Australian Government

Australian Transaction Reports and Analysis Centre

Parliamentary Joint Committee on Law Enforcement

Inquiry into the gathering and use of criminal intelligence

Australian Transaction Reports and Analysis Centre

Submission

August 2012

Inquiry terms of reference

Pursuant to the committee's functions set out in paragraph 7(1) of the *Parliamentary Joint Committee on Law Enforcement Act 2010*, the committee undertook, on 30 May 2012, to inquire into the capacity of the Australian Crime Commission (ACC) and Australian Federal Police (AFP) to gather, use and share criminal intelligence to reduce the threat and impact of serious and organised crime. In that context the committee will consider the:

a) role and objectives of the ACC within the context of the National Security Framework

b) ACC's collection capability, including resourcing, expertise, powers, and criminal intelligence community networks

c) adequacy of the ACC's criminal intelligence holdings

d) availability and accessibility of ACC's criminal intelligence

e) interoperability of Australian law enforcement agencies in relation to criminal intelligence holdings.

Background

1. The Australian Transaction Reports and Analysis Centre (AUSTRAC) is pleased to provide this submission to the Parliamentary Joint Committee on Law Enforcement inquiry into the gathering and use of criminal intelligence.

2. AUSTRAC is Australia's anti-money laundering and counter-terrorism financing (AML/CTF) regulator and specialist financial intelligence unit (FIU).

3. In its FIU role, AUSTRAC collects and analyses financial transaction data received from 'reporting entities' and 'cash dealers'. This transaction data received is analysed by AUSTRAC to produce financial intelligence which is then disseminated to Australian law enforcement, national security, human services and revenue agencies, and certain international counterparts.

4. In its regulatory role, AUSTRAC oversees compliance with the requirements of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (AML/CTF Act) and the *Financial Transaction Reports Act 1988* (FTR Act) by a wide range of financial services providers, bullion dealers, designated remittance service providers, the gambling industry and other reporting entities, as well as cash dealers (as defined in the FTR Act). AUSTRAC undertakes a range of supervisory activities from education, guidance, audit and inspection through to enforcement.

AML/CTF legislation

5. The AML/CTF Act establishes a legislative framework under which reporting entities providing certain financial, gambling and bullion services have obligations to:
   - implement and comply with an AML/CTF program to identify, assess and mitigate the risk of money laundering and terrorism financing
   - identify their customers
   - lodge reports with AUSTRAC
   - monitor the relationships with their customers
   - make and retain records of services provided to their customers.

6. The AML/CTF Act covers a range of industry sectors including banks, credit unions, stockbroking, superannuation, life insurance, cash-in-transit operations, casinos, corporate bookmakers, remittance services, foreign exchange services and pubs and clubs with gambling facilities.

7. The AML/CTF Act requires reporting entities to lodge three primary types of reports with AUSTRAC:
   - Suspicious matter reports (SMRs) – must be submitted if, at any time while dealing with a customer, the reporting entity forms a suspicion on reasonable grounds that any information relating to the provision (or proposed provision) of a service to the person may be relevant to the investigation or prosecution of a

person for tax evasion or an offence against a law of the Commonwealth, a State or Territory. An SMR must be reported regardless of the dollar value involved.

- International funds transfer instruction (IFTI) reports – must be submitted if a reporting entity sends or receives an instruction to or from a foreign country, to transfer money or property, regardless of the dollar value of the amount transferred.
- Threshold transaction reports (TTRs) – must be submitted if a reporting entity provides a designated service to a customer which involves the transfer of physical currency (or e-currency) of $10,000 or more (or the foreign currency equivalent).

8. Under the FTR Act, certain cash dealers not caught by the AML/CTF Act – for example, motor vehicle dealers in their capacity as an insurance intermediary – are required to report significant cash transactions ($10,000 or more) and suspect transaction reports. Solicitors must also report significant cash transactions to AUSTRAC under the FTR Act.

Availability and accessibility of ACC criminal intelligence

9. To produce timely, targeted and actionable intelligence from large volumes of financial transaction reports, AUSTRAC analysts interrogate the intelligence holdings of the ACC, AFP and the Australian Customs and Border Protection Service (Customs and Border Protection). Use of criminal intelligence adds value to AUSTRAC intelligence and can assist in determining the appropriate partner agency to which an intelligence product should be disseminated.

10. Existing intelligence on people or activities of interest can also help inform the risk rating or priority given to financial activity and suspicious matters detected by AUSTRAC monitoring systems. Criminal intelligence may also provide valuable information in relation to predicate criminal activity which underlies the financial transactions being analysed.

11. AUSTRAC uses criminal intelligence in the same manner as its partner agencies use financial intelligence; namely, to identify new data and associations or links among entities (individuals or networks), and/or to verify or validate existing information.

12. The ACC and other agencies regularly refer contemporary intelligence products directly to AUSTRAC. These intelligence reports provide AUSTRAC analysts with valuable contextual and specific criminal intelligence which is highly valued by AUSTRAC.

13. In 2009 AUSTRAC held a Joint Intelligence Workshop with major Commonwealth partner agencies: the ACC, AFP, Customs and Border Protection, and Australian Taxation Office. These workshops are now held on an annual basis and have expanded to include agencies such as the Office of National Assessments, Australian Security Intelligence Organisation, Department of Immigration and Citizenship, New

South Wales Crime Commission and the Attorney-General's Department. This annual exercise takes account of the national criminal intelligence priorities and operational priorities of these agencies to assist AUSTRAC in setting its intelligence priorities and in identifying the principal areas of assistance to be provided by AUSTRAC to partner agencies in the coming year.

Interoperability of Australian law enforcement agencies in relation to criminal intelligence

14. AUSTRAC has established and maintains strong relationships with law enforcement, national security, human services, and revenue agencies.

15. AUSTRAC provides information to 39 Commonwealth, State and Territory agencies which are listed as a 'designated agency' in section 5 of the AML/CTF Act. The Australian Taxation Office is also entitled to AUSTRAC information by virtue of section 125 of the AML/CTF Act.

16. AUSTRAC has 64 exchange instruments in place with counterpart international FIUs in relation to the exchange of financial intelligence. AUSTRAC also has an instrument in place with its Canadian counterpart in relation to the exchange of regulatory information.

17. The AUSTRAC Chief Executive Officer (CEO) may authorise access to AUSTRAC information on a case-by-case basis to non-designated Commonwealth agencies for the purpose of investigating a possible breach, or the proposed investigation of a possible breach, of a law of the Commonwealth.

18. Use of and access to AUSTRAC information is governed by the general access and secrecy provisions of the AML/CTF Act (Part 11, sections 121, 122, 123, 127, 128, 130 and 131). Given the personal and commercial information contained in the transaction reports which it collects, AUSTRAC has a responsibility to provide safeguards to protect reporting entities which submit reports (and the individuals and businesses to which those reports relate), including maintaining detailed audit trails of searches conducted of the database by partner agencies and AUSTRAC personnel.

19. In the 2011-12 financial year, AUSTRAC received more than 59 million financial transaction reports. Approximately 3,500 authorised officers across AUSTRAC's partner agencies have online access to interrogate this information including over 2,800 officers from Australian Government agencies. In the preceding financial year, AUSTRAC disseminated over 1,400 intelligence assessments to partner agencies with over 76 per cent being disseminated to Australian Government agencies.

20. AUSTRAC information provides important intelligence on following the money trails which enable operational agencies to find or corroborate links among individuals, groups and networks of interest. Its value is enhanced when interwoven or 'fused' with criminal and other intelligence streams.

21. AUSTRAC has worked with the ACC and AFP in establishing collaborative arrangements to share information from different sources and maximise its intelligence value. A recent example of the value of this collaborative approach is the ACC-led Task Force Galilee targeting serious and organised investment fraud being committed against Australians.

22. The ACC-hosted Financial Intelligence Assessment Team and ACC Criminal Fusion Intelligence Centre provide important platforms which take intelligence referrals from AUSTRAC and, using information from other agencies, enrich the intelligence picture on criminals and criminal activity.

23. The AFP-led Commonwealth Criminal Asset Confiscation Taskforce is a similar model where AUSTRAC information can be linked by the AFP with criminal intelligence and information from other agencies (such as the Australian Taxation Office).

24. Although far from representing the complete picture in terms of interoperability between agencies, the following outcomes represent the value derived from sharing of financial intelligence and fusion of that intelligence with criminal intelligence and other specific agency information. Over the seven years since July 2005, AUSTRAC information has contributed to:

    - the Australian Taxation Office raising income tax assessments in excess of $1.15 billion from over 8,300 investigations conducted

    - over 8,000 significant investigations conducted by law enforcement agencies throughout Australia

    - Centrelink (now Department of Human Services) investigating over 4,600 cases of fraud on Commonwealth payments leading to annualised savings in excess of $35 million.

25. In October 2010, AUSTRAC initiated a project to enhance its analytical intelligence capabilities. The project aims to build an analytical capability to give AUSTRAC greater capacity for close-to-real-time tracking of illicit money trails. This new technology will also allow better integration of AUSTRAC information and external data including criminal intelligence, to assist in the earlier identification of sophisticated criminal networks, terrorism financiers, tax evasion and fraud against the Commonwealth. This in turn will generate more timely intelligence to support the operational needs of partner agencies.

26. This new capability will include enhanced charting tools, graphical displays, social network analysis displays, temporal analysis (viewing how data changes over time), and geospatial mapping (overlaying social networks on maps). It will empower analysts to work more effectively with a growing database of financial information and enable them to ‘join the dots’ more quickly to focus on activity that poses the greatest threat to the Australian community.