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of Australia

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INQUIRY INTO THE GATHERING AND USE OF CRIMINAL INTELLIGENCE

The Police Federation of Australia would like to thank the Committee for the opportunity to contribute to the inquiry into the gathering and use of criminal intelligence. We do so representing the interests of 56,000 police officers across Australia in all State and Territory jurisdictions and the Commonwealth.

The PFA understands from the terms of reference of this inquiry that a significant focus is the Australian Crime Commission's capacity to collect, analyse, use, and disseminate criminal intelligence. The PFA also acknowledges that the ACC is a key facilitator of intelligence sharing in the Australian law enforcement landscape. Therefore any consideration of intelligence sharing will necessarily require considerable input from the ACC. As well as this, the PFA's perspective is one of 'Australia's Police', and as such, this submission will focus on intelligence sharing as it relates to the police forces, and partnerships between police and all other agencies. Improving intelligence sharing capabilities between all agencies will also result in a significant increase in the ACC's data holdings, and its ability to provide intelligence analysis and services.

Summary

Intelligence sharing between law enforcement agencies and other agencies with relevant intelligence holdings is an integral part of the fight against crime. For example, Minister for Home Affairs Jason Clare recently announced that “Intelligence is the key to seizing drugs on the street and at the border... 96 per cent of drug seizures come from intelligence from law enforcement agencies before the parcel or container even arrives in Australia.” Australian Crime Commission CEO John Lawler said “increase in seizures is a direct result of increased intelligence and information sharing between jurisdictions in Australia”.

The PFA believes that the future of Australian law enforcement is the free flow of criminal intelligence, utilising modern intelligence-sharing technical capability. Intelligence sharing capabilities should cover a large variety of data types, and require mandatory contribution by all Australian law enforcement agencies, and other agencies with relevant intelligence holdings. The fight against serious and organised crime, as well as the day to day duties of Australia’s police, would best be served by a truly national criminal intelligence holding.

The obstacles to this intelligence sharing system are: outdated technology which hampers the capability to facilitate intelligence sharing, and a lack of mandatory intelligence sharing requirements.

The PFA therefore calls for the development of the technical capacity to facilitate the free flow of criminal intelligence between law enforcement and relevant agencies, and for legislative obligations for agencies to share all their criminal intelligence.

The PFA understands that this cannot occur overnight. This submission has therefore identified some immediate opportunities in intelligence arrangements that should be utilised as intermediate steps towards the ultimate goal of the free flow of intelligence.

Modernisation of Criminal Intelligence Sharing Capabilities

The PFA believes that the future of Australian law enforcement is in the free flow of all criminal intelligence between all law enforcement and other relevant agencies. In an ideal world all law enforcement and other relevant agencies would be connected into a single criminal intelligence database. The ACC has a legislative mandate to maintain such a database¹, but is hampered by a lack of modern technology, and an absence of mandatory requirements for agencies to contribute intelligence to that database. The PFA is acutely aware of the practical realities and difficulties of reforming the intelligence databases currently used by each individual agency, in order to create one single database. But there needs to be some way to allow the free flow of all criminal intelligence between all law enforcement and other relevant agencies, whether it be through a single database, or by creating some link between intelligence holdings of each agency such that any intelligence held by one agency is accessible by another. Whatever form it takes, only this free flow of criminal intelligence will provide law enforcement agencies with the complete intelligence picture. Without it, Australia's police and other agencies are forced to combat crime with one eye closed.

The increasing complexity of criminal enterprises means that intelligence from a variety of agencies, such as the Australian Taxation Office, or Australian Customs and Border Protection Service, is vital to investigating the many arenas in which criminals seek to operate. As well as this, organised crime does not respect State and Territory borders, and often serious criminal enterprise is also linked to lesser 'enabler' crimes. In this context, there is the potential for any criminal intelligence, no matter from what agency, from what jurisdiction, or how seemingly minor, to be relevant to the broader fight against serious organised crime. This is why extensive national intelligence sharing capabilities, that cover many data types, from all relevant agencies across Australia, are necessary in the fight against serious and organised crime.

As well as this grander scale fight against organised crime, free flow of intelligence would greatly assist police officers in the performance of their day to day duties. Police Officers should be provided with direct real time access to intelligence holdings on operational grounds. Police officers and those they interact with are most at risk when an officer is forced to operate in a situation without proper intelligence regarding the circumstances of the situation. Examples of such situations include; interacting with a person whose criminal history or mental illnesses are unknown to the officer, pulling over a car without knowing that it may have been involved in the commission of a criminal offence, or entering premises unaware of the possible presence of drug-manufacturing chemicals. These dangerous situations that police officers could face have endless permutations. The free flow of information between agencies ensures that police officers have ease of access to real time intelligence, and can access any known intelligence on any situation.

¹ *Australian Crime Commission Act 2002 (Cth), s7A(a).*

A key component of the system the PFA envisions is the ease of access to intelligence. Currently, ad hoc information sharing agreements or requests for information may hamper the speed of intelligence sharing. The free flow of intelligence could provide all law enforcement agencies with *real time* intelligence. In the context of organised crime investigation and disruption, ACC CEO John Lawler has spoken about the need for real time intelligence to fight organised crime, saying that to combat organised crime, intelligence needs to be available within 48 hours of it occurring². In the context of frontline policing, direct real time access can be crucial when an operational police officer must act quickly on intelligence, such as dealing with a suspect, or considering a pursuit. Many police forces still use central and sometimes manual processes for intelligence sharing, which slows down the intelligence flow to operational frontline police officers. This is inefficient, time consuming, and potentially dangerous to operational police and those they interact with.

Coverage of a large variety of data types in a sharing arrangement would also ensure that agencies such as the ACC are able to form a detailed picture on the issues facing those on the front line of combating crime. This ensures that community issues are given adequate consideration when determining the national crime fighting priorities.

This system would also see improved efficiencies. Currently information sharing is based on MOUs, sharing agreements or requests for information between agencies. This creates an ad hoc system of information sharing that lacks consistency. This creates unequal data holdings, which risks some agencies being unaware of certain intelligence, misinformed about certain situations, or duplication of intelligence gathering operations. A uniform standard of information sharing would ensure that all law enforcement and other relevant agencies contribute to the same extent, and have the same intelligence, solving these inefficiency risks.

Accountability measures would also be more effective under a uniform scheme rather than the current ad hoc and inconsistent scheme. With the current method of information requests or MOUs between a myriad of individual agencies, it is very difficult to keep track of what is being shared, between whom, and under what circumstances. By contrast, uniform sharing processes could provide a platform for regulating how information is used, and also to monitor and prevent the misuse of information. Privacy and integrity concerns relating to police directly accessing real time intelligence holdings on operational grounds can be addressed by 'electronic data tracking' capabilities, which current technology can provide, if applied to a uniform, electronic system.

² John Lawler, Presentation to the 10th Anniversary National Security Australia Conference 2012 ACC Speeches and Presentations Tue, 13/03/2012.

Examples where the free flow of intelligence would be invaluable

Example 1

An organised criminal enterprise operates in multiple jurisdictions. Lesser 'enabler' crimes are being committed in order to support the broader criminal operation (eg theft and assault). Financial irregularities are also detected for individuals or organisations involved. Intelligence from State and Territory police forces relating to these lesser crimes, and financial intelligence from other agencies, assists the AFP and ACC in forming an understanding of the criminal enterprises hierarchy, who is involved, and where they are operating.

This enables the ACC to provide a more extensive and accurate intelligence service to law enforcement agencies, and a greater level of disruption of the criminal activities can occur. Police Forces are also better equipped to prevent and investigate these criminal activities.

Without the extensive coverage of multiple data types in a sharing arrangement, intelligence relating to the enabler crimes or financial activity might not have been linked to the overall criminal operations.

Example 2

Police confiscate illicit drugs from a street dealer. Drug data is analysed concurrently with national intelligence. Chemical makeup and the origin of those drugs are matched up to national intelligence on a large scale drug importation and distribution ring.

Overcoming the Obstacles to Effective Intelligence Sharing

Capabilities of Current Intelligence Sharing Systems

Multi-agency operations that rely heavily on intelligence sharing have yielded significant successes. For example, Project Wickenby, a Joint Taskforce involving the AFP, ATO, ACC, ASIC, AUSTRAC, and the DPP, recently achieved the restraint of over \$40 million worth of assets. Operation Hoffman, a Joint Operation between NSW Police, the AFP and the ACC, resulted in the seizure of more than 28kg of heroin (estimated street value of \$32 million).

But despite these successes, it can no longer be ignored that the technology that underpins much of Australia's intelligence sharing capabilities is outdated. For example the ACC intelligence sharing systems, ACID and ALEIN, are based on technology from the 1980s. Meanwhile, criminals utilise advanced technology developed in 2012, and are continually updating. The technological capabilities that facilitate the sharing, collating and analysis of criminal intelligence needs to be updated to modern technology standards, and the necessary resources should be made available to do so.

Currently, law enforcement and other relevant agencies are bombarding each other with requests for information, so the demand for information sharing is, without a doubt, significant. Unfortunately the capabilities of current intelligence sharing technology, such as ACID and ALEIN, cannot meet the standards of the sharing capabilities the PFA has envisioned above. This means that current sharing capabilities do not offer enough incentives and security to convince law enforcement and other relevant agencies that they should commit their hard-earned intelligence to the middle of the law enforcement table. Providing the resources to improve the technical capabilities of agencies to share criminal intelligence will make a free flow of intelligence attractive to law enforcement and other relevant agencies.

Lack of Mandatory Sharing Obligations

Agencies need to be held accountable for their level of contribution to shared intelligence holdings. Agencies that make the commitment to contribute their intelligence holdings need to know that they are getting the same level of commitment back from other agencies. Ad hoc MOUs, individual agreements or requests for information create unequal intelligence holdings, and therefore an incomplete intelligence picture. These arrangements should be replaced by uniform legislative obligations to allow for and facilitate the free flow of all criminal intelligence between all law enforcement and other relevant agencies.

Current Opportunities for Intermediate Steps

There are current intelligence activities that provide opportunities to build towards fully shared intelligence holdings on *specific* criminal activities. These opportunities should be utilised to implement the sorts of data sharing arrangements, processes and capabilities the PFA has identified, serving as intermediate steps towards the free flow of *all* criminal intelligence.

Building National Firearms Intelligence

Earlier this year the ACC, AFP, and Customs and Border Protection recommended to the Federal Government that more intelligence was the key to dealing with illegal firearms importation. This led to the announcement of the *Firearms Intelligence and Targeting Team*. This move seeks to bring together all available intelligence from all relevant agencies to target key criminal groups seeking to import firearms and parts. The PFA also understands that at the meeting between Police Ministers in Melbourne on 29th June, there was an 'in principle' agreement to implement a 'national firearms identification database', which was supported by the Council of Australian Governments meeting on the 25th of July. These actions should be seen as opportunities to develop an extensive national intelligence picture on firearms, utilising intelligence from multiple agencies across Australia. The movement of firearms, the hands they are held by, and the crimes they are used in, are the sorts of intelligence that law enforcement and other relevant agencies should be able to share and access in real time. The potential for this sort of intelligence could be extremely valuable in dealing with problems like those faced in the Western Sydney drive by shootings.

By contrast to these promising opportunities, the current system is cumbersome. Earlier this year the memorandum of understanding between the AFP and the Australian Customs and Border Protection Service (AC&BPS) still required amendment such that the AC&BPS would be required to notify the AFP of all dangerous weapon detections *as soon as practicable*. Detection of dangerous weapons is also intelligence that should be shared with officers combating gun related crime in State and Territory jurisdictions.

Expanding Existing Drugs Intelligence

ACID and ALEIN already includes a centralised clandestine laboratory information repository and a standardised national approach for recording information collected at seizures. Mandatory contribution of intelligence by all agencies, and an increased variety of the data types could assist law enforcement agencies in:

- Determining the chemical make-up and origins of illicit drugs, which assists in tracing its movement and distribution
- Identifying crime groups involved in manufacturing and distributing illicit drugs
- Analysing trends and common methodologies of importing, manufacturing and distributing illicit drugs

With the beginnings of a national drug database already present, this component of ACID and ALEIN provides an opportunity to implement the extensive intelligence sharing processes Australian law enforcement needs.

Combination with Automatic Number Plate Recognition

A National Automatic Number Plate Recognition system would be a powerful tool when combined with national criminal intelligence sharing capabilities. The Automatic Number Plate Recognition system could track the movements of national crime syndicate members such as outlaw motorcycle gangs, or confirm a suspect was present at the scene of a crime.

In 2007, the *Parliamentary Joint Committee on the Australian Crime Commission* recommended that “the Commonwealth, State and Territory governments implement a national number plate recognition system”³. The Government “provided \$2.23 million of funding from the confiscated assets account under the Proceeds of Crime Act 2002 to carry out the Scoping Study”⁴. It is now time to actually deliver a national number plate recognition system that can be utilised in conjunction with national intelligence sharing capabilities.

National Criminal Target List

The National Criminal Target List also provides an opportunity to utilise the potential of linking multiple agencies. Firstly, there should be a consequence of appearing on this list; that all criminal intelligence relating to persons on this list, held by any law enforcement or relevant agency, is made available to all other law enforcement or relevant agencies, creating a free flow of intelligence. This should be seen as a first step towards the free flow of *all* criminal intelligence, as it is undeniable that there should be national intelligence holdings regarding National Criminal Targets.

If multiple agencies were able to share information about National Criminal Targets, there could be significant disruption on this person’s criminal activities or attempts to avoid law enforcement agencies. Flow-on consequences of appearing on this list could include automatic flagging of the person’s passport, the freezing of their financial accounts, and notification and tracking of their vehicles’ number plates.

³ Parliamentary Joint Committee on the Australian Crime Commission, *Inquiry into the future impact of serious and organised crime on Australian society*, September 2007, Recommendation 19.

⁴ Government Response to the *Inquiry into the future impact of serious and organised crime on Australian society*, September 2007.

Criminal Intelligence Working Group

The ACC Board has established the Criminal Intelligence Working Group, which is comprised of the heads of intelligence from all ACC Board agencies (including all police services). This is a significant step forward in that it has lifted the profile of the intelligence function nationally. The CIWG has set its vision as 'intelligence partnerships for a safer Australia' and recognises that criminal intelligence should be viewed and treated as an enterprise wide asset to be utilised as appropriate by agencies involved in policing, serious and organised crime and national security.

This goodwill by all agency heads of intelligence towards the sharing of intelligence should be utilised to create an effective and cooperative system of intelligence sharing.

Potential Duplication of Intelligence Repositories

Whilst not strictly part of the Terms of Reference for this Inquiry, the Committee may wish to assess whether there is any duplication of intelligence functions between a number of Government agencies (eg ACC, CrimTrac, AUSTRAC).

Whilst the PFA is not recommending any specific changes, a number of different criminal intelligence repositories may become problematic in the future. Administrative and operational efficiencies may occur with the removal of unnecessary compartmentalisation.

Conclusion

The future of crime fighting is the free flow of all criminal intelligence between all law enforcement and relevant agencies. The *Commonwealth Organised Crime Response Plan 2010-2011* identified 'intelligence, information sharing and interoperability' as a key capacity that needs improvement in the fight against serious and organised crime. It is time to deliver on that. The Australian Crime Commission, the agency with the function of building a national criminal intelligence picture, is approaching its 10th anniversary. The partnerships between law enforcement agencies such as the ACC and Australian Police forces have been significant in the fight against serious and organised crime. But it is time to give these partnerships truly modern crime fighting capacity. The way to achieve this is to provide the resources necessary for law enforcement agencies to develop the capacity to facilitate the free flow of criminal intelligence, and thereby create a complete, national intelligence picture.

The PFA calls for the provision of the necessary resources to improve the technology underpinning current intelligence sharing systems, and the development of mandatory sharing arrangements. These measures should be implemented for current or upcoming sharing arrangements for firearms, illicit drugs, national number plate recognition, and national criminal targets. These intermediate steps will show the power of intelligence sharing, and serve as the ground work for establishing the free flow of all criminal intelligence. Australia's police and the communities they serve will be the better for it.

Sincerely yours

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