Supreme Court on 12 November 2013
- the sentencing of Stephen Wharton on three charges of dishonestly causing a loss to the Commonwealth by tax evasion in the District Court of Western Australia on 4 April 2014.

From 2004 to 30 June 2014, Project Wickenby recouped more than \$849 million, including:

- more than \$346 million in improved voluntary compliance
- more than \$500 million in cash collections
- \$2.75 million in other money recouped under proceeds of crime.

To date, 74 people have been charged with indictable offences and there have been 45 convictions. Since Wickenby started, the Australian Crime Commission has referred 19 people to the Commonwealth Director of Public Prosecutions for criminal prosecution.

## Highest Risk Criminal Targets No.2

The highest risk serious and organised crime entities pose one of the greatest threats to Australia's national interest. These criminals operate across one or more state borders and often have international links; as a result they have significant influence over illicit commodity markets in Australia.

The highest risk serious and organised criminals are highly skilled and are involved in a diverse range of licit and illicit activities. The risk presented by these entities highlight the importance of a nationally coordinated intelligence and investigative response.

The Highest Risk Criminal Targets No.2 special investigation was approved by the Board in September 2013 and works with Australian Crime Commission partners to:

- identify, detect and disrupt the highest risk serious and organised crime entities which represent the greatest threat in each jurisdiction and nationally
- reduce the threat posed by the highest risk criminal targets
- enhance national understanding of the serious organised crime environment.

This year, the special investigation focused on highest risk criminal entities involved in criminal finances, illicit markets, firearms and enabling activities and supported and worked with a number of multi-agency task forces and projects, including:

- Project Rosencrantz
- Project Conway
- Project Tricord
- Attero National Task Force.

Under the special investigation, 70 coercive examinations were conducted and 1088 intelligence products were shared with partners through 2955 disseminations. The intelligence products aimed to increase understanding about:

- highest risk criminal targets' structures and activities
- illicit commodity importation methods
- management of wealth and proceeds of crime
- communication methodologies
- factors that contribute to target longevity and resilience.

During 2013–14, the Highest Risk Criminal Targets No.2 special investigation contributed or led to the:

- seizure of approximately \$1.57 million cash
- seizure of illicit drugs with a combined estimated street value of more than \$244 million
- seizure of precursor chemicals with an estimated street value of more than \$107 million
- restraint of \$17.41 million worth of assets
- issuing of tax assessments worth \$15.5 million and recoveries worth \$1 million
- disruption of 15 serious and organised criminal groups/networks
- arrest of 255 people on 383 charges.

The Highest Risk Criminal Targets No.2 special investigation is authorised until 30 June 2016.

## Targeting the outlaws—Attero National Task Force

The Australian Crime Commission Board approved the Attero National Task Force to strengthen Australia's efforts against the serious and organised crime threat posed by the Rebels outlaw motor cycle gang<sup>2</sup>.

A key feature of the Task Force is the ability for each jurisdiction to have the discretion to respond to the threat in the most effective way for that jurisdiction based on understanding and intelligence provided. As a result, Attero uses a range of tactical, operational and strategic measures to achieve nationally significant outcomes, for example:

- Enhanced cross-jurisdictional coordination, use of resources and capabilities, and alignment of priorities promoting collaboration between traditional and non-traditional partners.
- Overcoming capability gaps and impediments to inter-jurisdictional collaboration and sharing of information and intelligence.
- Creation of mechanisms for ongoing identification and development of measures to target intelligence gaps and maintain an effective national response.
- Strengthened policy, legislative and operational arrangements to support jurisdictional and national efforts.

Key achievements during 2013–14 included:

- the arrest or reporting of 2276 Rebels members, nominees or associates
- 2991 charges, including serious assault, stalking, kidnapping, affray, firearms and weapons offences, drug offences and property, street and traffic offences
- the seizure of 39 firearms, as well as 54 other weapons such as knives
- nine Australian Crime Commission examinations and five notices to produce documents
- \$15.5 million in tax liabilities raised
- 100 search warrants including four prison cells
- 201 task force reports and 23 intelligence products.

Since December 2013, the Task Force has also worked closely with the Australian Gangs Intelligence Coordination Centre (see page 26) as part of the Government's strategy to combat outlaw motor cycle gangs.

<sup>2</sup> Note, the Queensland Government, agencies and departments within Queensland refer to outlaw motor cycle gangs as criminal motorcycle gangs.



Police raid a drug lab at Willowvale. Courtesy of Gold Coast Bulletin. Picture by Adam Head.

## Disrupting criminal targets—Project Conway

Project Conway was the Australian Crime Commission's contribution to a Queensland Police Service-led operation and is an example of cross-jurisdictional cooperation resulting in tangible outcomes. Project Conway also involved the Australian Customs and Border Protection Service, Australian Federal Police, NSW Police Force and the NSW Crime Commission.

The project provided contemporary intelligence across several high rated targets on the National Criminal Target List and used the Australian Crime Commission's specialist capabilities to further understand opportunities and vulnerabilities associated with the targeted syndicate.

The project culminated in early April 2014, with the arrest of nine targets on the National Criminal Target List and 19 outlaw motorcycle gang members and associates in Queensland. In addition, Project Conway seized over 3.5 kilograms of cocaine as well as other smaller illicit drug seizures totalling an estimated street value of more than \$3.5 million. Six litres of methylamphetamine oil worth an estimated street value of \$11 million, and \$440 000 cash was also seized.

Overall, related Queensland Police Service-led operations (of which Project Conway was part) resulted in the arrest of over 170 people on a range of drug related charges, including importation, trafficking and supply of cocaine, 3,4-methylenedioxymethamphetamine (MDMA) and methylamphetamine.

From an intelligence perspective, the activity also provided significant insight into the infiltration by outlaw motor cycle gang members and other serious and organised crime entities into nightclubs and legitimate businesses. Not only did the intelligence result in several closure and show cause notices regarding liquor licensing and ownership, but also assisted in developing significant understanding of serious and organised criminal financial and business structures.

## Highest Risk Criminal Targets—Victoria

The Highest Risk Criminal Targets—Victoria state-specific special investigation assists to improve existing Australian Crime Commission and Victoria Police intelligence holdings, as well as collects evidence on the nature and extent of the serious and organised crime threat to Victoria, including through the use of coercive powers.

The Australian Crime Commission Board authorised the Highest Risk Criminal Targets—Victoria special investigation in September 2013 until 30 June 2016.

Broadly, the special investigation works with Victoria Police to:

- enhance understanding of the nature, extent, activities, methodologies and identities of high risk criminal groups and their impact on the Victorian and national community
- reduce the threat posed by the highest risk crime groups operating in or impacting on Victoria
- increase knowledge and understanding of high risk criminal targets and their impact on Victoria.

Under the special investigation, four coercive examinations were conducted to gather intelligence about criminal networks, methodologies used to facilitate criminal activity, and information and intelligence on unsolved murders. Five tactical information reports were produced and shared with Victoria Police which led to the identification of several leads for investigation.

## Highest Risk Criminal Targets—South Australia

Authorised by the Australian Crime Commission Board in September 2013, the Highest Risk Criminal Targets—South Australia state-specific special investigation works in collaboration with South Australia Police to enhance understanding of criminal threats through the collection of evidence and intelligence about high risk criminal entities impacting the state.

The Highest Risk Criminal Targets—South Australia special investigation complements the work of the Highest Risk Criminal Targets special investigation and the Outlaw Motor Cycle Gangs special operation.

Broadly, the special investigation works with South Australia Police to:

- enhance understanding and increase knowledge about the nature, extent, activities, methods and identities of high risk crime groups and their impact on the South Australian and national community
- reduce the threat posed by the high risk crime groups operating in or impacting on South Australia.

During 2013–14, activities relating to high risk criminal entities in South Australia were carried out under the Highest Risk Criminal Targets special investigation and the Outlaw Motor Cycle Gangs special operation because these were determined to be the most appropriate way of enhancing intelligence and identifying evidence relating to serious and organised crime threats to South Australia.

The Highest Risk Criminal Targets—South Australia special investigation remains an important part of the Australian Crime Commission's work with its South Australian partners and will continue to be considered when assessing state-specific activities.

# Special Operations

The Australian Crime Commission Board establishes special operations to gather intelligence on particular criminal activity to assist the decision making processes of the agency and its partners. When the Board determines an operation to be 'special' it enables the agency to use its coercive powers (see page 2).

Through intelligence gathering and analysis, special operations discover and understand the extent, impact and threat of serious and organised crime on Australia. Work conducted under special operations can contribute to operational responses, as well as help determine if a special investigation is warranted.

In 2013–14, the Board approved six special operations:

- High Risk and Emerging Drugs No.2
- Outlaw Motor Cycle Gangs
- National Security Impacts from Serious and Organised Crime No.2
- Making Australia Hostile to Serious and Organised Crime No.2
- National Indigenous Intelligence Task Force (Indigenous Violence or Child Abuse No. 3)
- Child Sex Offences No.2.

## High Risk and Emerging Drugs No.2

The production and supply of illicit drugs is the most profitable organised crime activity. The illicit drug trade generates billions in profit and in the process, ruins the lives of countless individuals and their families. The social impact of illicit drugs costs the Australian community more than \$8 billion a year.

The High Risk and Emerging Drugs No.2 special operation monitors all Australian illicit drug markets and seeks to develop a holistic understanding of the markets through identifying gaps and using a mix of powers and capabilities to further develop intelligence in these areas and inform partners of new and emerging trends.

Intelligence developed under this special operation assists in informing appropriate operational, legal and policy responses, and contributes to the demand, supply and harms reduction strategies in line with the *National Drug Strategy 2010–15*.

In 2013–14, the special operation conducted 17 coercive examinations and produced 85 intelligence products which were shared with partners through 321 disseminations.

Topics included:

- the threat posed by a sophisticated transnational drug network, its money laundering methodologies and its modus operandi for importing and distributing drugs (a joint Australian Crime Commission–Australian Federal Police assessment)—this assessment also benefited other law enforcement agencies including the NSW Police Force, and is relevant to ongoing inquiries
- the nature, extent and specific sources of the threat posed by members of a particular criminal group and the systemic vulnerabilities they were exploiting, regarding criminal activity in several illicit drug markets
- the modus operandi, reach, clients and vulnerabilities a network was seeking to exploit, regarding drug analogues and new psychoactive substances
- examples of organised crime infiltration of some sports and how this was done, as well as the case for reform to reduce potential harm posed by some categories of performance and image enhancing drugs.

The special operation is authorised until 30 June 2016 and will continue to work with partner agencies to deepen Australia's understanding of all illicit drug markets.

## Responding to the highest risks—methylamphetamine market

For some time, the Australian Crime Commission has assessed the methylamphetamine market poses the highest risk to the Australian community of all illicit drug and organised crime markets.

During 2013–14, under the High Risk and Emerging Drugs No.2 special operation the Australian Crime Commission contributed to a range of activities, including:

- Project Baystone
  - The agency developed an assessment on the methylamphetamine market assisting to inform the national response. The assessment found that crystal methylamphetamine (ice) was showing signs of resurgence driven by increasing imports of the drug and its precursors, as well as a more diverse range of suppliers generating or tapping into new sources of demand. The assessment was formally tabled at a national Serious Organised Crime Coordination Committee after the reporting period.
  - The agency held examinations about the methylamphetamine, cocaine and precursor chemical markets. The examinations helped to progress strategies to disrupt aspects of these markets contributing to investigations by the Australian Federal Police, Queensland Police Service and Western Australia Police.
- Generating multiple information reports, including one on trafficking of crystal methylamphetamine between Queensland and New South Wales leading to an arrest in New South Wales.
- Contributing to a formal submission to the Victorian Parliamentary Inquiry into the supply and use of methylamphetamines, particularly ice, with two agency officers subsequently providing evidence to the Inquiry.
- Comparing domestic and overseas prices of methylamphetamine contributing to the understanding as to why the Australian drug market is increasingly attractive to transnational crime groups.
- Collaborating with the National Indigenous Intelligence Task Force (see page 29) on examinations concerning crystal methylamphetamine distribution in Western Australia, generating information reports from these examinations.

## Follow the chemicals—Project Alberta

Through Project Alberta the Australian Crime Commission is exploring how chemicals are diverted from legitimate trade for use in illicit drug manufacture focusing on the vulnerabilities being exploited by organised crime groups.

During 2013–14, the Australian Crime Commission provided intelligence to its partners on how lethal drugs can be produced domestically using non-controlled chemicals. The intelligence included information about new drug manufacturing processes and new chemicals—often non-regulated—used in these processes.

Intelligence developed through Project Alberta led to a number of spin-off projects and investigations targeting specific organised criminal activity in several drug markets in four different states.

In addition, Project Alberta engaged with industry seeking support to identify potential diversion of chemicals to illicit drug manufacture. The agency received positive responses leading to the generation of several operational leads for the Australian Crime Commission and its partners. It is likely that industry engagement will increase over the next financial year to drive a more holistic response to some illicit drug markets.

## Outlaw Motor Cycle Gangs

Outlaw motor cycle gangs (OMCGs) are one of the most high profile manifestations of organised crime and have a presence in all Australian states and territories. There are more than 40 OMCGs in Australia with more than 5000 patched members. They are involved in most elements of organised crime including illicit drugs, money laundering, firearms, vehicle rebirthing, extortion, property crime and corruption.

In September 2013, the Australian Crime Commission Board authorised the Outlaw Motor Cycle Gangs special operation to work in partnership with key stakeholders to:

- support target development and investigations into OMCGs through the use of Australian Crime Commission coercive powers
- reduce the threat posed by OMCGs
- build an awareness of threats and vulnerabilities and contribute to appropriate legislative and policy responses, in conjunction with law enforcement, government and industry partners.

In 2013–14, the special operation conducted 20 coercive examinations and produced 238 intelligence products which were shared with partners through 684 disseminations.

The Outlaw Motor Cycle Gangs special operation supports and builds on investigative work through strategic intelligence development based on outputs from the Attero National Task Force (see page 20) and the tactical intelligence, information and data-matching activities undertaken by the Australian Gangs Intelligence Coordination Centre.

The special operation is authorised until 30 June 2016 and will continue to work in conjunction with its partners to reduce the threat posed by OMCGs to the community.



Minister for Justice, the Hon Michael Keenan MP, officially opens the Australian Gangs Intelligence Coordination Centre.

## Responding to gangs—Australian Gangs Intelligence Coordination Centre

The Australian Gangs Intelligence Coordination Centre (AGICC) is part of the Government's strategy to combat outlaw motor cycle gangs. It provides a dedicated intelligence capability for the Australian Federal Police-led National Anti-Gangs Squad and its associated Commonwealth and state strike teams in Queensland, New South Wales, Victoria and Western Australia.

Established within the Australian Crime Commission in December 2013, the AGICC brings together the skills and capabilities from multiple partner agencies and is linking the strategic understanding of the national picture with intelligence that supports operational and tactical responses.

AGICC partners have direct access to all Australian Crime Commission capabilities including Fusion and associated tools, as well as specialist collection assets including national intelligence holdings.

In collaboration with its partners, the AGICC has developed intelligence to improve understanding about gang-related activities such as business operations and facilitators, firearm crime, violence, drug manufacture and supply, and financial crimes. Work has focused on identifying and filling gaps in the intelligence picture, identifying and developing intelligence on high priority and emerging targets, as well as developing a more strategic understanding on the evolving nature of the outlaw motorcycle gang threat.

The intelligence sharing capabilities of the AGICC are already influencing operational decisions and the formation of investigations. For example, since December 2013 the AGICC has:

- contributed to more than 28 state and territory outlaw motor cycle gang investigations, providing leads and filling intelligence gaps
- released more than 60 intelligence reports—providing previously unknown insights into illicit drug and money laundering activity including intelligence against key members of high threat outlaw motor cycle gangs in several jurisdictions
- responded to more than 83 requests for information
- provided intelligence that led to the arrest of 10 outlaw motor cycle gang members, after previous law enforcement efforts to locate them had been exhausted
- coordinated coercive examinations related to outlaw motor cycle gang activities.

### National Security Impacts from Serious and Organised Crime No.2

Serious and organised crime is a threat to the national security of Australia. The National Security Impacts from Serious and Organised Crime No.2 special operation works with law enforcement and national security agency partners to:

- provide a unique perspective of the evolving threats and risks posed by serious and organised crime groups within the national security environment
- examine and identify potential or actual convergences between serious and organised crime and national security matters.

While the nature of intelligence developed under this special operation is mostly classified, in 2013–14 the special operation conducted 29 coercive examinations and produced 58 intelligence products which were shared with partners through 123 disseminations.

The National Security Impacts from Serious and Organised Crime No.2 special operation supported and participated in a number of activities, including:

- providing support to the three multi-agency task forces investigating serious and organised crime exploitation of the maritime sector in New South Wales (Polaris), Victoria (Trident) and Queensland (Jericho), including through a dedicated intelligence analyst to Polaris and Jericho (and Trident until November 2013)

- supported Joint Counter Terrorism Taskforce investigations into the threat of foreign fighters
- contributed to the whole-of-government Operation Sovereign Borders effort since November 2013 by providing intelligence and specialist capability support to investigate people smuggling activities in Australia including identifying financial networks.

The special operation is authorised until 30 June 2016 and will continue to work in conjunction with its partners to provide intelligence on the convergence between serious and organised crime and national security.

### Making Australia Hostile to Serious and Organised Crime No.2

As serious and organised crime becomes increasingly diversified, sophisticated and complex, law enforcement must become more innovative at identifying and preventing criminal activity before it gains a foothold in Australia.

Authorised by the Board in September 2013, the Making Australia Hostile to Serious and Organised Crime No.2 special operation works and collaborates with a broad cross-section of partners, including national and international law enforcement, regulatory and policy agencies, as well as industry to harden Australia's society, institutions, industries and economy against serious and organised crime.

While the nature of intelligence developed under this special operation is mostly classified, in 2013–14 the special operation conducted 15 coercive examinations and produced 55 intelligence products which were shared with partners through 349 disseminations.

Broadly, topics included identity crime, cyber and new technology threats, and a strategic assessment to assist Australia Post to mitigate the evolving risks posed by serious and organised crime.

The special operation is authorised until 30 June 2016. During 2014–15, the special operation will focus on cybercrime, seeking to discover, understand and inform responses on a range of issues including virtual currencies, online fraud and malicious software which will feed into an updated National Cybercrime Intelligence Assessment.

## Responding online—Project Tallowood

Through Project Tallowood the Australian Crime Commission collaborated with its law enforcement partners to develop a new approach to discovering previously unknown cyber and new technology threats posed by serious and organised crime.

Using field intelligence from law enforcement partners to focus on non-traditional areas of discovery—including particular types of communication profiles such as encrypted mobile communication devices—and through harnessing Fusion capabilities, Project Tallowood was able to use relevant sources and overlay them with strong indicators of risk. As a result, correlations between these communications and serious and organised criminals of high threat to Australia were highlighted.

Through Project Tallowood, the Australian Crime Commission:

- discovered a significant number of high threat criminal targets
- developed a new targeting methodology to discover previously unknown targets
- developed a strong understanding of underlying technologies within this threat environment
- shared intelligence with partners who were unaware of the issue
- coordinated collaboration among all Australian law enforcement agencies and the intelligence community to increase awareness
- developed operational strategies to better discover and understand this threat and worked closely with the Australian Federal Police and other partners domestically to assist aspects of operational responses.

The intelligence gathered through Project Tallowood indicates a large global cyber risk and that Australia is vulnerable to exploitation by serious and organised entities through the cyber environment. Findings from this project are not only contributing to national understanding, but also driving regulatory and legislative reforms, and capability enhancements.

### National Indigenous Intelligence Task Force (Indigenous Violence or Child Abuse No.3)

The National Indigenous Intelligence Task Force was established in 2006, following the Intergovernmental Summit on Violence and Child Abuse in Indigenous Communities, and ceased on 30 June 2014.

The Task Force worked with law enforcement, Commonwealth, state and territory agencies, as well as local service providers to collect and analyse information and criminal intelligence about the nature and extent of violence and child abuse affecting vulnerable Indigenous communities. The Indigenous Violence or Child Abuse No.3 special intelligence operation was established to support and enhance the Task Force's work through the use of coercive powers.

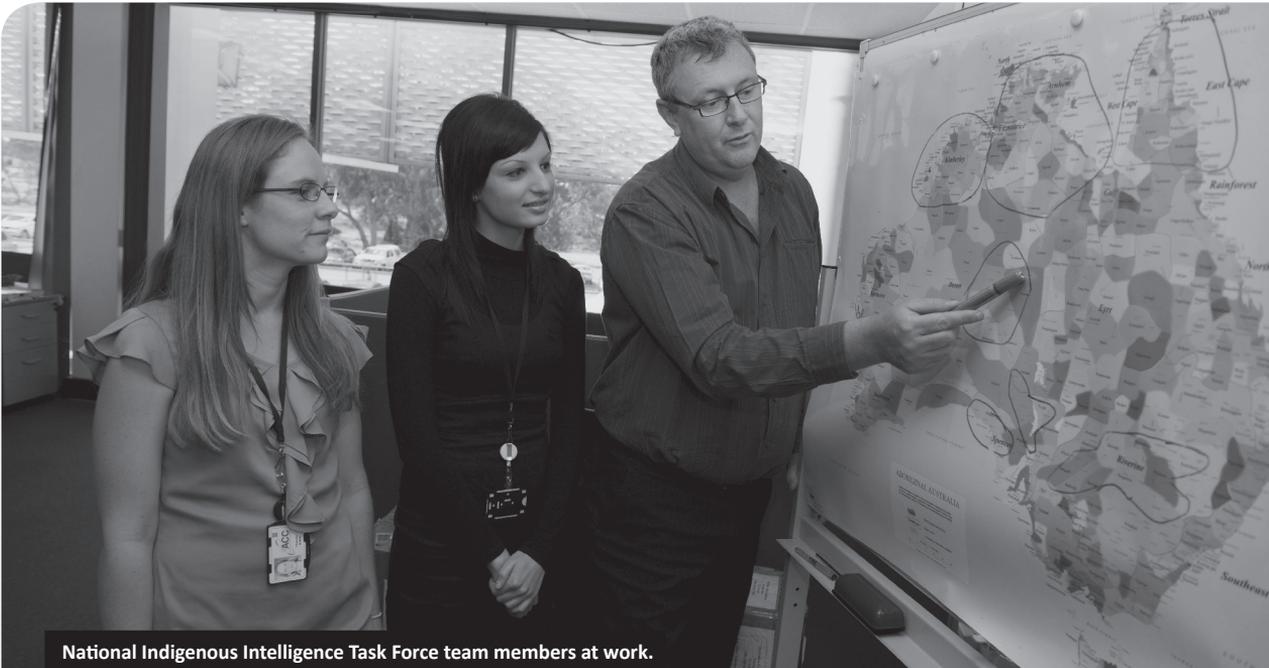
The Task Force contributed to investigations, informed policy, program and law reform, and improved national intelligence collection and information sharing about violence and child abuse affecting Indigenous communities.

During 2013–14, the Task Force collected intelligence through visits to 10 Indigenous communities and six regional towns, and held more than 150 meetings. Under the special intelligence operation, the Australian Crime Commission conducted 38 coercive examinations and produced 91 intelligence products which were shared with partners through 374 disseminations.

Classified intelligence products included reports on the nature and extent of child abuse and violence in:

- the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, South Australia
- Arnhem Land, Northern Territory
- the Barkly region, Northern Territory
- the Kimberley region, Western Australia
- western New South Wales.

To mark the closure of the Task Force and special intelligence operation a final report was produced summarising the journey since inception, outlining key achievements, intelligence findings and issues for consideration. The Task Force's final consolidated classified report was released to relevant stakeholders in late 2014 (outside reporting period).



National Indigenous Intelligence Task Force team members at work.

## Bringing the issues front and centre—Cross Border Domestic Violence Information Sharing and Intelligence Desk

The National Indigenous Intelligence Task Force assisted in the development of the Cross Border Domestic Violence Information Sharing and Intelligence Desk.

Established in January 2013, the Desk aims to reduce instances of family violence in the cross border region of the Northern Territory, South Australia and Western Australia by providing timely and targeted intervention and protection to victims.

The Desk is staffed by two civilian members of the Northern Territory Police, and is funded by the Commonwealth and supported by a working group comprising of the Australian Crime Commission, Northern Territory Police, South Australia Police, Western Australia Police and the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council.

These same stakeholders, as well as the Department of the Prime Minister and Cabinet also form a reference group for the Desk.

This dedicated resource enables the collation, coordination and analysis of intelligence holdings between law enforcement, criminal justice and a dedicated victim advocacy agency, working across the three jurisdictions, as well as providing a central coordination role in linking it to the Cross-border Justice Scheme.

The Cross Border Domestic Violence Information Sharing and Intelligence Desk provides a mechanism for the effective use of criminal intelligence in supporting responses to domestic violence and community safety.

## Delivering unique results—outcomes from the National Indigenous Intelligence Task Force

The National Indigenous Intelligence Task Force concluded on 30 June 2014 and was different in both purpose and approach to other more traditional task forces the Australian Crime Commission has been involved in.

Due to the uniqueness of the issues being tackled, the Task Force had to take a unique approach by using a combination of working in a culturally sensitive way, the agency's specialist capabilities to access information otherwise not available, and engaging across jurisdictions and with a wide range of stakeholders including law enforcement, governments, service providers and Indigenous communities.

Building and maintaining trust with Indigenous communities, as well as service providers was fundamental to the Task Force's success. Task Force staff received cross-cultural training to assist in developing sensitivity to the cultural dynamics of the 145 communities and 58 towns visited over the course of the Task Force. In addition, as the Task Force did not make arrests or prosecutions, staff were able to build confidence and trust, encouraging people to discuss issues affecting their communities.

The Task Force built a national understanding of the nature and extent of violence and child abuse in some Indigenous communities. Over its life time, the Task Force produced 844 intelligence products, provided to partners through 2182 disseminations.

Better understanding based on intelligence developed by the Task Force is helping to make Indigenous communities safer by informing policy and program design, improving service delivery, and informing law enforcement decision-making leading to significant operational outcomes. Work undertaken by the Task Force over the past eight years has:

- prompted a range of government compliance and regulatory investigations, as well as law enforcement investigations
- supported better compliance around funding programs, and informed compliance and assurance work within Commonwealth funding bodies
- contributed to the National Framework for Protecting Australia's Children 2009–2020, the National Plan to Reduce Violence against Women and their Children 2010–2022, as well as other community safety and education initiatives
- informed policy development, including the Alice Springs Transformation Plan and the Cross Border Domestic Violence Information Sharing and Intelligence Desk
- strengthened probity and due diligence processes for employment
- contributed to the New South Wales Ombudsman report on responding to child sexual assault in Aboriginal communities.

## Child Sex Offences No.2

Advances in technology and ubiquitousness of the internet have enabled child sex offenders to become increasingly sophisticated in their networking activities and access to information.

Authorised by the Board in September 2013, the Child Sex Offences No.2 special operation relies solely on referrals from partner agencies to identify potential targets where the use of coercive powers would contribute to developing the national criminal intelligence picture. The aim of this special operation is to:

- assist in intelligence collection on the nature and extent of child sex offenders in Australia and the methodologies and technologies they use
- assist in reducing the impact of child sex offences on the Australian community by contributing to partner agency investigations of child sex offenders, particularly those in organised networked groups
- support a national response to the threat and harms of child sex offenders.

During 2013–14, the special operation conducted one coercive examination and produced two intelligence products about child sex tourism and alleged child sexual abuse which were shared with partners through four disseminations.

The intelligence developed under the special operation supported Victoria Police and Australian Federal Police investigations into high-risk Victorian Registered Sex Offenders, as well as assisted with the prosecution of a child sex offender in the United States.

Through the Child Sex Offences No.2 special operation, the Australian Crime Commission continues to engage with the Australia New Zealand Policing Advisory Agency Child Protection Working Group, to assist with policy responses and advice to support an effective national response to the threat from child sex offenders.

The special operation is authorised until 30 June 2016 and will continue to assist partner agencies as referrals are received, as well as inform international partners, through the Australian Federal Police network where intelligence collection is relevant to child sex offences occurring in other countries.

# Strategic information provided to law enforcement

Australian Crime Commission intelligence products inform and enhance the national understanding of traditional serious and organised crime activities, as well as new and emerging threats and trends. In addition, intelligence products assist to inform collaborative law enforcement, regulatory and policy responses.

Intelligence products are developed through analysis of information gathered from investigations and intelligence operations, and intelligence feeds from partner agencies.

While most intelligence produced by the Australian Crime Commission is classified and shared only with partner agencies, the agency is increasingly sharing information with private industry (under section 59AB of the ACC Act) and releasing unclassified information to the public to help harden the environment against serious and organised crime.

During 2013–14, the Australian Crime Commission produced 2164 intelligence products which were shared with 254 agencies; this included 12 strategic assessments on a range of topics including the outlaw motor cycle gang threat, methylamphetamine, cocaine, cannabis and superannuation fraud.

Strategic intelligence products—together with advice and recommendations from a range of sources—provide Board members, their agencies and other partners and stakeholders with enhanced understanding of the serious and organised criminal environment. This assists to support and influence the intelligence and operational response decision making process, as well as inform government in the consideration of legislative, policy and regulatory responses.

## Picture of Criminality in Australia

The *Picture of Criminality in Australia* (PoCA) is the Australian Crime Commission's flagship suite of strategic criminal intelligence products, which form the basis for the agency's contribution to the national intelligence priority setting process. During 2013–14, the following products under the PoCA suite were provided to the Board for consideration and disseminated to partner agencies:

- **Organised Crime Threat Assessment 2014**—this biennial, classified market-based assessment examines Australia's key illicit markets and the activities that enable serious and organised crime.

It is based on an analysis of all available and relevant information and intelligence from within the agency, as well as from international, Commonwealth, state and territory partners and underpins the Commonwealth's Organised Crime Strategic Framework. The assessment was provided to the Board for consideration in June 2014.

- **National Criminal Target Report 2014**—this annual classified report provides a consolidated picture of the threat and risk posed by Australian-based and offshore serious and organised crime entities on the National Criminal Target List. The report was provided to the Board in June 2014.
- **Illicit Drug Data Report 2012–13**—this unclassified annual report provides a national picture of the illicit drug market in Australia. It provides an annual statistical overview of national illicit drug arrests, seizures and purity levels, based on data from the agency's Commonwealth, state and territory partners, as well as academic and health data. The 11th edition of the report was launched at Melbourne's Alfred Hospital on 29 April 2014.

In addition, the unclassified *Organised Crime in Australia 2013* report was considered by the Board in the previous reporting period, but released publicly in July 2013. The next *Organised Crime in Australia* report is due for release in 2015.

The final product under the PoCA suite is *Organised Crime 2020*, which will be updated and released in 2015 as *Organised Crime 2025*.

### Other strategic intelligence work

In addition to the PoCA suite, the Australian Crime Commission produced a number of strategic intelligence products on a range of topics to provide Board member agencies and other partners with assessments of specific crime types, markets or criminal issues of national importance.

#### Organised crime groups involved in the Australian cocaine market

This strategic assessment focused on the nature of the Australian cocaine market including identifying the Australian-based and transnational organised crime groups involved in the market. Based on Australian Crime Commission and partner agency intelligence, the assessment confirmed that:

- a significant number of Australia's highest risk criminal targets are involved in the cocaine market

- cocaine enters Australia through a diverse range of international routes
- transnational criminals seek out relationships with Australian crime groups to distribute cocaine domestically.

Ongoing cooperation between Australian and foreign law enforcement agencies is enhancing the Australian Crime Commission's ability to monitor the cocaine market and provide intelligence information to its partners to assist in decision making.

#### 3D printing: more than just firearms

While media reporting has focused around the use of 3D printing technology by organised crime groups to develop firearms, the Australian Crime Commission examined the broader potential for exploitation of this technology by organised criminals.

The report found that due to the current limitations of the technology and the expertise required to use it, 3D printing poses a low threat to law enforcement. However, as the technology becomes more accessible organised crime groups may seek to use it for criminal acts. The report recommends law enforcement continues to monitor the technology for indicators of criminal use.

#### Illicit tobacco in Australia

The illicit tobacco market costs millions in lost revenue and is dominated by serious and organised crime groups. The Australian Crime Commission produced a strategic assessment of the illicit tobacco market in partnership with Australian Customs and Border Protection Service, the Australian Federal Police and the Australian Taxation Office, and with assistance from the Attorney-General's Department and the Commonwealth Director of Public Prosecutions.

The report found the illicit tobacco market involves similar levels of organisation to the illicit drug market, and the organised crime groups involved in the market are also involved in other illicit markets. The assessment also identified opportunities and challenges for law enforcement and regulatory agencies seeking to tackle the illicit tobacco market.

The assessment has directly informed a senior Commonwealth Working Group that is developing strategies to tackle this illicit market through enhanced legislation and regulation.

# National assets

The Australian Crime Commission's *Strategic Plan 2013–18* has a strong focus on capability development to support and complement the agency's partners in order to maximise national responses to serious and organised crime.

Through 2013–14 the Australian Crime Commission continued to develop national assets.

## Australian Criminal Intelligence Model and Forum

Finalised in the previous reporting period, the Australian Criminal Intelligence Model represents an agreed national framework for managing knowledge of the criminal environment and better exploiting intelligence capabilities nationally. The Model will deliver enhanced flow of criminal intelligence within and across all three operating domains (policing and community safety, serious and organised crime, and national security), and represents a significant step towards treating criminal intelligence as a national asset and will assist and influence decision-makers nationally.

The Australian Criminal Intelligence Forum oversees the implementation of the Model and identifies ways to promote common standards, processes and protocols for managing national intelligence assets. It provides Australian heads of intelligence with a national forum to collaborate on high-level strategic intelligence issues and to

strengthen their ability to provide coordinated national advice to the Australian Crime Commission Board and other stakeholders.

In 2013–14, the Forum focused on three critical success factors for the Model:

- Technology—the Forum agreed to work more collaboratively on federated technologies and support the development of a National Request for Information Capability, a National Criminal Intelligence Product Directory and the National Criminal Intelligence System (see page 37).
- Policy and legislation—the Model was used as a benchmark in developing the Australia New Zealand Policing Advisory Agency Education and Training Guidelines for Police Intelligence. The guidelines have been accepted and endorsed by the Australasian Police Professional Standards Council.
- Culture—the establishment of the Forum has contributed to an improved intelligence sharing culture. Collaboration between the Forum and the Serious Organised Crime Coordination Committee and strengthening of the Joint Management Group and Joint Analyst Group frameworks has been pivotal to the improved intelligence sharing.

## National Criminal Intelligence Fusion Capability

Established in 2010, the Australian Crime Commission-led National Criminal Intelligence Fusion Capability brings together specialist people, tools and data from more than 20 Commonwealth, state and territory agencies to develop insightful intelligence about serious and organised crime in Australia.

Over the past four years, Fusion has evolved from a standalone capability to a way of doing business across the agency.

Fusion effectively joins the agency's intelligence and investigative work, as well as its information technology and analytics capabilities. Through advanced analytic tools, innovative data mining and risk modeling techniques, Fusion is able to:

- discover previously unknown intelligence about organised criminal activity and targets
- monitor Australia's highest risk criminal targets to identify new intelligence and investigative opportunities.

During 2013–14, Fusion produced 981 intelligence products and discovered 109 criminal targets previously unknown to national law enforcement.

Since its establishment in 2010, Fusion has developed 4460 intelligence products and identified more than 200 organised criminal targets previously unknown to national law enforcement.

While 2014 marks an end to the original four-year funding and development program for Fusion, the focus now turns to developing a more integrated capability across the agency's work, including with the Australian Gangs Intelligence Coordination Centre, Joint Analyst Groups and working with partners to improve connections with other Fusion-style capabilities in Australian law enforcement. For example, a Fusion analyst is part of the National Border Targeting Centre within the Australian Customs and Border Protection Service providing opportunities to access a broader range of data and capabilities.

### **Fusion firearms capability**

The Australian Crime Commission's firearm tracing service was established in 2004 and is now fully embedded in Fusion. The firearms trace data set includes 1.8 million firearm transaction and importation records dating back to the 1800s, and complements jurisdictional firearm registration data which are not accessible to law enforcement through any other means.

During 2013–14, the service received 571 firearm trace requests and was able to disseminate intelligence to partner agencies 246 times. Partner agencies include Commonwealth, state and territory, and international agencies.

The firearms capability improves understanding of the Australian illicit firearms market and supports Australian Crime Commission and partner agency investigations.

### **Australian Law Enforcement Intelligence Network/Australian Criminal Intelligence Database**

The Australian Law Enforcement Intelligence Network (ALEIN) is the secure extranet that provides a gateway for agency partners to access the:

- Australian Criminal Intelligence Database (ACID)
- National Clandestine Laboratory Database
- Violent and Sexual Crime Database
- ALEIN information desks (partners can access intelligence products stored within a 'desk' based structure)
- the National Target System.

There are currently 29 international, Commonwealth, state and territory law enforcement agencies connected to ALEIN. In 2013–14, there were 2896 active users (an increase from 2817 users in 2012–13) who made 38 240 visits to 1192 intelligence desks within ALEIN.

Under section 7A(a) of the ACC Act, the Australian Crime Commission is to maintain a national database of criminal information and intelligence. The current system, ACID, provides 24 Commonwealth, state and territory law enforcement agencies and other regulatory authorities with the ability to securely share, collate and analyse criminal information and intelligence nationally.

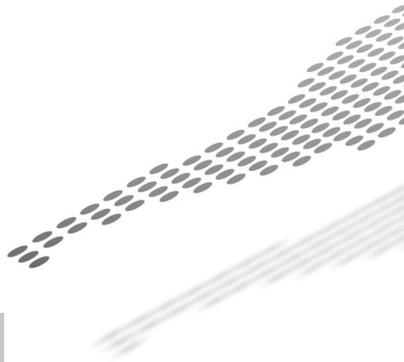
While ACID continues to offer analysts and investigators functionality and tools to assist with identifying, analysing and sharing critical pieces of information, the system is now 30 years old. In 2013–14 the Australian Crime Commission completed a major scoping study into how the system needs to evolve to meet the dynamic and expanding needs of modern law enforcement. The scoping study and recommendations were considered by the Australian Crime Commission Board in April 2014.

## National Criminal Intelligence System

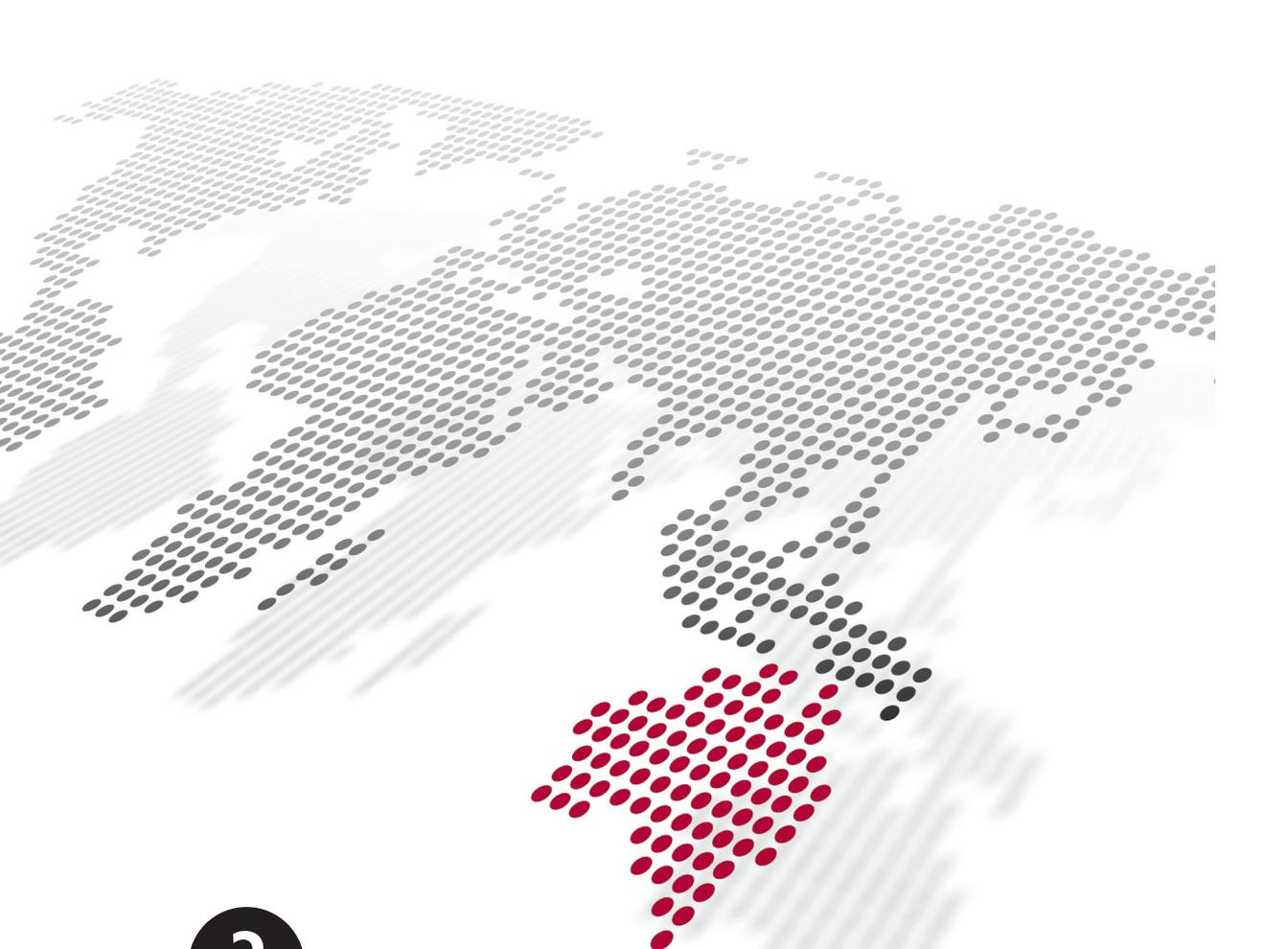
The National Criminal Intelligence System (NCIS) is the proposed replacement for ACID and ALEIN. It will enable the Australian Crime Commission to continue to deliver requirements under section 7A(a) of the ACC Act.

The NCIS will be a federated national law enforcement capability facilitating real-time collaboration and intelligence, and improved technical capabilities through an agreed national interoperable framework which will be aligned to the Australian Criminal Intelligence Model.

It is proposed the NCIS will be implemented through a phased modular approach, and—in a similar way to the National Criminal Intelligence Fusion Capability—it is expected the NCIS will deliver process improvement and efficiency gains through automating the most labour-intensive tasks.



Through cross-jurisdictional  
**collaboration**, sharing  
of **intelligence** and resources,  
and drawing on **capabilities**  
of partners effective **outcomes**  
can be achieved.



# 3

## Identified criminal activity

Nature, scope, trends and patterns of organised crime

page 40

# Nature, scope, trends and patterns of organised crime

Through its strategic intelligence products, the Australian Crime Commission identifies patterns and trends on the nature and scope of organised criminal activity which assists to inform responses.

During 2013–14, the Crime Commission released a number of classified and unclassified assessments, including the *Organised Crime Threat Assessment 2014* (classified) which provides a comprehensive assessment on the nature of organised crime affecting Australia, including key enablers, illicit commodity markets, crimes in the mainstream economy and crimes against the person, and the *Illicit Drug Data Report 2012–13* (unclassified) which provides a statistical overview of Australia's illicit drug market including arrests, seizures and purity levels.

This chapter highlights key unclassified findings from both reports<sup>3</sup>.

Further information about the types of strategic products produced by the agency is available in Chapter 2 (see page 33).

## Transnational nature of serious and organised crime

Serious and organised crime is more transnational, complex, diverse and pervasive than ever. While those involved in serious and organised crime vary in their capabilities, geographical reach and sophistication, it is increasingly apparent that there are groups, networks and individuals operating at an 'elite' criminal level, simultaneously targeting illicit markets in a number of countries.

Serious and organised crime groups are highly networked and operate using professional and sophisticated global business models. Their use of technology and use of specialist facilitators—including legal and financial specialists—to mask their activities, enables them to operate across multiple jurisdictions and markets. These operating models allow these groups to evade detection or take advantage of weaknesses in legislative and regulatory regimes internationally. This makes it increasingly difficult for law enforcement agencies to identify, disrupt or prosecute these criminals.

## Significant risks to the Australian community

Due to the size of the market and level of harm the drug causes, methylamphetamine (commonly referred to as 'ice') poses the greatest threat to the Australian community. With its relative accessibility, affordability and destructive side effects, methylamphetamine is emerging as a pandemic akin to the issue of 'crack' cocaine in the United States. The market is attractive to serious and organised crime groups due to the profits made through the supply and distribution of the drug.

Financial crime—including investment and financial market fraud, superannuation fraud, revenue and taxation fraud, and card fraud—is posing an increasing threat to the Australian community. While 'traditional' illicit markets such as illicit drugs continue to dominate the serious and organised criminal environment, there is an international trend toward a greater involvement of organised crime groups involved in financial crime.

3 The unclassified version of the *Organised Crime Threat Assessment 2014—Organised Crime in Australia 2015*— is due for release in 2015. The *Organised Crime in Australia 2015* will provide further detail on the nature of organised crime affecting Australia.

### Key enablers of organised crime

The Australian Crime Commission continues to analyse the impact of key enablers of serious and organised crime. Key enablers are illicit activities which can be crimes themselves, but they all underpin and contribute to the effectiveness of serious and organised crime, and therefore are key areas of risk.

#### Money laundering

Money laundering is an important enabler for almost all serious and organised crime. Serious and organised crime entities are increasingly using the services of highly sophisticated professional money laundering syndicates, which use a variety of methodologies to launder money out of and into Australia. These methodologies include the use of alternative remittance services, informal value transfer systems, and trade-based money laundering.

#### Cyber and technology enabled crime

Cybercrime is a transnational enabler of serious and organised crime. Serious and organised crime entities use technology and cyber capabilities to extend their reach across jurisdictions and around the globe. These entities either employ cyber specialists 'in-house' or contract their requirements to other groups who specialise in the provision of cyber and technology services.

Encrypted communications technologies are increasingly attractive for entities that wish to improve the level of security surrounding their communications.

#### Identity crime

Identity crime is a fast growing serious and organised crime groups to use stolen personal information to facilitate criminal activities. Identity crime can be financially costly for victims, and can significantly damage their psychological and physical wellbeing, personal livelihood, financial position and personal relationships.

#### Corruption

Public corruption in Australia remains comparatively low. Although recent high profile cases of political and official corruption highlight the willingness of criminals to use this technique to facilitate serious and organised crime.

Corruption can work insidiously to protect the business of serious and organised crime, and to prevent the identification of criminal behaviour. It undermines the fundamental trust of the public in government and in the legitimacy of the instruments of government.

### Complex business structures

Complex business structures provide serious and organised crime groups with opportunities to launder illicit profits and perpetrate serious financial crime. Examples include the use of trust structures, phoenixing, and the use of professional facilitators.

The criminal exploitation of business structures by organised crime results in financial gain for criminals at the expense of legitimate industry participants, investors and employees, and a loss of revenue to the Australian economy.

#### Violence

Some serious and organised crime groups remain willing to use violence to facilitate criminal activity, which can include the use of illegal firearms. Violence can be used to gain or retain control of 'turf' or drug markets, as punishment or retaliation, to collect debts or to send a warning, or it may be offered as a paid service to other crime groups.

### Illicit drugs<sup>4</sup>

The illicit drug market remains the primary source of profit for organised crime groups. The Australian illicit drug markets are fundamentally linked to global drug markets, with organised crime groups operating across national and international jurisdictions.

The growth of the internet and ‘darknets’ have enabled the rapid expansion of the illicit drug market, with users being able to access drugs as well as information about the availability of new drugs from anywhere in the world. As a result, overseas drug trends which would have previously taken some time to flow on to the Australian market are now very quickly replicated in Australia.

In 2012–13, there were 86 918 national illicit drug seizures, weighing 19.6 tonnes, and a record 101 749 national illicit drug arrests. This equates to an average of one seizure every seven minutes, one arrest every six minutes and one kilogram of illicit drugs seized every 28 minutes. Cannabis remains the most widely used drug in Australia, accounting for the majority of national seizures and arrests, with the number of seizures in 2012–13 being the highest reported in a decade.

Law enforcement has seen the expansion of the methylamphetamine market, with detections at the border and domestic seizures being the highest on record in 2012–13.

While the number of border seizures of cocaine increased in 2012–13, the total weight of seizures decreased by 49 per cent. The high profit margin of cocaine in Australia compared with international markets has resulted in an increasingly diverse range of organised crime groups involved in the trafficking of cocaine to Australia; however there are no current indications that the market is increasing in size.

The Australian heroin market has remained stable over the past two years, with domestic market indicators suggesting that the user market consists of an entrenched and ageing population. However, the Australian Crime Commission continues to monitor the market closely.

The internet has given rise to the manufacture, distribution and popularity of the drug analogue and new psychoactive substances market over the past two years, with drug users now showing a preference for these types of drugs, along with more ‘traditional’ drug types.

In recent years, the illicit performance and image enhancing drugs market has expanded beyond anabolic steroids to include a range of substances collectively known as peptides and hormones. Evidence suggests the use of these drugs in Australia is no longer limited to body builders, with a broader user demographic emerging.

### Crimes in the mainstream economy Investment fraud

Significant profits can be derived from serious and organised investment fraud—commonly known as mass marketed ‘boiler-room’ or cold-call investment scams. These sophisticated frauds can impact large pools of victims in any country via the internet from any region, using technology which hides both the identity and the location of the perpetrator.

Similarly large profits can be derived from elaborate manipulations of share prices of publicly listed companies, carbon credit scheme frauds, and venture capital frauds in which capital is raised to invest in fraudulent or fictitious schemes.

<sup>4</sup> The *Illicit Drug Data Report* is a retrospective report, and therefore, statistics referred to are from the 2012–13 financial year. The *Illicit Drug Data Report 2013–14* is due for release in the first half of 2015.

### Superannuation fraud

The Australian superannuation industry maintains investments totaling \$1.62 trillion. This makes the sector a highly attractive target for serious and organised crime.

The Australian superannuation industry is a major contributor to the Australian financial sector, and large superannuation frauds perpetrated by serious and organised crime could result in significant costs for government. These costs would include financial support for victims and social security benefits for those unable to provide for themselves in retirement as a result of such frauds.

### Revenue and taxation fraud

Organised crime entities use complex and sophisticated organisational structures to exploit the Australian taxation system in an attempt to avoid revenue and taxation.

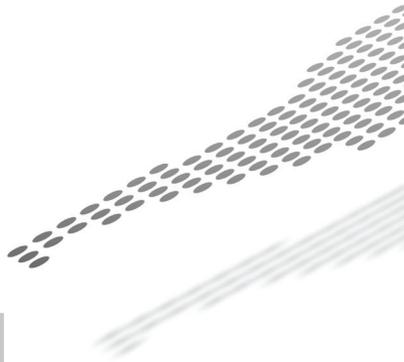
The main types of revenue and taxation fraud are tax refund fraud, tax evasion schemes, phoenixing, and abusive trust funds. Another key means of avoiding taxation and revenue is seen in the importation, domestic production, and distribution of illicit tobacco, which is sold outside of the regulated market to avoid relevant taxes, duties, and revenue.

### Card fraud

The card fraud market involves a number of overseas-based serious and organised crime entities. Technology significantly enhances the ability for criminals to undertake card fraud, facilitating both the theft of details and the sale of fake cards and personal information. The incidence of card-not-present fraud continues to rise, and it is the most prominent form of card fraud.

### Crimes against the person

Serious and organised crime entities remain involved in crimes against the person. These crimes include maritime people smuggling, human trafficking, and child sex offences, and can result in serious harms to the individuals that are exploited for criminal gain.



Through intelligence and  
investigative activities  
the Crime Commission is  
**reducing** serious and organised  
crime **threats** to Australians  
and the national interest.



# 4

## Appendices

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# Appendix A: Reporting requirements index

The Australian Crime Commission Board Chair Annual Report is produced in compliance with section 61 of the *Australian Crime Commission Act (2002)*.

Section of the ACC Act	Reference in this report
<p>Section 61(2) (a)</p> <p>a description of any investigation into matters relating to federally relevant criminal activity that the ACC conducted during the year and that the Board determined to be a special investigation</p>	Chapter 2: Description of activities
<p>Section 61(2) (b)</p> <p>a description, which may include statistics, of any patterns or trends, and the nature and scope, of any criminal activity that have come to the attention of the ACC during that year in the performance of its functions</p>	Chapter 3: Identified criminal activity
<p>Section 61(2) (c)</p> <p>any recommendations for changes in the laws of the Commonwealth, of a participating State or of a Territory, or for administrative action, that, as a result of the performance of the ACC's functions, the Board considers should be made</p>	Appendix B: Recommendations for legislative change
<p>Section 61(2) (d)</p> <p>the general nature and the extent of any information furnished by the CEO during that year to a law enforcement agency</p>	Chapter 2: Description of activities
<p>Section 61(2) (e)</p> <p>the extent to which investigations by the ACC have resulted in the prosecution in that year of persons for offences</p>	Appendix C: Court proceedings
<p>Section 61(2) (ea)</p> <p>the extent to which investigations by the ACC have resulted in confiscation proceedings</p>	Appendix C: Court proceedings
<p>Section 61(2) (g)</p> <p>particulars of the number and results of:</p> <p>(ii) applications made to the Federal Court or the Federal Circuit Court under the <i>Administrative Decisions (Judicial Review) Act 1977</i> for orders of review in respect of matters arising under this Act</p> <p>(iii) other court proceedings involving the ACC</p> <p>being applications and proceedings that were determined, or otherwise disposed of, during that year.</p>	Appendix C: Court proceedings

## Appendix B: Recommendations for legislative change

Prevention is a key element of the Australian Crime Commission's response to serious and organised crime. Through recommending policy and legislative change, the Australian Crime Commission Board can inform and influence Commonwealth, state and territory government decisions as part of a holistic response to serious and organised crime.

In April 2014, the Australian Crime Commission Board appeared before the Senate Standing Committees on Legal and Constitutional Affairs References Committee Inquiry into the Comprehensive Revision of the *Telecommunications (Interception and Access) Act 1979*.

The Board's collective position has been to support uniform retention of telecommunications data to assist national law enforcement to respond to serious and organised crime.

In addition to the Board's appearance before the Committee, the Board endorsed a series of case studies highlighting cases where access to telecommunications data has assisted an investigation, or where a lack of access has hindered an investigation. These are available on the Australian Crime Commission website.

The Board was also briefed on the Australian Crime Commission's classified and unclassified submissions to the committee (in March 2014), as well as the agency's appearance at the public hearing.

Throughout the year, the Australian Crime Commission Board was also informed about the agency's role in providing submissions to a number of committees, reviews and inquiries throughout 2013–14, including:

- Senate Legal and Constitutional Affairs References Committee, Crimes Legislation Amendment (Unexplained Wealth and Other Measures) Bill 2014
- Parliamentary Joint Committee on Law Enforcement, Inquiry into financial related crime
- Commonwealth review of Australia's anti-money laundering/counter-terrorism financing (AML/CTF) regime
- Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, Inquiry into the jurisdiction of the Australian Commission for Law Enforcement Integrity

- Review of the *Freedom of Information Act 1982* and the *Australian Information Commissioner Act 2010*
- Victorian Parliamentary Inquiry into the supply and use of methylamphetamines, particularly ice, in Victoria.

### Minor amendments to the ACC Act

Consequential amendments to the ACC Act came into effect on the commencement of the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* (12 March 2014) and the *Public Governance, Performance and Accountability Act 2013* (1 July 2014, just after the reporting period). These did not alter the powers or functions of the Australian Crime Commission.

# Appendix C: Court proceedings

## Prosecutions

During 2013–14, Australian Crime Commission-related court results included convictions for offences such as illicit drug offences, fraud and deception, weapons and explosives offences, theft, money laundering and ACC Act offences. The Australian Crime Commission achieved these results by working closely with its partners.

The following information presents court results grouped by severity of sentence. The sentence used for categorising cases is the total maximum sentence liable to be served for all the Australian Crime Commission-related charges in that case, as finalised in the financial year. The offence type listed is a broad category that is indicative of the offences charged, based on the Australian and New Zealand Standard Classification Office. It is not intended to be exhaustive.

Where a matter has several results, all convictions are represented by the head sentence and other withdrawn or dismissed results are listed.

## Court results

	Offence	Outcome
1	Theft and related offences (proceeds of crime and money laundering) Illicit drug offences	Custodial sentence 10 years or more
2	Illicit drug offences	Custodial sentence 10 years or more
3	Illicit drug offences	Custodial sentence 10 years or more
4	Theft and related offences (proceeds of crime and money laundering) Illicit drug offences	Custodial sentence of six years – less than 10 years
5	Theft and related offences (proceeds of crime and money laundering) Illicit drug offences	Custodial sentence of six years – less than 10 years
6	Fraud, deception and related offences	Custodial sentence of six years – less than 10 years
7	Illicit drug offences	Custodial sentence of six years – less than 10 years
8	Illicit drug offences	Custodial sentence of six years – less than 10 years
9	Illicit drug offences	Custodial sentence of six years – less than 10 years
10	Illicit drug offences	Custodial sentence of six years – less than 10 years
11	Illicit drug offences	Custodial sentence of six years – less than 10 years
12	Illicit drug offences	Custodial sentence of six years – less than 10 years

**Court results (continued)**

	<b>Offence</b>	<b>Outcome</b>
13	Illicit drug offences	Custodial sentence of six years – less than 10 years
14	Illicit drug offences	Custodial sentence of six years – less than 10 years*
15	Fraud, deception and related offences	Custodial sentence of three years – less than six years
16	Illicit drug offences	Custodial sentence of three years – less than six years
17	Illicit drug offences	Custodial sentence of three years – less than six years
18	Illicit drug offences	Custodial sentence of three years – less than six years
19	Illicit drug offences	Custodial sentence of three years – less than six years
20	Illicit drug offences	Custodial sentence of three years – less than six years
21	Illicit drug offences	Custodial sentence of three years – less than six years
22	Illicit drug offences	Custodial sentence of three years – less than six years
23	Illicit drug offences Illicit drug offences	Custodial sentence of three years – less than six years Withdrawn / Dismissed / Acquitted
24	Theft and related offences (proceeds of crime and money laundering)	Custodial sentence of less than three years
25	Theft and related offences (proceeds of crime and money laundering)	Custodial sentence of less than three years
26	Theft and related offences (proceeds of crime and money laundering)	Custodial sentence of less than three years
27	Theft and related offences (proceeds of crime and money laundering)	Custodial sentence of less than three years
28	Theft and related offences (proceeds of crime and money laundering) Illicit drug offences	Custodial sentence of less than three years Non-custodial Sentence
29	Fraud, deception and related offences Fraud, deception and related offences Illicit drug offences	Custodial sentence of less than three years Withdrawn / Dismissed / Acquitted Withdrawn / Dismissed / Acquitted
30	Illicit drug offences	Custodial sentence of less than three years
31	Illicit drug offences	Custodial sentence of less than three years
32	Illicit drug offences	Custodial sentence of less than three years

## Court results (continued)

	Offence	Outcome
33	Illicit drug offences	Custodial sentence of less than three years
34	Illicit drug offences	Custodial sentence of less than three years
35	Illicit drug offences	Custodial sentence of less than three years
36	Illicit drug offences Prohibited and regulated weapons and explosives offences	Custodial sentence of less than three years
37	ACC Act offences	Custodial sentence of less than three years
38	ACC Act offences	Custodial sentence of less than three years
39	Theft and related offences (proceeds of crime and money laundering) Illicit drug offences	Non-custodial sentence
40	Illicit drug offences	Non-custodial sentence

**Note:** People charged in a financial year may not have appeared before a court by 30 June of that year, and convictions may be for people charged in previous financial years.

\*This matter was dealt with in an international jurisdiction, based on information provided by the Australian Crime Commission to the New Zealand authorities.

Also during the year charges for three fraud, deception and related offences and three ACC Act offences were either withdrawn, dismissed or acquitted.

## Confiscations

During 2013-14 the Australian Crime Commission, in conjunction with its partners, achieved:

- \$150 million proceeds of crime restrained
- \$94.14 million proceeds of crime forfeited (forfeitures coming to \$82 747 667 and pecuniary penalty orders issued to \$11.4 million)

No pecuniary penalty orders were recovered.

## Appendix D: Judicial decisions

The Australian Crime Commission's actions are often reviewed by courts. This may occur in the context of applications in the Federal Court for judicial review under the *Administrative Decisions (Judicial Review) Act 1977* (ADJR Act) or section 39B of the *Judiciary Act 1903*, or as part of the criminal justice process, such as in a contested subpoena or application for a stay of criminal proceedings.

In 2013–14, the Crime Commission was involved in a range of matters including prosecutions where the grounds for stay applications were claims that the conduct of agency examinations and dissemination of examination material adversely affected the accused's right to a fair trial, or the proper administration of justice.

### X7

*X7 v ACC and Commonwealth of Australia* (No. S100 of 2012) was an application in the original jurisdiction of the High Court for declaratory and injunctive relief. The background to the case was the examination of the plaintiff by an Australian Crime Commission Examiner after he had been charged with serious criminal offences. The plaintiff sought a declaration that, to the extent the ACC Act permits a coercive hearing of a person charged, it is unconstitutional, and sought injunctions restraining the Australian Crime Commission from examining X7 before his criminal charges were finalised.

The plaintiff argued that it is unconstitutional for the Legislature to vest in the executive a power, which in his argument, should rightly reside with the judiciary alone. Further, he argued that once a person is charged with a serious criminal offence, the executive cannot conduct a coercive hearing in respect of those charges because to do so would fundamentally interfere with the interests of justice.

On 26 June 2013, a majority of the High Court held that as a matter of statutory construction the ACC Act did not authorise an Examiner to require a person charged with an indictable Commonwealth offence to answer questions about the subject matter of the offence. The majority of the Court did not consider the constitutional arguments raised. The Australian Crime Commission has adjusted its practices to abide by the majority's decision and has undertaken steps to ensure that issues associated with prior examinations have been reviewed and appropriately addressed/managed.

### CB

On 30 June 2011, the District Court in New South Wales granted a permanent stay of the trial of an accused (referred to as CB) on a charge of conspiracy to manufacture a commercial quantity of a controlled drug, contrary to section 11.5 and 305.3 of the *Criminal Code Act 1995*.

The basis of the judge's decision was that after the accused was charged, he was summonsed and examined by the Australian Crime Commission about the subject matter of the charge pending against him, and that holding an examination in the circumstances interfered with the criminal trial process. The Commonwealth Director of Public Prosecutions appealed the primary judge's decision to grant a permanent stay of the CB's trial.

The Court of Criminal Appeal, in an unpublished judgment, allowed the appeal, finding that there had been no interference with the administration of justice. CB sought special leave to appeal against the decision to the High Court, but on 22 June 2012 that leave was refused. CB then commenced proceedings in the original jurisdiction of the High Court (*CB v Australian Crime Commission & Anor, s297/2012*) and those proceedings (and the criminal trial) were halted to await the decision of the Court in X7. Following the High Court's decision in X7, CB unsuccessfully applied to re-open this Special Leave application.

On 12 December 2013, their Honours indicated that the Criminal Court of Appeal decision was not affected by the subsequent decision in X7 and there was no question warranting the re-opening of the appeal.

### R v Seller and R v McCarthy

In the matters of *R v Seller and R v McCarthy*, heard together in the Supreme Court of New South Wales, the defendants were charged with fraud and corruption offences. The defendants sought, and were granted, a permanent stay of the criminal trials on the grounds that their right to conduct their defence was compromised by the dissemination of the transcripts of Australian Crime Commission examinations to the Commonwealth Director of Public Prosecutions, claiming that the circumstances of the case brought the system of justice into disrepute and constituted an abuse of the processes of the court. With leave of the Court, the agency argued that derivative use of examination material is permitted under the ACC Act, and there can be no interference with the course of justice as all examinations took place before charge. Judgment in favour of the defendants was handed down on 17 August 2012.

The Commonwealth Director of Public Prosecutions appealed the decision, and on 1 March 2013 the New South Wales Court of Criminal Appeal delivered judgment in favour of the Commonwealth. The Court found that a stay of proceedings should only be granted in the most extreme cases, and where there is prejudice the trial judge will be able to remedy it in most cases by excluding evidence.

On 2 April 2013, Seller and McCarthy both filed applications for leave to appeal to the High Court, claiming that the New South Wales Court of Criminal Appeal mistakenly re-instated the proceedings. Counsel for both Seller and McCarthy sought to rely on X7 in support of the notion that disclosure of the examination transcripts to the Commonwealth Director of Public Prosecutions constituted such an inroad into the accusatorial process that it amounted to actual prejudice and warranted a stay of prosecution. The Court rejected these arguments, finding that the New South Wales Court of Criminal Appeal was not in error when it concluded that there was no evidence that the trial would suffer a fundamental defect warranting a stay, and there was no point of legal principle arising which would warrant the consideration of the High Court. The two applications were dismissed.

The trials will resume in late 2014, and further arguments are expected to be heard in relation to the use and communication of Australian Crime Commission examination material.

### Bartlett, Sayers and Grace and Dunn

The prosecution of Bartlett, Sayers and Grace and Dunn was a prosecution arising from the Wickenby investigation and, like the Seller and McCarthy proceedings, raised issues of derivative use of ACC Act examination information and prosecutorial disclosure of examination material prior to charge.

In a pre-trial application three of the defendants applied for a stay of their prosecutions. Initially they relied on the same arguments as Seller and McCarthy, asserting that the non-publication direction permitted disclosure to the prosecution that prejudiced the fairness of their trial. They further argued that the High Court's decision in X7 was equally applicable to a case where a person may be charged with an offence and therefore the Australian Crime Commission examinations should not have proceeded.

On 15 August 2013, Heenan J of the Supreme Court of Western Australia dismissed the applications for a permanent stay of the prosecutions of each of the accused in his decision of *Bartlett v The Queen* [No. 6] (2013) WASC 304. His Honour held that it was the absence of any reference to any tangible evidence or any use of particular evidence as a form of potential prejudice that left the applicants' submissions without foundation. Dunn was subsequently convicted, Grace was acquitted, and the jury was unable to reach a verdict in relation to Bartlett and Sayers. The trials resumed early in 2014.

### Lee<sup>5</sup>

While not an Australian Crime Commission matter, the recent High Court decision of Lee has potential implications for the way the agency conducts coercive examinations of persons who have not been charged.

This matter involved the pre-trial examination of the two appellants by the New South Wales Crime Commission under the *New South Wales Crime Commission Act 1985* (NSW). The appellants were subsequently charged and convicted with drug supply, firearm and money laundering offences. At examination, the questioning traversed matters connected with the offences with which the appellants were subsequently charged. In preparing for the trial of the appellants, the Office of the Director of Public Prosecutions (NSW) requested the examination transcripts from the New South Wales Crime Commission on the basis that the examination material may disclose a possible defence(s) and would therefore be useful to the prosecution.

In the High Court, the appellants appealed their convictions for drug and firearm offences. On 21 May 2014, in a unanimous judgment, the High Court held that the appellants had not received a fair trial because confidential transcripts of their compulsory examinations before the New South Wales Crime Commission had been unlawfully given to Office of the Director of Public Prosecutions (NSW) to assist it to prepare the prosecution's case. The prosecution conceded that, in the circumstances of the particular case, the disclosure to the prosecution was unlawful, and the High Court held that this was a fundamental departure from the requirements of the accusatorial trial and resulted in a miscarriage of justice.

### Contempt of the Australian Crime Commission

The Australian Crime Commission's powers to refer a witness for contempt were introduced into the ACC Act in February 2010. Examiners have the power to apply for a witness to be dealt with for contempt of the agency in certain circumstances. These applications are heard in either the Federal Court or relevant state or territory Supreme Court.

There were no finalised proceedings for contempt of the ACC in 2013–14. The ACC has two contempt matters which were before the courts at the time of writing this report. Both of these matters involve charges for contempt under section 34(a)(ii) of the ACC Act.

5 *Lee v New South Wales Crime Commission* (2013) 302 ALR 363; [2013] HCA 39.

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