



COMMONWEALTH OF AUSTRALIA

# Official Committee Hansard

PARLIAMENTARY JOINT COMMITTEE ON LAW ENFORCEMENT

**COVID-19, criminal activity and law enforcement**

FRIDAY, 28 AUGUST 2020

CANBERRA

BY AUTHORITY OF THE SENATE

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## PARLIAMENTARY JOINT COMMITTEE ON LAW ENFORCEMENT

Friday, 28 August 2020

**Members in attendance:** Senators Lines, Scarr and Dr Aly, Mr Conaghan, Mrs Elliot, Mr Craig Kelly.

### **Terms of Reference for the Inquiry:**

To inquire into and report on:

Pursuant to subsection 7(1) of the *Parliamentary Joint Committee on Law Enforcement Act 2010*, the committee will inquire into and report on trends and changes in criminal activity related to the COVID-19 pandemic, and law enforcement responses, with particular reference to

a) the nature and operations of transnational, serious and organised crime, including the impact of border controls and other policy responses to the pandemic that have impacted supply chains and the movement of goods and people, and tactics adopted by criminal organisations to adjust to or exploit changes in their operating environment during the pandemic;

b) how the pandemic has affected the prevalence of certain types of crime, particularly crime types associated with transnational, serious and organised crime;

c) trends and changes in relation to other crime types of specific interest to Commonwealth law enforcement agencies, including but not limited to fraud and cyber-crime;

d) the nature and effectiveness of responses by law enforcement to trends and changes in criminal activity related to the pandemic, including any changes in the practices, methods and procedures of law enforcement;

e) the impact of the pandemic and related social distancing measures on the capacity and operational abilities of law enforcement, and the extent of law enforcement preparedness in relation to the current pandemic and similar future events;

f) the extent to which trends and changes in criminal activity during the pandemic, and related changes to law enforcement methods, practices and procedures, might endure beyond the pandemic;

g) changes that might be desirable, in light of any current and possibly longer-lasting trends and changes in criminal activity related to the pandemic, and in view of the preparedness of Commonwealth law enforcement in undertaking its work during the pandemic, to the functions, structure, powers and procedures of the Australian Federal Police and the Australian Criminal Intelligence Commission; and

h) any related matters.

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**CLOSE, Ms Leanne, Private Capacity**

**COYNE, Dr John, Private Capacity**

**Committee met at 09:01**

**CHAIR (Mr Craig Kelly):** I declare open this public hearing of the Joint Committee on Law Enforcement for its inquiry into the impacts of COVID-19 on criminal activity and law enforcement. The committee's proceedings today will follow the program as circulated. These are public proceedings being broadcast live via the Parliament House website. The committee prefers evidence to be given in public, but under the Senate's resolutions witnesses have the right to request to be heard in confidence, being described as 'in camera'. It is important that witnesses give the committee notice if they intend to give evidence in camera. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee. With the formalities over, I welcome everyone here today.

Welcome, Dr Coyne and Ms Close. I thank you for being here today under these difficult circumstances. The committee has a copy of your submission. Do you have any comments to make on the capacity in which you appear?

**Dr Coyne:** I am head of Strategic Policing and Law Enforcement at the Australian Strategic Policy Institute.

**Ms Close:** I am head of the Counter-Terrorism Program at the Australian Strategic Policy Institute.

**CHAIR:** Dr Coyne, we've got until about 9.45 am. Would you like to make a brief opening statement before we go to questions?

**Dr Coyne:** Yes, I would to start and then I'll hand over to Leanne. First and foremost, we wanted to thank the committee for inviting us to give evidence today. Second, we want to acknowledge the hard work in these unprecedented times that Australia's law enforcement and emergency services workers have performed. I was reminded in the last 24 to 48 hours that whilst performing these amazing duties they still remain parents, students and other things. It was only 24 or 48 hours ago that I was speaking to a police officer from one of the services here in Australia who had just spent the last week doing night shifts, who was a week behind with his assignment and as I was talking to him his three, very young-sounding children were arguing in the background. So, from that perspective, we both wish to acknowledge that hard work.

In terms of opening, I would like to highlight the fact that the impacts of COVID-19 on transnational serious organised crime have been varied. It's very easy to highlight and argue that those impacts either lean one way or the other, so completely restricts drugs or alternatively creates new markets. If truth be known, we're still trying to understand how COVID-19 and its social and economic impacts will shape supply and demand for illicit commodities. That said, we've started to see some very real changes that require new thinking. Part of the evidence we're presenting today is very clearly about promoting a new level of thinking and new approaches to the law enforcement challenges that we face for the foreseeable future. With that in mind, I'd like to hand over to my colleague Leanne Close.

**Ms Close:** Thank you. I'd like to echo the comments that John made. We do recognise the complexity that's occurring, in terms of dealing with COVID-19 from a law enforcement, first-responder perspective. We provided our submission so that we can think about ways that we can continue to learn from what we've already seen has occurred, in terms of management of social impacts, the travel impacts—just managing COVID-19 from a crime and law enforcement perspective generally. I just wanted to emphasise that for the panel.

**CHAIR:** Thank you. When do you think there may be some meaningful statistics available?

**Dr Coyne:** We're already seeing some statistics coming out. First off, the next report out will be the ACIC's report on the wastewater monitoring program. That will give us some very good information with respect to how it's impacted on drug supplies. We're currently working with the United Nations Office on Drugs and Crime to produce an assessment of the initial impacts in South-East Asia, specifically archipelagic Asia and the Mekong subregion, across a range of crime types. We're hoping to have that out, publicly, by late September, early October. It will look at impacts on supply and demand.

One of the challenges is that, if we wait for very specific data to come out, we run a very real risk of walking and sleepwalking into a really big organised crime problem in the region. This is a conversation I had yesterday with members of the Thai government. For instance, one can safely assume that human trafficking—that is, the demand for labour—will constrict rapidly, and that means that it will be less of a problem. But, in reality, what we will see, on the other side, is that there will be a larger market and people more open to being used and exploited.

We have this problem that, if we wait for that sort of data, we're going to be in a major problem with drugs, human smuggling and specifically pharmaceuticals. I suspect that we'll get some early indicators over the next three to four months, but I strongly urge policymakers to step beyond waiting for absolute evidence and to look forward in order to avoid us walking and sleepwalking into this sort of problem.

**CHAIR:** With the reduction in international air flights coming into the country, is there any evidence that that has resulted in any decline in the importation of illegal substances?

**Dr Coyne:** No—and we can talk about this from a global perspective. We saw an initial reaction, in places like New York and, indeed, in Australia, of a sporadic dry-up in supply and some increases in pricing. But there already was a trend, specifically for drugs, away from internal couriers and 'man packers', which are the people who come through the air stream. Our targeters, through the Australian Border Force and the work of the Australian Federal Police, and our collaborations globally meant that man packing and internal concealments were becoming more difficult. As a result of that, I think we saw a lot more movement towards micro-imports in the mail stream, and I think that that will be an emerging issue that we'll need to deal with. Secondly, there is bulk importation through sea cargo. I think that's what has kept our market here afloat. The challenge is that there is an assumption that, with the closing of the air borders, the problem has gone away. I don't think that. I think that we'll find that the wastewater monitoring program, over the next two quarters, will indicate that drug consumption is pretty much unchanged.

**CHAIR:** There were some comments from, I think, Noel Pearson in one of the papers earlier this week—and I apologise if that's incorrect. He was saying that he's noticed an increase in alcohol consumption, alcohol abuse and other drug abuse in some regional communities because of the increased welfare payments during this period. Do you have any data to indicate that in any way, as yet?

**Dr Coyne:** No. Most of it is anecdotal. It's too early to be able to garner exact details to say show broad based that is. I'm getting the same reports. If you want to look internationally, in Bangkok there used to be a drug dealer selling drugs on every corner, but what they do now is deliver them with your restaurant deliveries. People are at home longer. I think it's the same issue across Australia. If you're underemployed or unemployed and you're stuck at home, we are going to see some increases. There's certainly enough science behind that to say that we will see an increase in the consumption of alcohol and drugs.

**CHAIR:** Okay. I'll hand over to Dr Aly.

**Dr ALY:** Thank you, Dr Coyne and Ms Close. It's lovely to see both of you again. I really appreciate your submission and the recommendations that you've made. My first question relates to the section in your submission on fake pharma—fake pharmaceuticals—and organised crime groups, particularly transnational organised crime groups, looking for new opportunities in fake pharmaceuticals. I'm not asking you to have a crystal ball, but considering that the entire world is actively looking for a vaccine for COVID-19, what is the threat of a fake vaccine becoming part of an illicit trade and exploited by transnational organised crime groups?

**Dr Coyne:** I'll also hand over to Leanne on this one. First off, we have to understand the nature of transnational organised crime groups and their entrepreneurial style. We're not crystal-balling this; we're looking at hard facts. Secondly, we need to look at how organised crime in Africa and Asia have approached the issue of malarial medication. Both of those issues show that we have a large pharmaceutical industry, in mainland China, as an examples—some 28,000 chemical and pharmaceutical sites—that are regulated to various degrees but certainly not in the same way that our industry is. We will have a global demand for a vaccine, which normal authorities won't be able to produce quickly enough. So, I think that we will face two specific problems: one is the producing of off-brand-IP products and the distribution of those products—that is, an actual vaccine that is copied. The other one, which is the more worrisome issue, is one we've seen with malarials in Africa, which has resulted in large numbers of deaths for many, many years—that is, the sale of fake vaccines. I think that's a very real possibility, and we're already seeing it.

For those who sit there and think about it, it was ten years ago that we started seeing shops selling fake Colgate toothpaste across Australia, which contained all manner of substances, that looked absolutely like a tube of toothpaste. They entered the supply chain. If you fast-forward to now, the average Australian and, indeed, the average medical practitioner or nurse is not going to be able to tell the difference, if it's printed up exactly the same way, between the vaccine that's been produced legitimately and the one that's been copied. Leanne, do you want to add something?

**Ms Close:** The threat is real. There already is evidence, through the dark net and other more open social media sites, about not so much fake vaccines at this point but certainly fake cures and PPE equipment that have not been legitimately sourced and therefore have not been tested appropriately or have not met the standards that we would

expect. The threat is real. Organised crime groups and some entrepreneurial individuals are also exploiting people in the marketplace.

**Dr ALY:** So, there are two crime aspects here: one is the industrial espionage, and the other one is the production and sale or distribution of fakes. In Australia, how would a fake vaccine get into the supply chain?

**Dr Coyne:** I don't want to create a how-to guide, but I think it's very simple. The issue here is that you are going to have incredibly desperate people in Australia and in other countries. When we're talking about this problem, we ought to look at this as a global or at least as a regional issue. Australians want to travel. They want to get offshore. When we get this vaccine out, they and we as a government want to have an assurance that others are vaccinated to the same standard. The issue here is—and it's really a question—how did, a decade ago, parts for vehicles, which were stamped 'legitimate parts', enter the trade stream in Victoria and end up in a Victorian police car that had a brake failure during a high-speed pursuit? The answer to that is that there are multiple entry points in, and the entrepreneurial nature of the people involved with this will find a way.

Along with that, there are two issues: firstly, these offences are incredibly attractive to organised crime. If you look at the difference between making a profit from bringing in one tonne of drugs—one tonne of drugs has a lot of risk such as that you could end up in jail et cetera—arguably, many of the things we're talking about are regulatory-type offences and will attract far less punishment. Secondly, if we look at the case-categorisation-type models that are used by law enforcement officials, this is going to be a very low priority for investigation in comparison to other offences.

**Dr ALY:** Do you consider that we are prepared for the prospect of fake or illegitimate vaccines for COVID coming into Australia?

**Dr Coyne:** The answer to that is that more needs to be done. If the question is whether we have police who, first off, have the necessary skills to understand legitimate flows of pharmaceuticals et cetera then the answer is not yet, and we probably need that. We do have strong border controls, and we've seen that with PPE already and the seizures that have been made. Do we have enough resources for that? It's a new crime type and an emerging crime type. At this stage, the question for the AFP, as an example, is: will they stop investigating some child exploitation matters, some terrorism matters or some drug matters to investigate these sorts of offences?

**Dr ALY:** So, it's a matter of diversion of resources. On this issue of new crime types, one of your recommendations is a white paper around Australia's national security. You specifically recommend that it look at current emergency legislation and stand-by laws. But in different situations, like COVID-19, global pandemics and other unforeseen crises, different issues become securitised. With COVID-19, it is the securitisation of health, for example. Do you think that we are adequately equipped in Australia to respond with agility to new and emerging crime types, and, if we're not, what is it that we need?

**Dr Coyne:** I might hand over to Leanne to start with this one.

**Ms Close:** I think that, generally, in Australia, our law enforcement sector and our policing sector are quite agile. We're a smaller country. We react pretty quickly when there are new legislative processes. We've seen, through the COVID emergency, that the emergency powers that have been introduced have generally been rolled out effectively across all police services. So, they can be agile and adaptive. However, the recommendation in the paper is also around the fact that, in having these heightened emergency powers, we also have to be very conscious and careful that, when we go back to more business as usual and a state of normality, that there's a recognition amongst our law enforcement and policing officers as well that those powers are for emergency situations. We have to have that dialogue and the leadership that it takes to make sure that people understand those boundaries in these times where we are dealing with state of emergency situations. So I do think generally they're able to adapt, but it does take time to move the legislation through and then to get the training out to the front line.

**Dr ALY:** I've got one more question, and I might address this to Ms Close because it's one about terrorism and trends in terrorism. We've seen cases of transnational terrorist organisations using the internet to raise funds through bitcoin, so they use cyber enabled crime to raise funds. Terrorist organisations have always used the internet, but do you think there's been a difference in the way that they've used the internet because of restrictions on people movement that may affect other kinds of activities that they have?

**Ms Close:** I think it's accelerated it and amplified the use of the internet. We've seen, in the last 20 years really, the rise of terrorist groups using social media to incite, to encourage and to recruit people. We certainly saw that in the rise of ISIS and Daesh and the messages that they were getting out. Now we're certainly seeing across the world that rise in rhetoric from ultra right-wing extremism. There's a lot of research happening right now in terms of what that looks like in Europe and in the US especially, and the encouragement of people. We

also see the significant increase in the spread of conspiracy theories online, so that's another facet that has an impact on law enforcement and policing in terms of social unrest, but also it can incite people to move towards violence for various reasons now—and just that connectivity is certainly increasing.

**Dr Coyne:** I want to raise that the other part is about the receptiveness, so the other part is about the audience. We've seen a change. If you look at Margaret Thatcher's time in government, during the recession in London in the eighties and nineties, you saw a huge uptake—and this is science based—in right-wing extremist group activity, protests and other activity. Right now, what we have in Australia is an increasing number of unemployed and underemployed young Australians. Before the COVID-19 crisis, those young Australians for the most part were already struggling with the concept of never being able to own a house. Now they're struggling with further unemployment or underemployment. To put it trivially, in one way, even the relaxation of having a cheap overseas holiday is no longer a viable option. So we have a whole range of young Australians who are really at risk, are at home and are much more open to manipulation by online material.

It's a numbers game—this is marketing 101 or, back to part of my military career, psychological operations. The larger the audience you can access, the smaller percentage gives you more people. I think this is the other part. Yes, they have, because there's a range of very young people and unfortunately they're in that age group who are susceptible to radicalisation of many different types, so they're in that mid to late teens and all the way through to late 20s, and they're unhappy.

**Mr CONAGHAN:** Thank you, Mr Coyne and Ms Close. Can I acknowledge your service to the country as well, and you, Ms Close, with 33 years in the AFP, congratulations on your APM. Dr Coyne, you started the day by talking about when you were speaking to a young police officer who was late on his assignment, he'd finished a night shift and his kids in the background. One of the biggest difficulties all law enforcements face is having boots on the ground. In your report you talk about a national police reservist force. Can you talk to us more about that? I'm really interested in how that would work and what it would look like, because we have highly skilled police officers out there, law enforcers, sometimes standing on doors because you don't have enough people.

**Dr Coyne:** I've got some points, but, on the police reserve service, my viewpoint is that we need a civil defence service that sits between law enforcement and the military, but, separate from that, the law enforcement reserve is a fantastic idea. Leanne?

**Ms Close:** The concept really is based in looking at the Defence Reserves model and the success of that—that has been in place for quite a large number of years now—where people are paid, do actively go out and receive training and education, participate, are called up and know what their roles and responsibilities are. In policing, the nature of what we've got in our federation is that it's quite disparate across each of the states and territories. Having said that, everybody cooperates extremely well and does support each other, and we've seen that in some of the border control operations that are underway now, and police, nurses and other emergency services are always helping each other in that respect. The police reserve concept is to mirror something similar to Defence Reserves. I know it's not cheap. We're using Defence Reserves and defence personnel in Australia right now in a really effective way. You have them side by side with police. But they have a very limited ability to undertake much of the work that a police reservist might be able to, similar in concept to where we have special members who are sworn in to do certain activities and duties in support of police services across Australia.

**Mr CONAGHAN:** Like special constables?

**Ms Close:** Yes, special constable roles. The concept for a national one is that having a national body means that it could be funded, people can be educated and they can maintain that training through the reservist model. There are a lot of people out there really keen and willing to support our police services and to do some of those additional roles.

**Mr CONAGHAN:** What roles would you envisage? Clearly they can't go out and do search warrants.

**Ms Close:** No, that's right. You would leave those sorts of things. It allows then the police officers to get on with enacting their powers, undertaking investigations, search warrant activity et cetera, to that much higher level of knowledge and training that's required. But, at the reservist level, as we see with Defence Reserves, they can be out in support of various activities. They can assist with training and scenario planning—that's I think another area that could be significantly improved across policing, that scenario planning for the future—and the Defence Reserves are just one aspect of it. It really would come down to what the police jurisdictions have in mind.

There are various models in Australia that are already operating. For example, they have volunteers in policing in the Australian Federal Police. They are not sworn in in any capacity, but they are there to help with front office duties. They take that pressure off the police officers who still are in the police stations, but we have other people

there helping with administrative duties and other things but not having necessarily the powers that a police officer would.

**Dr Coyne:** It could provide us a really good gateway to improving our policing services generally. An example is where we're seeing accelerated career streams for young police officers these days. We're seeing the average length of time at each level of rank decreasing. I see a really spectacular opportunity to bring back some really great expertise from investigators who are able to provide specific support in those areas as reservists. We talk regularly about this: there are a lot of skillsets and qualifications that are very difficult to get in terms of law enforcement and to keep—forensics, computer sciences, data analytics, those sorts of things. So this could be another way, which is very similar to the model used by the ADF to obtain those sorts of skills, where we could have someone come in as a reservist at a set level and they're sworn as a police officer but notionally they're there to provide those specialist services. I see it as a whole heap of different opportunities here. But, to the core of your point, which is that—and I often say this—the amount of reported crime in every western liberal democracy far exceeds the capacity of law enforcement to respond to it, and there is no capacity to surge in general, to grow rapidly. As a result of that, we either accept that we don't have that, or we have to invest in alternatives. The alternatives are: we grow the police force; we divest some of the roles, which is what is occurred over the last two decades across most western liberal democracies, so we see more private security guards; or, alternatively, we look for models like this, which are slightly more innovative. They have worked in other jurisdictions.

**Mrs ELLIOT:** In terms of the model, do you envisage this being essentially a state based or a national based model, or incorporating the two working together?

**Ms Close:** I envisaged it as a national base model only so that you had that consistency of training, of fairness of jurisdictions—say, a small state like Tasmania compared to New South Wales that could afford a different model. I also saw the funding, potentially, coming at a Commonwealth national level. That is detail that obviously would have to be worked through, with the states and territories, because of the role of states and territories in delivering that policing service.

**Mrs ELLIOT:** I think it's got a lot of merit and is certainly worth pursuing. We've seen the effectiveness of some very strict border controls, in different states, for very good health reasons. I'm interested in what potential impact that might have in illegal activities or what insights you might have seen into that.

**Dr Coyne:** I don't think the seizure rates—there have been some very public seizures, and certainly there have been some great arrests, in terms of outstanding warrants. You only have to see the media summaries to see that. Policing is an activity in targeting, in terms of those sorts of border controls. They're targeting health issues and they're very busy keeping us safe, in our relative states and bubbles and everything else.

**Mrs ELLIOT:** Indeed.

**Dr Coyne:** I'm not so sure that there's much capacity left after you do that, when there are, say, three or four police officers at a checkpoint with a couple of military people, to be searching for more. If they see suspicious behaviour and there have been detections—I'm thinking of one, in the last two weeks, of a fairly large marijuana seizure on the New South Wales-Queensland border. If the question is, 'Is this going to protect us more from the movement of illicit commodities?' I don't think so.

**Mrs ELLIOT:** I think my question was more about whether it's inhibited some of that movement by the fact the borders are there. The police are still doing the great job that they're doing, and the extra resources. It's more about whether it's inhibiting that movement.

**Dr Coyne:** Some things will have changed. I think there'll be a lot more concealment now. As an example, if you are going to move, it's a logical choice, from Sydney, 200 kilograms of cocaine, right now, knowing that you've got to get through the border post, you're going to certainly be hiding it a lot better than you would have done previously. There have always been allegations and suspicions of cash movement from Western Australia via air routes to the east coast. Clearly, that's not going to be the case anymore. The combined efforts of cash dogs and limited numbers of people, so a higher number of checks, results in a better activity. There will be some changes to the environment, and that's where I started today, that supply and demand will be uneven.

**Senator SCARR:** I'd like to ask a few more questions in relation to, to use Dr Aly's term, fake pharma, which is fake pharmaceuticals not a fake agricultural producer! I have a real interest in our Pacific family. It seems to me the issue of fraudulent essential medicines is a great issue in this country, but we do have levels of regulation and oversight; whereas our Pacific family members, places like Papua New Guinea, Solomon Islands et cetera where those pharmaceuticals are often very hard to come by, might be more vulnerable to this sort of fake pharma industry, and they maybe need some assistance from us to militate against that risk.

**Dr Coyne:** I presented to a multinational intelligence course late last year, in relation to national security threats. There were a range of representatives across intelligence agencies from across the region. Before this had all started, fake pharmaceuticals was a major issue in Papua New Guinea and the Pacific. They clearly mentioned it as one of their significant threats.

On the plus side, and it's the same for illicit drugs, you would characterise the illicit market there as a low-volume low-profit market. The local population doesn't have the same capacity to pay large amounts of money for any illicit products, in a general sense. I'm not saying there aren't rich or middle-class people; I'm saying, on a whole, it's very small. The amount of drugs or product you can bring in to sell in that market is limited, and the amount people can pay and the profit levels on it are limited. That keeps us on the plus side. That's the hard academic look at it from an accounting perspective.

**Senator SCARR:** The flip side of that is if they have limited resources to pay for medical pharmaceuticals et cetera, then you want to make sure those limited resources pay for genuine articles.

**Dr Coyne:** That's the second point I was going to make. When you're talking about deaths and the susceptibility of a population, the Pacific is susceptible. The lack of ventilators and other things mean their population is more susceptible to having a disproportionate impact from fake pharmaceuticals. From that perspective, if the question is, 'Should we be thinking about doing more with the Pacific?', I think that is the case. In our national planning around vaccines and pharmaceuticals in relation to COVID-19 over the next couple of years, the Pacific ought to show up fairly high on our list of priorities.

**Senator SCARR:** If I could ask you a question this way: might adding providing resourcing to our Pacific family to combat fake pharmaceuticals be something we could consider, in terms of assisting our Pacific family through the COVID-19 pandemic and beyond?

**Dr Coyne:** That's correct. Alternatively, it could be reallocating existing resources that we're doing in that national security space to prioritise the detection of fake pharmaceuticals.

**Senator SCARR:** I only have one other question. You mentioned the disparity between the punishment for the importation of illegal drugs—cocaine et cetera—as opposed to punishments for fake pharmaceuticals. Do you think the different jurisdictions across Australia need to look at that and decide whether or not they need to recalibrate the penalties in relation to those offences to increase the disincentive?

**Dr Coyne:** I will pick up on a point that Dr Aly made. There's a pattern around securitisation. Speaking from my own perspective, we automatically assume that securitising an issue and legislating it will fix it. I'm not so convinced that's the case.

**Senator SCARR:** I'm not convinced either, to make that clear. I want to tease out that issue.

**Dr Coyne:** This has always been the case. It will allow more time in jail and it might keep some people from entering those illicit commodities or those illicit markets, but I'm not sure that the automatic answer is greater sentencing and larger sentences. We need to think through this process a little bit more. As an intelligence person, my view is about targeting and looking at the whole supply chain and looking at the best places to target it. It's no doubt the same issue with illicit tobacco, and you would've heard it in this committee on numerous occasions. Some of the biggest crooks in the UK, the long-standing UK criminal families, have all moved away from illicit drugs. They all sell tobacco now. That's for a range of reasons—high profits, second-order impacts of high taxes and it's a regulatory offence that gets a slap on the wrist. Lifting that and saying that in our justice system bringing in tobacco, fake pharma and heroin are all the same level of crime, I'm not sure that's the case either.

**Senator LINES:** Ms Close, I want to go back to a point you made when you were talking about the emergency powers and people needing to appreciate that they are emergency powers. Who were you meaning by 'people'? Which people?

**Ms Close:** In that respect it is our police officers as well as the community. There absolutely is a need for emergency powers when we're in a state of emergency, and people need to understand what they are and are not able to do. Going forward, our police officers need to know that they go back to the normal community policing principles when the emergency is over. That may take a bit of a mind shift as well, because they've got used to working in this heightened state. Our police officers are doing a magnificent job on the front line, at huge risk to themselves and their families, so that's probably put them in a heightened state of alert. It is about making sure they can then transition back at the right point.

**Senator LINES:** Do our police forces, both federally and across the states, have the personnel who can do that kind of bringing people back to reality—that kind of specialist training, I would imagine, and support?

**Dr Coyne:** I think they do.

**Ms Close:** It is not specialised, as such, but there's definitely very clear leadership from the top and the messaging that comes with that. There has been a training process to let our officers on the front lines understand exactly what the powers are and where the limitations are. They've been slightly different in different jurisdictions. They've also had discussions across the borders et cetera. There's also a body, the Australian New Zealand Policing Advisory Agency, that assists commissioners and police groups in some of that guidance, as well as their training institutions. They have very effective training information that goes out to all their officers on the front line.

**Senator LINES:** I have a question for you both around other types of policing that we might see, because I think you both contributed to that. You mentioned special constables, the use of security guards and so on. I'm from Western Australia and, for a long time, we had police aids. It's different now with the new police commissioner. For example, WA has a serious problem between police and First Nations, and so it was seen that the solution to that was to bring in police aids who were First Nations. That means less pay, fewer conditions and fewer powers, so you create another problem. That is changing under the new commissioner, and they are certainly very interested in police officers from CALD and First Nations backgrounds. We've seen issues with security guards. They tend to be fairly new Australians. They're low paid. They're on low hours. They receive almost no training. If we are seriously contemplating that kind of support, how do we build in not also disrespecting and downplaying those roles? It is a serious problem and creates other problems. My bias is I worked for a union who actually represented security guards, so I'm well aware of the limitations and the roles and the abuse that we see in that contracted industry. If we are going to go down that path, where do we tackle those really important issues? You might say they are not your responsibility, but ultimately they have to be somebody's responsibility—that we don't set up these second-rate kind of semi law enforcers.

**Ms Close:** That's a really good point. Some of the jurisdictions for our First Nations people have programs in place where they're working within the communities and working with the local institutes of technology, universities et cetera to assist them with pathways to moving into policing. You're right. We don't want to have second-class citizens working for a lesser wage or for nothing. Some of the volunteers volunteer for it, but there are very strict rules around how many hours a volunteer can work, for example, in a week. There are pathways though. If we have some people coming in on a different pathway, they can then be mentored and guided to be moving into the mainstream policing roles down the track. There are multiple ways that people could come into and be recruited into organisations.

**Senator LINES:** You would have to keep checks and balances on that, and that would have to be part of your plan—that we might bring someone in on a trainee or a special constable role, but they only serve in that role for X amount of time, unless it's their choice. There would need to be very clear protections around that, otherwise the goodwill and the words fall away.

**Ms Close:** Absolutely. There's another example with protective service officers. Some jurisdictions have protective service officers—Victoria, for example—where they were initially patrolling transport hubs et cetera. That's also another pathway for them to then transition into mainstream policing, with additional powers down the track. They're all trained in very similar ways in terms of integrity, operational safety et cetera but with different powers at different points. You're right. It still requires a lot of checks and balances, a lot of management of the process and the expectation management of people to make sure that you're not setting bars that are too high and that are excluding people when they rightfully should be able to transition.

**Senator LINES:** Interestingly, Western Australia had that protective services model in its transport hubs, and it has now moved back to being a police role, because it just didn't work.

**Dr Coyne:** This is sometimes lost in these sorts of discussions: there's a difference between police and law enforcement. A police officer can do law enforcement but is not a law enforcement officer. An ABF officer is a law enforcement officer but not a police officer. Two questions are alluded to here. One is that, you have a reserve service, it's a reserve service. There will be a number of different people within a reserve service, depending on its construction, just like the Australian Defence Force have different skills. Some will have served full-time previously and became reservists. Others will have only ever been reservists. Some will have reservists who have done full-time periods of work for years and then went back. There's that problem. The other one is more broad, which is what you're asking.

What the law enforcement community today ought to be responsible for is a broad church, pardon the pun. On one side are private security guards, who fill a very different role. They are not police officers, but they're part of the law enforcement community. They serve a crime prevention role and for a variety of issues. Police, as problem-solvers, are in communities. It's their key strength and that's where their social license has been. Unfortunately, we've pulled them in two directions at the same time. On one side, we have pulled them into a

securitised world and, on the other one, in the absence of mental health facilities and mental health services, we've pushed them into mental health services, and then we have them stretched on both sides. What we need to do is better define our law enforcement community. It is okay, and it should be that police hold a special role in our community. They have since Federation. That's okay. It's a different type of service that others provide.

You talked about First Nations. There are reserve type arrangements with the Northern Territory Police and, in fact, Norforce, with the military. First Nations people take great pride in the contributions they make in their reserve capacity. We put a recommendation up recently that the ADF ought to consider crewing a whole class from one of the Torres Strait Island communities. They take great pride in having that different service. It's okay to be different and have different parts to the system.

**Senator LINES:** I have more questions, but I'm aware of the time.

**CHAIR:** I have a final question to wrap up. You talked about social license and the police. One of the concerns I'd have, and maybe you could comment on it, is that state governments and federal governments are requiring our law enforcement agencies to really restrain peoples' civil liberties. Perhaps that has some type of long-term detrimental effect on the social license that police have. We don't see what we see in other countries around the world. I think our police are generally very well respected and they have a good reputation. Do you think that could be at risk with some of the laws—basically determinants of civil liberties that they're requiring to police at this stage?

**Dr Coyne:** I would argue that our police force has been incredibly professional during this period. There have been incidents, like in any career of a professional, where they need to be investigated. There are some optics and some media coverage that we've seen.

**CHAIR:** And everything is filmed today.

**Dr Coyne:** You see that. But, having said that, there can be no doubt that this will impact upon law enforcement's social license in some states. In Victoria, it's going to be a big challenge for the Victorian police to deal with the ramifications of their very legitimate activities during COVID-19 and their relationship with the population. I don't think it will be as much of an issue in New South Wales, but it will still be an issue. I don't think the Chief Police Officer here in the ACT, during COVID—the last time I checked, and I'm happy to be corrected on this—issued a single infraction or fine in a domestic house or anything. They managed that, like good police officers do. They used their discretionary powers et cetera. It was a very different environment to that operating in Melbourne, but my point is that each of the police forces are going to have some challenges around social licences, and some more so than others. I think that we'll see the front line of that will be in Victoria, and it will have a lasting impact.

**CHAIR:** Thank you so much, Dr Coyne and Ms Close. We greatly appreciate your time. Also, thank you for the work you do.

**FALK, Ms Rachael, Chief Executive Officer, Cyber Security Cooperative Research Centre**

**BROWN, Ms Anne-Louise, Head, Corporate Affairs, Cyber Security Cooperative Research Centre**

[09:50]

**CHAIR:** Welcome. Thank you for being here today. The committee has received a copy of your submission. We are running a couple of minutes behind time. Firstly, would you like to make an opening statement before we go to questions?

**Ms Falk:** I thank the committee for the opportunity to contribute to what is an important and timely inquiry. There is no doubt that the COVID-19 pandemic has had an unprecedented impact on criminal activity, which has evolved and pivoted, and this has been particularly marked in relation to cyber related crime. At the Cyber Security Cooperative Research Centre, we are dedicated to fostering the next generation of Australian cybersecurity talent, developing innovative projects to strengthen our nation's cybersecurity capabilities. Central to this is collaboration, which we foster between industry, government and researchers, creating real-world solutions for pressing cyber related problems by identifying funding and supporting research projects that build Australia's cybersecurity capacity, strengthen cybersecurity of Australian businesses and address policy and legislative issues across the cyberspectrum. The CSCRC is a key player in the nation's cyberecosystem.

As noted in our submission, COVID-19 has highlighted the interconnectedness of the world we live in and the key role our law enforcement agencies play in ensuring the safety of Australians. The pandemic has also demonstrated the central role the digital world now plays in our lives. It reaches into almost every aspect of society. Because of this, it is ripe for exploitation. Australia has a proud tradition of charting an effective course between maintaining the rule of law and adhering to democratic checks and balances. Therefore, it is essential that, during this period of uncertainty, amid growing online threat vectors and a proliferation of cyberthreat actors, our law enforcement agencies are equipped with appropriate measures to adequately respond to the rapidly changing world of online criminal activity.

There is a clear opportunity for Australia to ensure domestic laws, laws with real-world consequences, are aligned with cyber and digitally perpetrated developments. This will enhance Australia's reputation as a world leader in cybersecurity and as a nation at the forefront of efforts to tackle cybersecurity threats. To this end, I submit there should be no difference between online and offline environments when it comes to the rule of law and the recognition of criminal activity; that the Australian government continues to take a vocal stance on cyber deterrence policies and mechanisms and to disincentivise cyber threat actors in the immediate future; that the Australian government and the responsible law enforcement agencies continue to reinforce alignment with our Five Eyes allies in calling out illegal cyber behaviours; and that domestic law enforcement agencies need to be equipped with the appropriate powers to operate in a challenging environment and in a proportionate and timely manner to prevent and prosecute cybercrimes. I'm happy to take questions.

**CHAIR:** I would imagine that, during this period, more people are spending more time online and, therefore, as Mr Coyne was saying, that makes the pool bigger for villains and criminals to exploit. Is there any data showing how much more time people are spending online?

**Ms Falk:** Other submissions, particularly from Home Affairs, note not so much how much time people have spent online but the increase in reporting of cybercrime and scams. We did a small survey at the Cyber Security CRC with some of our participants around how prepared they were, and they were certainly anecdotally noting that most people were working from home. I saw somewhere that a large majority of the workforce went from being in the office to being online, and that meant that both their work life and their domestic life online became one, and they were then ripe for exploitation.

**CHAIR:** I'd imagine there could be a correlation between the more time society is spending online and a greater potential for exploitation. Is that a fair comment?

**Ms Falk:** Absolutely. Unfortunately, during this pandemic, not only were people worried about getting ill; some people were home-schooling. It certainly wasn't the optimal environment to be a focused worker, be professional or not. It was an incredibly challenging time for people. Some people were trying to keep their businesses afloat. This meant that distraction was high. Where you've got distraction and you have very innovative cybercriminals, cybercriminals will pivot very quickly. They're not like all of us, bound by bureaucracy, forms and miles of red tape. As we saw with the bushfires, puppy scams and even the COVID tracing app, they can pivot very quickly to exploit people's vulnerabilities, goodwill and distractiveness. That's what we saw. We saw people just simply not focused—for all the right reasons, actually.

**CHAIR:** If only they would use their entrepreneurial skills in a more beneficial manner.

**Ms Falk:** Absolutely. We'd be a greater nation.

**Dr ALY:** Thank you for your submission and for appearing here today. I found your submission incredibly valuable. I want to highlight the point that you make in your submission where you say:

... COVID-19 has highlighted the nebulousness of geopolitical boundaries induced by a borderless, transnational cyberspace, which largely exempts malicious cyber activity from local laws and regulations and continues to allow nefarious cyber actors to navigate cyberspace with impunity.

Your first recommendation is that 'there should be no difference between the online or offline environment when it comes to rule of law and the recognition of criminal activity'. We know that cyberspace is one of the most difficult spaces to police. We can introduce domestic laws but, unless we have some form of international cooperation, it really does make a lot of difference. We have seen this with, for example, the sharing of offensive content or content to incite violence. What do we need to get around this? To my mind, this has been an ongoing issue that, quite frankly, has been going on for too long and we still haven't found a solution to how we police the internet in ways that protect our citizens adequately.

**Ms Falk:** It is a good question and I wish I had a simple answer. Part of the changes to the Telecommunications (Interception and Access) Act was to allow for law enforcement intelligence agencies to be able to have access, under warrant and targeted ways, to certain communications. For example, we know—and we have been researching this at the CRC—that, if you want to try to get a view as to what cybercriminals might be planning, a lot of cybercriminals who plot terrorist events and all sorts of things use over-the-top communications, such as WhatsApp and others. Allowing limited access in a proportionate and warranted way would go some way to at least busting open, or having a view to, the communications and the planning of certain criminal events. We know that disruption can make a difference. The recent legislation, as proposed, around the dark web and what government has suggested around the dark web, whilst not a complete panacea, we know that disruption can make a difference. If you can disrupt cybercriminal gangs, that is part of the solution.

Unfortunately, as we all know, a lot of them are offshore and they're not in friendly jurisdictions. So it is not a matter of sending the local police force around and knocking on their door. It is very problematic because, as I mentioned before, cybercriminals pivot very quickly. They are incredibly agile. They also know the jurisdictions to be in to be out of reach. It's a bit like the hydrohead—you might get rid of one or two and five more come back somewhere else. What we can do—like the abhorrent violent imaging in the legislation we do have—is have some markers in the ground to say that we will not tolerate certain material being shared and viewed. So that certainly, as you would know, does not promote violence and extremist material being promoted and stops it being promoted at least in Australia with TOLA.

You were speaking earlier about public trust and social license. I think there is a lot to be said for inviting the public into the narrative as to why we are doing what we're doing—why does the government want to expose what goes on on the dark web? Why does government want to have very targeted means to get access to certain messages? I think we have to invite the public in to help them understand that this is not about taking away a right or a privilege to communication; this is about helping them understand that, truly, the worst of the worst use what we might want to use as simple messaging apps and they too use these apps to hide their truly criminal activity from view. If you invite the public on that journey, you have greater public trust and integrity on potentially starting to go down the path of exposing and disrupting these criminal elements.

**Ms Brown:** As Rachael noted, cybercrime is largely borderless. That's where the international relationships and intelligence sharing with our international allies goes. For example, we've seen recently intelligence-sharing relationships with US allies helped shut down extensive paedophile rings in Australia. That's a great example of how international collaboration and information sharing help Australian authorities crack down on child-sex crime occurring domestically. That can be very hard to locate domestically.

Another interesting development in this area is the recent announcement that AFP Commissioner Reece Kershaw made around plans for international operatives from the Australian Federal Police going into offshore locations that are identified cybercrime hotspots, and to help those countries crack down internally, using their own domestic laws.

**Dr ALY:** So it is a matter of upskilling other nations that are friendly nations. I just want to pick up on some of the things that you were saying. I see a distinction between cybercrime being malicious activity—malware, disruption of service attacks and so on—and cyber-enabled crime that's carried out by criminals who may have criminal activity offline but use the online space to do things like fundraising et cetera. Have we seen during COVID an increase in cyber-enabled crime? Do we have, for example, organised crime gangs using bitcoin or crypto currencies to raise funds, moving away from traditional forms of their kind of illicit activity and moving online?

**Ms Falk:** We didn't look at that data at the Cyber CRC, but I think Home Affairs did.

**Ms Brown:** One thing that has been very marked during COVID is the fact that the number of scams have increased. A key example of cyber-enabled crime where we've seen a huge increase is business email compromise. That's been huge. The latest Scamwatch report, which was released about a month ago, showed that, for the first time, business in compromised scams have topped the list, which is really interesting. So it will be really interesting to see the results for this period and what COVID looks like.

**Dr ALY:** Would you attribute that to COVID?

**Ms Brown:** Not that, but during COVID there has been an increase.

**Ms Falk:** With business email compromise, as you probably know, what happens is it is a spoofed email address. So my email address is spoofed, and I look like Rachael Falk and I'm currently sending a request to Anne-Louise to make a payment. In a normal office, I could pop around and there are checks and balances. It is much harder to do if everyone is disparate. That, I think, was finding its home during COVID, because it was easy just to send out invoices and people were not able to simply pop into the office next door to check whether it was a legitimate request for payment.

You're right that cyber is a conduit for crime and an enabler. A whole enterprise is based on cybercriminals. As I mentioned before, we have seen a rise in scams like the puppy scams—simply preying on people being at home and everyone wanting a puppy. It's very sad. I notice that the New South Wales police, I think two weeks ago, made an arrest of an alleged offender. This was just someone who pivoted very quickly to realising that they could extract some money without producing any of the said puppies—they probably didn't exist—again preying on people's vulnerability during this time. Cyber enabled crime was always alive and well before COVID. It's just a nice Petri dish that explodes during this period.

**Dr ALY:** I have one more question for you. It's with regard to scams and the use of the internet for scams. Is Australia monitoring or looking at or putting in place something around the use of the internet in the case of selling fake or bogus vaccines or medications? Thinking about a COVID-19 vaccine, do we have in place a way of monitoring and preventing or cracking down on scams that might be used to sell it?

**Ms Falk:** I haven't seen that yet. I assume the ACSC will be handling that at the moment. I'm happy to take that on notice. I think that would be a matter that Abi Bradshaw might be looking at at the moment.

**Mrs ELLIOT:** Thanks for all the great work you do. Unfortunately it is a very emerging field in terms of these particular gang related cybercriminal attacks and obviously increases with everybody working from home. One of the issues I'm interested in is that, particularly from a corporate perspective, some of the instances may not be reported as well. That can be true of the general population, but that may be an issue in terms of gathering that information. Whilst everybody's vulnerability has been obviously increased with different working environments, I think one of the most vulnerable groups would be older people who have perhaps come online with the pandemic, so it's very new to them. Have you seen specific trends? You mentioned before about the increase in scams. I think it is a real concern for their age group, often being very new to the internet. I wonder if there's been much specific targeting of them.

**Ms Falk:** I haven't seen any specific targeting of the aged, but we do know that the aged are a vulnerable sector of the community, particularly for lottery-type scams. They can also be a target not just for cyber enabled scams but for phone enabled scams. I'm speaking of my mother. Often they're rung up. They're not like the younger folk, or even our generation, who sit online a lot. They are more a target for online or different scams in some ways. We will wait and see whether the data comes out whether they have been targeted more because they have been more isolated and having to be online to communicate. Perhaps the ACCC or Scamwatch will have more of that data in coming month. We haven't been tracking that. Certainly I have mentioned in the past that phone enabled scams have been quite high also for our senior citizens.

**CHAIR:** You mentioned earlier that the number of scams is on the increase. Where does that data come from and how is it compiled?

**Ms Brown:** If you look at some of the other submissions, for example the AFP submission and the Department of Home Affairs submission, they very clearly outlined in their submissions that there has been a rise in cybercrime and cyber enabled crime. As I also noted, there's the recent Scamwatch report released by the ACCC, and also figures from the ACCC. From this year alone, Scamwatch has received more than 24,000 reports of stolen personal information. This is up 55 per cent on the same time last year. That's from the ACCC.

**CHAIR:** What's the time period?

**Ms Brown:** So far this year, from the beginning of the year to now.

**CHAIR:** So you would assume they would be fairly COVID related?

**Ms Brown:** I don't think we can assume anything, but definitely there has been an increase in COVID related scams. I think one of the key things to remember, as Rachael said, is that cybercriminals can pivot very quickly. They don't even have to leave their home to be able to commit their crimes. For cybercriminals in many ways it's a perfect storm. There are people who are anxious and vulnerable, and at the same time there are more people at home and more people on the internet. That is quite evident. Likewise—I'm just referring to the Scamwatch report again—for the June 2020 quarter, reports to Scamwatch are 23 per cent higher than for the same time last year. The ACCC has received more than 3½ thousand reports of scams mentioning COVID-19.

**Ms Falk:** Similarly, the Australian Cyber Security Centre, from 1 July 2019 to 30 July 2020, via its report, the cyber operation received 59,806 cybercrime reports from individuals and businesses across Australia. That equates to 164 cybercrime reports a day. That would take in some of COVID, as well.

**CHAIR:** Even with those numbers, I imagine there'd be a lot of unreported crimes, as well?

**Ms Falk:** Yes. There's shame associated with some cybercrimes, particularly cyber enabled crimes like romance scams. You might feel like a bit of a duffer, and you don't want to tell people you wanted to buy a puppy that never materialised. I'm sure there is an element of embarrassment, where people think, 'It's only a bit of money, I only lost \$500.' I'm sure there's a lot of unreported low-level cyber crime. That is perfect for cybercriminals to take advantage of.

**CHAIR:** Are there any estimates of how much of that unreported crime there is? I know that's probably like asking how long a piece of string is.

**Ms Falk:** I don't have that data to hand.

**CHAIR:** Anecdotally, it would be a fairly significant amount that is unreported.

**Ms Falk:** Yes. From the small amount that we've seen at the centre on some romance scams, my understanding is that in that area a large amount is unreported.

**Mr CONAGHAN:** Thank you, Ms Falk and Ms Brown. I'm following on from one of the questions Dr Aly asked. In your submission you say that domestic law enforcement agencies should be equipped with appropriate powers necessary to operate in the challenging threat environment et cetera. Are there some areas where it's glaringly obvious to you that the law enforcement agencies are lacking in those powers?

**Ms Falk:** I think not lacking; perhaps it's the ability to do more. I think we're going down that path, as foreshadowed by government, around disrupting cyber enabled crime and disrupting dark web operations where they can, which I think the AFP and the states and territories are certainly doing, around having more policing operations that understand what cyber enabled crime is, so that when somebody walks into the station and says, 'I think my identity has been stolen', they know what to do with that. I'm certainly not an expert in policing, but I think that's been one of the hardest areas. People can report it, but where to from there is a big challenge.

**Mr CONAGHAN:** Perhaps greater education when they're going through their prep stage or the police college.

**Ms Falk:** Education that with cyber enabled crime, just because you can't see it, it doesn't mean it doesn't happen. It's a different type of crime. I think all police understand that, but I imagine it's a challenge for standard policing because the window is not broken open, the locks aren't unpicked. You can be around the world and have something stolen.

**Dr ALY:** And you can't get a fingerprint from it.

**Ms Falk:** Exactly. I'm seen examples where the crime can be effected from around the world in 45 minutes and you'd never know. Nothing's been moved. I can imagine that for a police force that deals in tangible evidence that's a challenge. They do a fine job, but understanding what to do once it's reported—we can drown ourselves in reports on cybercrime, and it's great that people are reporting, but what to do next and how do we help people? That's more of a public awareness campaign to raise awareness, to help people understand. Speaking personally, I've seen a rise in text based junk. You may have all received recent texts with dodgy links to things. That's on the rise. We need to help people understand what they mean and not to click on those.

People are front and centre in cybercrime. Unfortunately—I don't have any data on this—it's probably the only type of crime that will touch all of us in some way during our lives. Most of us are quite removed from crime, but this will touch us in some way. We're a soft victim. Attempts are made all the time, and that's part of the challenge. It's a community thing, and all of us are involved in finding the solution.

**Mr CONAGHAN:** I imagine that many of those unreported crimes, even attempts to report them—let's say somebody extorts \$500 from someone, from overseas. The response will be, 'We can't do anything about it.' So it remains unreported.

**Ms Falk:** Correct, or it just means you've lost your \$500. We know banks make good if you use your credit card. Whilst it's good banks do that, but it takes some time to get your money back, if you get your money back, it feels like, 'That was an inconvenience.' I think we all know that when we're victims of crime it's often far more than an inconvenience. So it's helping everyone understand that the \$500 might be nothing, but the next day it could be something far greater. If you give your money over to some scam, or your mum or dad has and they've lost thousands—it's all a degree—again, it's raising awareness. We want people to report it but we also hope there's a resolution out of it. Unfortunately, if cybercriminals are offshore in less than friendly jurisdictions, it's hard to get your \$500 back. You're never seeing that money again, unfortunately.

**Ms Brown:** Adding to that, in terms of the education around that, one thing that's really important to hit home, I think, is that when it comes to cybercrime it's often done at scale. It's a game of numbers for these guys. They send out 500 dodgy emails but they just need two people to click. It's very sinister, in that respect.

**Dr ALY:** Can I jump in here on this? I'll give you an example of something that I've observed, and this is just anecdotal; I haven't done 10 years of research to back this up! I've been getting texts when I'm expecting a package, a text from the post office, Australia Post, saying, 'There's a problem delivering your package; go to this site and you have to pay \$2 to get your package.' I recognise it as a scam but, anecdotally, I recognise it also as something that is quite recent. With COVID more people are doing things like shopping online, expecting packages et cetera. I know you've said there's been an increase in these kinds of crimes, but have the targets and the victims and the composition and demographics of targets and victims changed?

**Ms Falk:** Like you said, most of this is anecdotal. I have no hard data to back this up either, but you're absolutely right. I've seen an increase in text based phishing, at least, to try to harvest credentials. It may be that they want you to pay the \$2 with your credit card and then they've got your credit card. I've seen no hard data but, as I mentioned before, cybercriminals pivot quickly. They know more people are expecting packages. What else will they know? More people are probably ordering food online, ordering weekly meals, personal training, puppies—we can go further. They will start to pivot very effectively because, as Anne-Louise said, it's no cost for entry; it's a numbers game: I send out 2,000 texts and five people might click.

One thing I've noticed—because I got one of these texts the other day—is they're getting even cleverer by using your first name, so you think it's to you and 'That's weird.' A lot of us have people we don't put in our contact list, so we don't know who it is. That's another mutation. It's very quick to mutate. That's why we need to stop and think. They prey on people doing five different things while they're at home or in lockdown. They prey on them. They're just getting cleverer and cleverer. Next, we'll probably see, when the vaccine comes out, 'Your COVID vaccine's waiting for you. You're eligible; click on this link.' So we almost need to start a public warning system of jumping ahead, to pivot, to start to dispel some of the next hotspots—sorry, I don't want to use that word!—the next areas they might go.

**Dr ALY:** Do you consider that there is adequate public awareness of this? Very correctly, they pivot—I feel like we always tend to be following them and being reactive. There's been a lot of work done with particular demographics around romance scams, for example. You might see fewer romance scams and it's pivoting to other forms. Do you consider that there is enough public awareness of this? Like you said, I'll get on my phone or on the internet and be doing five things at once. I'll be paying for my rent in Canberra, I'll be paying off my mortgage here, I'll be buying something off eBay and I'll be doing this and doing that. So the everyday has become vulnerable to criminal activity. While it might be \$2, as you say, they work in bulk and there is huge revenue being made here by criminal syndicates and criminal actors. Are we ahead of the game?

**Ms Falk:** I have been in cybersecurity for the past eight years after I left the law. My experience is that this is how it has always been. There are a couple of reasons. Because they're not bound by bureaucracy, they can pivot quickly. We're usually playing catch-up. The other reason is government funding. If I had my way, we'd be swimming in awareness campaigns for every level and for different things. Often it's the public purse. Awareness campaigns can be challenging. We often use the Slip, Slop, Slap campaign analogy for cyber, but it's a little more nuanced than that. As I said, this is probably the only type of crime that all of us will be touched by in some way, even in a very light way, in our lives.

It's about many messages and often. Then you have the issue of the public getting a little bit immune to it all. It's like most things. Youngsters don't wear sunscreen, because nothing will happen to them. You kind of build that up. You don't want people thinking this won't happen to them. I certainly know my kids in their teens wouldn't be at all concerned about privacy. So we do have to have multiple layered campaigns at different times.

Something we will think about at the CRC is a low-level awareness campaign. We can do a bit of a grassroots thing with our students and postdocs. We can make clips about what we think. Even if it's just something light, it will be based on where we think some of the threats will go. The ACSC and all our agencies do a fantastic job. They're constrained like everyone else. Public awareness campaigns are hard to do en masse.

Inevitably there's a little bit of catch-up. There will be a point where we get better at predicting and helping people through it so that there are fewer victims of these crimes. There will always be people who click on links. I'm positive of that. I'd like to see people getting so immune to it all that they go, 'Scam—delete.' I'd love that. I'd love it if people did that instantly and knew that the \$2 was more about harvesting your credit card details. The amount was so innocuous, you would have paid it. It was about getting your details. People become so immune to that. If they knew that straightaway, that would be the ideal world. Unfortunately, we're not there yet.

**Dr ALY:** The downside or a potentially negative side effect of that is undermining confidence in tech, which then would mean a slower uptake of tech and slower economic progress around tech as well.

**Ms Falk:** That's right. The tech itself isn't bad. Cyber has allowed us to do things we couldn't have imagined even 10 or 15 years ago. The tech is great. It brings so much convenience and makes our lives so much easier. I love the tech. I just don't like that the criminals have used the tech for nefarious purposes and criminal pursuit. I don't like that. Cyber is great. It's just when it's in the wrong hands.

**CHAIR:** Is your group involved in any programs for the schools?

**Ms Falk:** No, we don't focus so much on schools. We do more university based research.

**CHAIR:** No, I meant educational awareness campaigns for the schools. Is there something in our curriculum that makes a lot of young people aware that everything they read on the internet is not true?

**Ms Falk:** I certainly agree with you. We don't do so much of that work. The eSafety Commissioner and some other agencies do some of that. I see firsthand that the internet is to be believed at all costs. I think it would be worthy to dispel that and to work with younger people on that you can't believe everything you read on the internet.

**CHAIR:** You have had a look at things in the school curriculum?

**Ms Falk:** No, not in the curriculum.

**CHAIR:** Could you make any recommendations?

**Ms Falk:** I haven't looked at anything. We've only done a small bit of research around adolescence and cybercriminals and what predicates adolescents—

**CHAIR:** Ultimately, is it fair to say that almost all cybercrime relies on people's naivety? 'This is too good to be true, I shouldn't do this. This is a scam'—people should twig, but they're get past people's radar. Probably as a society we need to sharpen people's radar on these things.

**Ms Falk:** For the most part, but there are very sophisticated high-end scams, but they're very targeted. For the most part it is a numbers game. It's absolutely about raising awareness with younger people around where not to share their information, how to share it and how it remains online forever. I know Julie Inman Grant, the eSafety Commissioner, does quite a lot of work around that focused on young people learning to understand the risks as well as what's true and what's not true.

**CHAIR:** An old favourite movie is *The Sting*. That was the same thing before they had cybercrime. Any other questions?

**Mr CONAGHAN:** One final one. You made reference to the Five Eyes calling out cybercrime. Are we making any other inroads for international cooperation?

**Ms Falk:** Not that I'm aware of. More broadly I know that they want to expand to friendlier nations. I'm sure that beyond the Five Eyes the law enforcement agencies work to take down cybercriminals where they can. So that's not just limited to the Five Eyes. That is something the AFP might be able to answer.

**Senator LINES:** Ms Falk, you were talking about young people's absolute obsession with TikTok. You were suggesting that you will do some quick videos. Would that be one of the places you might put a video? My granddaughter is 16 and she's never off TikTok.

**Ms Falk:** I didn't think of that. That's a good idea. If I went on TikTok, I'm sure my son would get off TikTok. I'm sure I will have a repellent effect. That is one medium we could explore. There are other mediums. We weren't necessarily going to use broadcast TV, but certainly where we could get all sorts of people in different ways. I think there are six million downloads a day on TikTok. I'm sure my kids attribute five million of them.

**Senator LINES:** It changes. It's TikTok at the moment, but next month there will be something new and the kids will just all move to that. I've seen her use a number of different mediums just this year.

**Ms Falk:** That's right.

**Dr ALY:** Back in the day, to get kids out of the shopping centres and prevent antisocial behaviour they used to play boring music in the shops. Maybe that's what we do with TikTok. If everyone over the age of 40 goes on TikTok, the young people will leave it in droves.

**Ms Falk:** That's right. When your parents turn up to the same nightclub, you find a new one. That's certainly a good idea. We would definitely explore mediums where we could get to a different range of audiences with messages.

**Senator LINES:** Thanks.

**CHAIR:** Very good. That wraps us up. It takes us close enough to 10.30 am. Thank you for your time. We greatly appreciate it.

**Proceedings suspended from 10:28 to 10:45**

**MOLT, Dr Natasha, Director of Policy, Policy Division, Law Council of Australia**

**WILSON, Mr Richard, SC, Co-Chair, National Criminal Law Committee, Law Council of Australia**

**WRIGHT, Ms Pauline, President, Law Council of Australia**

*Evidence from Mr Wilson was taken via teleconference—*

**CHAIR:** Welcome. Thank you for talking to us today. The committee has a copy of your submission. Would anyone like to make an opening statement before we go to questions?

**Ms Wright:** Thank you very much. We greatly appreciate the opportunity to be here today. As the national body representing the Australian legal profession, we are always delighted to assist in these committees. The measures introduced in response to the pandemic have affected many areas of public and private life, and the operation of the criminal justice system has been disrupted in a significant way.

The Law Council is acutely aware of the risks of measures introduced in response to the pandemic, including lowering thresholds and weakening of safeguards for the use of coercive powers; the unintended consequences of modifying the methods and procedures used by law enforcement and intelligence agencies; increasing resources for law enforcement and intelligence agencies without commensurate increases in funding for oversight and for legal assistance bodies; and the legislative creep associated with increasing the functions and powers of federal law enforcement and intelligence bodies, especially where those changes persist beyond the end of the health emergency.

The Law Council is concerned to ensure that all extraordinary measures are accompanied by strong safeguards to ensure the powers they confer are only directed towards the extraordinary threats that they seek to address. In our view, legislative mechanisms that confer these powers should either be accompanied by fixed sunset clauses or a requirement of regular statutory review that conditions their continuation on legislative scrutiny, including the consideration of expert advice.

This pandemic has seen an exponential rise in the use of executive power and delegated legislation to implement measures to safeguard public health, without the need for parliaments to meet. The Law Council considers that significant matters, such as those dealing with substantive policy issues rather than matters that are purely technical or administrative in nature, should be included in primary legislation rather than delegated legislation. In that regard, the Law Council refers the committee to the recommendations that the Law Council made in its submission to the Senate Standing Committee for the Scrutiny of Delegated Legislation inquiry into the exemption of delegated legislation from parliamentary oversight, and our appearance before that committee yesterday.

While these measures may be justified to curb criminal activity and maintain health during the pandemic, the onus must be upon the agencies utilising new and expanded powers to justify any proposal to continue using them once the immediate threats to which they're directed subside. Otherwise, as the threats associated with the pandemic cease, so should any extraordinary measures. It's therefore incumbent upon the government to justify any proposal to continue these measures and to justify that that's necessary and proportionate to counter any remaining threats. Thank you very much, Chair and Committee Members. We're happy to answer any questions you might have.

**CHAIR:** Do you think it's a fair enough comment to say that we are seeing an unprecedented restriction of the civil liberties of Australians over this time?

**Ms Wright:** I do think that that is true. Our civil liberties are being curtailed in a way that I think Australians have never seen, at least in living memory. I think that Australians are, to a degree, content with that, provided that it doesn't outlast the crisis. That social compact of acceptance of these measures will not remain if those powers are seen to be being abused or are staying in place beyond the crisis.

**CHAIR:** What about the social compact Australian society has with its law enforcement officials? I think it's fair to say that there's respect and trust in the police uniform, irrespective of what state it's from. Governments of all persuasions are asking their law enforcement officials to engage in policing activities that, as far as restricting civil liberties go, I think a lot of police, when they signed up, wouldn't necessarily have thought were part of the job. Today, everything's on social media, with videos, and the public are seeing their law enforcement agencies and thinking: 'Hang on. This is quite a draconian restriction on peoples' civil liberties.' Do you have any concern about the social compact between our law enforcement officials and society in general?

**Ms Wright:** I do. I think that Australians do have that level of respect for law enforcement authorities. Extraordinary powers are quite evident to people, day to day. They see the Defence Force on the streets. They see people they wouldn't ordinarily see controlling their activities. As long as proper discretion is used, and the

authorities and those agencies are not abusing the extraordinary powers, that social compact will remain. But where people see them being abused, overstepped or used without exercising the appropriate discretions, or used to target particular demographic groups or vulnerable groups improperly or unfairly, then that social compact will break down.

**CHAIR:** I saw images on television where a lone swimmer jumping off the rocks off one of the beaches was chased and tackled by a police officer in a swimming costume. This was in my home state of New South Wales, but I'm not picking on any particular state. We saw an example in another state where a lone paddleboarder, who was out in the bay, was chased down by a police boat. We saw someone who wasn't wearing a mask in an outdoor area, who was by themselves, arrested by about a dozen mounted police. Are you seeing examples of where you think this compact is coming under threat?

**Ms Wright:** I think that those sorts of examples are precisely where it does come under threat. If the response is out of proportion to the risk being posed in the individual circumstances, that's where the unfairness starts. People see that that lone swimmer was posing no risk to anybody, and so the proportionality of the response comes into question. That's precisely where people start to doubt the proper authority of the police.

**CHAIR:** That has to have long-term consequences. We talk about snapback and putting things in the freezer and everything just bouncing back. Isn't there a risk of that breakdown not automatically ending when the pandemic is over and people looking at their law enforcement agencies in a different way? Then you have the two things. If the public is looking at the law enforcement agencies without the respect and trust, that gets reflected back in the way the law enforcement agencies interact with the public. So it becomes a downward spiral. Is that a fair comment?

**Ms Wright:** I think that is a fair comment. It's a question of maintaining the reputation, the institutional reputation, of law enforcement in the public eyes. That's a very important thing. We say that about the public reputation of the courts, of the legislature, and the same thing applies to those executive agencies.

**Dr ALY:** Thank you for your submission and for appearing here today. I might just start off by saying I'm actually writing a paper on this and have looked into this, particularly, around the securitisation of health, where we've seen law enforcement enforcing health behaviours. Traditionally, we would have used soft coercion tools to encourage health behaviours. We're now seeing soft influence tools, hard coercion tools, to enforce health behaviours. We've talked a little bit about the long-term impacts around reputational damage and the breaking of that kind of social contract that we have.

I'm more interested in your comments around legislative creep and whether or not this sets a precedent that then becomes a permanent situation where health is securitised. I might ask the question, first off, between federal and state. At the federal level, we already had a very strong legislative framework around biosecurity; whereas this seems to be something that, at a state level, is fairly new. Would you agree with that or can you comment on the difference between federal and state, in this aspect?

**Ms Wright:** Each of the states has their own, I suppose, equivalent to the Commonwealth Biosecurity Act. They have their own health acts. They've all got different names but they've each got a piece of legislation that enables them to, effectively, declare a health emergency, in the same way the Biosecurity Act enables. They can make declarations and decrees pursuant to that legislation, and that's what we've seen happening. That, to a degree, has been necessary, but it's a question of whether it's appropriately used.

**Dr ALY:** Do the states have the same level of power as the federal level?

**Dr Molt:** The state orders are very much around certain public health orders—for example, restricting movement and so on within the confines of the particular state borders. Federal legislation deals with federal matters but enables certain security zones to be declared, pursuant to the Biosecurity Act. I might just hand over to Richard Wilson as well for his comment in relation to this.

**Mr Wilson:** Not a good time! I don't think I can add anything to that particular question. I could have added something to the previous ones, but I think that particular question you've covered very well, thank you.

**Dr ALY:** One of the things you've suggested is sunset arrangements or to review processes for legislation. Can you talk a little bit more about that and how you see that working?

**Ms Wright:** That is one for Richard Wilson, I think.

**Mr Wilson:** Any extraordinary powers with extraordinary measures should have a time limit on them and they should have to be renewed. The time limit should be fairly short and they should have to be renewed in the same way that extraordinary powers should have extraordinary safeguards and extraordinary oversight. An example of extraordinary oversight from my state, New South Wales, was the Police Commissioner's decision to personally

review every single fine that was issued for COVID restrictions. That is an example of extraordinary oversight of an extraordinary power. That sort of oversight promotes consistency, discourages arbitrary conduct by police and helps to protect marginalised groups who may not feel empowered to complain or do something about things when they feel that powers are being abused. Extraordinary oversight is as important as sunset clauses.

**Dr Molt:** Sunset clauses are an important factor, as Richard has outlined. I think it's also important to make sure that there are regular requirements to review the laws that are in place, to make sure that they remain necessary and proportionate. It doesn't necessarily have to be only reviewed when that date comes up in the sunset clause.

**Dr ALY:** Let's take the example of the Spanish flu, which I think has a lot of lessons that we can learn and offers a lot of cautionary tales. The Spanish flu lasted around 18 months. It came in five waves and, like we're seeing with COVID-19, the first wave was predominantly from overseas and the second wave was community transmission, and therefore there was much more spread and it was much more fatal as well. If we take that exemplar and say, 'We might be in this for the next 18 months,' is there a risk that the long-term damage around the things that the chair was talking about is inevitable or will have already been done?

**Mr Wilson:** As you say, having the hard enforcement options doesn't always mean that police have to behave in a hard, confrontational way. As I understand it, the police in the Australian Capital Territory have been taking a softer and more educative approach, with warnings and cautions and explaining things to people rather than chasing them down, arresting them or giving them fines and so on. There can be a proportionate response.

**CHAIR:** Where does that direction come from? Does that come from the Police Commissioner himself or does it come from the states or territories police minister—the application of how many discretionary powers the law enforcement officials should use? Where do you get the different approaches from? Who drives that?

**Mr Wilson:** That's a good question and it doesn't seem to be in the legislation, unfortunately. It can be. There are models of discretionary legislation, such as in the various youth justice models, with conferencing and cautions and alternatives to court action, but it seems to be coming from either the commissioner or the minister rather than from the legislation itself. It may be appropriate to build in levels of options so that they're spelt out in the legislation, to make it even more obvious to law enforcement on the ground that the first resort in a nonurgent situation is to talk to someone, explain the situation and give them a warning.

**CHAIR:** So you're thinking of a discretionary power, rather than it being done on a whim or a wink, wink, nudge, nudge discussion at the back of the room, and it can actually be incorporated in legislation?

**Mr Wilson:** It's difficult for law enforcement officers. They need to have very clear guidelines. They have a discretion when they detect a crime being committed, and we're talking about regulatory crimes—not being home when required or being in public without a mask, or whatever it may be. They need to have very clear guidance as to the sorts of factors they need to look at in the response. How dangerous is it? How urgent is it? What options do I have and why do I choose between those different options? That's especially when they're working often very long hours and doing other duties, such as border policing and so on.

**Dr ALY:** I have one more question. You mentioned in your submission a potential increase in what you term 'private crimes' and you make specific mention of domestic and family violence. I wonder if you could speak a little more to that. At a practical level, are you seeing whether resources being diverted to the policing of health behaviours is why there is an increase in these private crimes, particularly family and domestic violence, or perhaps it's a resourcing issue as well?

**Ms Wright:** We've definitely seen anecdotally that there is an increase in domestic violence, and I think the evidence supports that. Again, New South Wales being my home state, I know that the New South Wales government has certainly diverted some resources to domestic violence services. I think it's quite appropriate that that occur. Obviously people being, in a sense, forced to spend more time with a potential perpetrator, which comes with lockdown and restricted movement, has engendered that. It's also just the stress that people are under because of the extraordinary circumstances of this pandemic. It leads to higher stressors and, therefore, people acting out.

**Dr ALY:** They have lower tipping points.

**Ms Wright:** Yes. I don't know if Mr Wilson has anything to add to that.

**Mr Wilson:** That seems to be what the Australian Institute of Criminology came up with in their recent paper about it—and perhaps an increased use of alcohol being another factor.

**Senator SCARR:** At the outset I note it's been barely 12 hours or so since I saw the witnesses in another committee—I'll give the other committee a plug: the Senate Committee on Delegated Legislation, which as you

said is conducting a very important inquiry with respect to the use of delegated legislation and parliamentary oversight. I wanted to tease out this point about people's civil liberties that was raised by the chair. The Law Council has raised concerns with respect to vulnerable people. Can I expand the category of vulnerable people and get your impression with respect to other potential categories of people. Since coming to Canberra for this sitting and speaking to colleagues, I've become increasingly aware of people suffering chronic medical conditions or whose children are suffering chronic medical conditions, especially in rural and regional areas, who are unable to access medical care due to hard border closures. In some cases that is causing catastrophic health consequences for those people or their families. It causes me grave concern on a number of fronts. We're talking about processes where there seems to be a lack of transparency and a lack of rights to review, in many cases, urgent situations. Is that something of concern to the Law Council when you talk about your concern about how some of these measures are affecting vulnerable people?

**Ms Wright:** Yes, very much so. The hard border closures are of particular concern where a person is within a couple of hours drive of a centre of expertise in a particular medical field, such as cancer treatment, but it happens to be over the border—people in Broken Hill, for instance, going to Adelaide. Those sorts of difficulties people in regional areas have had in getting treatment is of real concern. It's the same between New South Wales and Queensland, where people are going from one state to another for medical treatment. Hard border closures have unintended consequences. Our advice is that there should always be exceptions. Matters should be considered on a case-by-case basis and there should be flexibility in the application of those matters so that in the event that somebody is regularly having medical treatment in another state, they shouldn't be subject to the same strictures of quarantine et cetera, as long as proper measures are put in place to ensure that they don't pose a risk of transmitting COVID-19.

**Senator SCARR:** I'm just trying to look for a reference, if you could bear with me. I want to give you a summary of a transcript from talkback radio in my home state of Queensland. It's from today's Neil Breen show on 4BC. The story related to a pregnant woman who was forced to travel to Sydney, rather than Brisbane, for urgent medical attention for her twins who then lost one of the unborn babies. Doctors wanted to send the woman to Queensland for treatment, but she wasn't allowed to cross the border. She waited for 16 hours for a flight to Sydney. Her father, Alan, has told Neil Breen, 'One of the twins died yesterday.' Her father said, 'Words can't put together what we feel about what has happened.' That's Alan, the father of the lady who was reported to have lost one of her twins after she was denied emergency hospital access to my home state of Queensland. Can you give me your comments and thoughts with respect to that catastrophic situation as it has been reported.

**Ms Wright:** Well, one's heart goes out to that poor family, and that's precisely the kind of circumstance where you would think that an exception should be made and that people should be allowed to go to the closest emergency facility, but putting in place safeguards so that COVID-19 isn't transmitted. Just take that person urgently.

**Senator SCARR:** When we talk about exceptions, and I might just try to tease this out, there is an issue in that situation where there is a self-evident emergency and relevant medical professionals have classified the case as a medical emergency. It seems to me in that case that you can't afford to be bogged down by bureaucratic processes. It's an emergency. You would know, as lawyers, that various parts of the law contain exemptions with respect to emergency situations. In my home state of Queensland, the Criminal Code has a defence with respect to emergency situations, and yet some of these public-health-directive-empowering legislations have sections in them that say 'notwithstanding any other section of law' or 'notwithstanding anything else in law'. This heightens my concern that you have something that's sitting over the top of everything else, which trumps everything else. The longer it goes on without proportionality, without reasonableness, without transparency and without oversight, the worse it's going to be in terms of Australians being able to enjoy the rights they've come to expect.

**Ms Wright:** I think that's absolutely right. It's powerful evidence for why there needs to be discretion in the exercise of any of these powers, and exceptions should always be made in cases of emergency. That should be written into the legislation, or at least guidelines prepared to ensure that discretion is exercised and emergencies can be accepted. I don't know if Mr Wilson has anything to add to that.

**Mr Wilson:** We don't know at what level that decision is being made. There also needs to be very clear and very fast-tracked provisions for review in a situation like that. Whether that's at the ministerial level or the police commissioner level or the chief health officer level or whoever it may be, there need to be very clear and fast review provisions so that we don't have to be waiting 16 hours to find out what's going on.

**Senator SCARR:** With respect, Mr Wilson, I'm sure all of the members sitting on this committee—we're all being inundated with applications from people to potentially go overseas to tend loved ones who are in dire circumstances or with medical conditions. Just the sheer volume of such requests is such that the bureaucracy

simply isn't resourced to respond in that quick time. Isn't that the reason why we have things in the Queensland Criminal Code, such as an emergency situation, so as to recognise that something in the law that recognises, in certain circumstances, the emergency situation to save human life is going to trump everything else, and it doesn't matter what a particular bureaucrat says. Is that a fair comment?

**Mr Wilson:** You would imagine so. You could think of an example of a catastrophic car accident happening just over the border and there being a hospital five minutes away. That would have to be an exception.

**Senator SCARR:** My last area of questioning is in relation to this issue of emergency powers and a state of emergency. It is reasonable to postulate that a state of emergency, almost inherent in its characteristic, should go for a limited period of time. Otherwise, at some point it transitions from a being a state of emergency to something else—call it the new normal or a new situation which we have to live with as part of day-to-day living. How do you balance that with powers that are given to the executive, or even to the executive under the oversight of the legislature, to continue to push out sunset dates or to renew periods of emergency or states of emergency such that you start to undermine what the legislative intent was behind declaring a state of emergency? Do you have any comments on that?

**Ms Wright:** Yes; the Law Council is absolutely committed to liaising with government to ensure that those emergency measures do get rolled back once the threat of the pandemic does pass. Those extraordinary powers should not outlast the threat posed by this pandemic.

**Senator SCARR:** But if the threat of the pandemic continues for 18 months or two years, for example, at what stage do you say enough is enough in terms of some of these tragic cases of people being unable to obtain medical attention? It simply can't persist.

**Ms Wright:** No. The pandemic is not going to disappear overnight. There is going to be a long tail to it. If we've learnt anything from the Spanish flu epidemic, there's a long tail to this. Unless there is a vaccine that fixes it, it's going to last a long time. These emergency measures shouldn't all be in place all the way until the pandemic is over, because it won't be over for a very long time, so those must be tailed off in the same way as the threat becomes less—and it will as a degree of herd immunity comes into play. The emergency will be over, so the emergency part of it should be wound back at that point. It needs to be monitored to ensure that the emergency measures are wound back proportionately as the threat of the pandemic also decreases.

**Senator SCARR:** Ms Wright, just summing up, is it right to say that, throughout all of these processes, we need to consider proportionality, reasonableness, transparency, oversight and appropriate sunset clauses with respect to everything that is being done in response to the pandemic? Is that a reasonable summation?

**Ms Wright:** It is, yes.

**Senator SCARR:** Thank you.

**Mr CONAGHAN:** I agree with everything Senator Scarr said in his comments. I want to get back to the comments made about the hard enforcement that occurred when these restrictions first came out. I don't think we're giving enough recognition or acknowledgement of how difficult this has been for the police, whether it's in New South Wales, the ACT, Western Australia. This is something that we have never seen before, and to exercise discretion when you're being told by your commander or your commissioner to enforce these—I think it's a little bit rough to say that police officers lack of discretion was inappropriate. The chair referred to three examples. I'm aware of all those examples. What happened, ultimately, was a lack of personal responsibility in those three examples. If that person had given over their name and details, there wouldn't have had to have been that elevation of authority. Just on that, do you think there's a need for both further education for police and further education for individuals or the community at large, to comply and let them know that the police are only carrying out a function as delegated by the crown?

**Ms Wright:** Yes. I think, particularly, in the early days there was a lack of knowledge by the general public about what their rights and obligations were. And it was changing, let's face it, almost daily at that point. People didn't understand their duties and responsibilities under the new laws and regulations, decrees, that were coming in. So it was incumbent upon the leaders in the police to ensure that their officers understood that and that they were given that proper direction to exercise discretion, especially in those early days when people didn't know. I think you're right, that education and training are essential not only for police but also for the people so that there's proper information easily accessible to the public, so they know what their rights and obligations are.

**Mr CONAGHAN:** Do you think with the passing of time since the peak—I had police officers ringing me saying, 'Pat, we don't understand what we can and can't do,' in the early days—that has now subsided to a degree?

**Ms Wright:** I think it probably has. Police are much more aware of what their powers are and how they should exercise them. That being the case, there's hopefully more knowledge of what they should be doing and

what discretions they should be exercising. Similarly, the public are more conscious of what their obligations and responsibilities are too.

**Mr CONAGHAN:** In your submission, the council refers to a concern that police may have used their powers for stop, search and detain with the opening of the borders. Is there any evidence to support that or is that just a concern based on anecdotal comments?

**Ms Wright:** It's a concern based on what we've seen, in terms of search, over the years in other areas. It's anecdotal now, but it is something that has been observed, that certain people are targeted more than others for searches. That's of concern—for instance, Indigenous people; and people living on the streets are targeted much more than other people. So the impact of the COVID extraordinary powers being felt by those small sectors is more heavily felt.

**CHAIR:** Senator Scarr raised that case involving the border closure. Section 92 says:

... trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

I would imagine a mother, with twins, that needs emergency surgery would perhaps come under that definition somehow. Is the Law Council doing anything to advocate that section 92, and I think section 117, are practised using the language and the words that were written by the authors of the Constitution, specifically the words 'absolutely free'?

**Ms Wright:** If there are specific instances of people who feel that those constitutional provisions have been breached, in effect, no doubt they will be looking at that.

**CHAIR:** Has the Law Council advocated anything for that so far?

**Ms Wright:** We haven't advocated on that specifically, but it is certainly something we're conscious of, and we are working on looking at that. It's a complex issue. Section 92 has been interpreted in many different ways. Ultimately, it would be a matter for the court to consider whether there have been—

**CHAIR:** I understand but it's hard to tell a young expectant mother, 'Sorry, you have to go to the courts to interpret it.' Yes, it may say that in the courts amongst the states you'll be absolutely free, but I'm sorry, if you can't cross the border in the circumstances, it's not absolutely free. I would hope the Law Council may consider that and become a stronger advocate if you see what you think is an abuse of the Constitution occurring?

**Ms Wright:** We will certainly take that on notice, yes.

**CHAIR:** Thank you so much. We greatly appreciate you appearing here today.

**BROADHURST, Professor Roderic, Private Capacity**

**HERNANDEZ, Dr Rolando Ochoa, Lecturer, Macquarie University**

**HURLEY, Dr Vincent, Lecturer, Macquarie University**

**SCHREER, Professor Benjamin, Head of Department, Macquarie University**

*Evidence from Professor Schreer, Dr Hernandez and Dr Hurley was taken via teleconference—*

[11:26]

**CHAIR:** I now welcome Professor Roderic Broadhurst from the Australian National University. I also understand that we have via videoconference Professor Benjamin Schreer, Dr Rolando Ochoa Hernandez and Dr Vincent Hurley. Thank you for talking to us. The committee has a copy of both submissions. Professor Broadhurst, I invite you to make an opening statement before we proceed to questions.

**Prof. Broadhurst:** Thank you, Chair. I'm grateful for the opportunity to meet with and talk to you. I've written to the committee because I've got two concerns, I guess, which are overlapping. One is about the rise of dark net markets and, in particular, the sale of COVID-19 related products. Further to that, of course, is the general problem of the distribution of counterfeit funds et cetera. I wanted to talk about that and I also wanted to talk about the overlap between what I see as a rather dangerous trend now, or at least increasingly dangerous trend, around the distribution of amphetamine type stimulants and how there's a bit of an overlap—at least in my view, and many others, actually—that the scale of that trade, mostly emanating from the Golden Triangle, is now reaching a point where we really need to reassess our priorities.

They're the two issues that I wanted to address or at least talk to you about. I want to slightly update you about the situation with the COVID-19 products. There has been a follow-up study of the one that we did for the Australian Institute of Criminology, which basically confirms the data or the proportions of these products, particularly vaccines, testing kits and so on. Just this week some Sinovac vaccines were available on WeChat. Very briefly, the Chinese authorities took it down very promptly, but that would suggest even further that the thing we all worried about back in April—that vaccines would appear on these markets, possibly diverted—has actually occurred and is likely to occur even more. So in a sense we probably need to do more surveillance work. That's basically what I hoped to talk to you about this morning.

**CHAIR:** Would you like to expand on your concern about the crystal methamphetamines? You believe there's been an uptick in its use and abuse during this period?

**Prof. Broadhurst:** There's certainly what has come out of the latest seizure data. Of course seizure data doesn't tell us everything, but it shows the scale of the seizures. Probably more worrying than crystal methamphetamine is the presence of fentanyl analogues, particularly some of the more potent fentanyl analogues. I'm thinking of Carfentanil. The scale of those seizures—I mentioned some of them in my report—I have to admit we haven't seen before; and the fact that there are some parts of the world where some of this material can be stockpiled and later distributed through what I guess we could call transnational organised crime groups. In particular, some groups appear to have amassed significant wealth. That leads to some other problems that we may have.

The transnational organised crime problem is not a new one. At least from my experience, the presence of groups like San Guo—my romanisation is not quite perfect—is very, I wouldn't say unusual, but Chinese triad groups frequently collaborate, and they've done that ever since I can remember, but the fact that these products are now available and can be distributed through the post—they're small mass, highly potent, very valuable commodities—has changed the landscape. There's a question about what we need to do about that, as well.

In simple terms, we already do quite a lot. What the Australian law enforcement agencies are doing is pretty impressive. We support UN agencies like the UNODC, and we probably still need to do more of that. There are a number of questions about what we can do about it. We've certainly got the tools. One of the suggestions I made in my paper is that transnational policing operations such as J-CODE, which are expensive, complex and demanding on our services, we need to persist with those. We can do quite a bit to, if you like, suppress that kind of development, but we're probably going to have to do more, and we're going to have to do more with our regional partners.

To sum it up, the organised crime side of it is quite complicated in some ways. It's certainly changing. But what has changed is that we've got technologically savvy technocriminals who converge with traditional mafia-like or triad-like groups. That's given them, for want of a better word, a bit of a run on us. We need to attend to that, perhaps with more resources or at least more targeted resources, to see whether can at least disrupt—

**CHAIR:** Let me play devil's advocate here. If we look through the history of smuggling throughout the world, it appears every time that law enforcement puts some blockade or works in one way to stop the villains or the smugglers. I don't want to glamorise them in any way. These people are trading in death and misery and deserve every punishment they get, but they seem to be able to come up with some ingenuity to get around whatever law enforcement steps government regulators put in place.

**Prof. Broadhurst:** Yes. We do feel like we're in catch-up mode. There's a well-known phenomenon called crime displacement. You put pressure in one territory, and you have a neighbour that perhaps hasn't got the same kind of capacity, and they'll obviously shift, because it's cross-jurisdictional. In the dark web or the internet world it's almost seamless. We do have a problem curtailing the spread of what we would call phishing tools or the commercialisation and industrialisation of those tools. In the drug world we're seeing crime displacement, at least in Asia. We've seen the Chinese authorities crack down. They're dedicated to trying to reduce the amount of drug problem in their own jurisdiction, but as a consequence there's a displacement effect. You get jurisdictions that are less able, and they become, for want a better word, safe havens. Safe havens means that they can operate with some degree of impunity. That's what we're seeing, not just in our part of the world, but in other parts of the world, as my Macquarie colleagues would no doubt attest.

**CHAIR:** Do you think that what we're seeing during this COVID period is maybe turbocharging—perhaps that's not quite the right word—but there's been an increase? Many methamphetamine users may be unemployed and may be living on unemployment benefits. All of a sudden they have a bit of extra cash in their pocket. Is there any indication that they're engaging in more activities in the drug area?

**Prof. Broadhurst:** I think in Australia we're not seeing too much that. What we're seeing is perhaps substitution problems. Yes, the profits that even street dealers can make are highly attractive, but not on the scale of wholesale traders, of course. Perhaps the biggest risk is that we'll have a lot of distressed businesses, often with pretty good assets, and possibly a good business model, but not able to survive the recession that we're in and no doubt will be in for a bit longer. They become attractive targets for organised crime groups. At least in some places, we're going to see more of that kind of activity. That obviously contributes to the wealth of these groups. But from a drug point of view the biggest change is the type of drugs now becoming available, particularly the fentanyls, and the fact that they're low-mass, high-value products and they can be shipped in relatively small quantities. Those profits that you're talking about might be attractive to somebody who is distressed.

**CHAIR:** Professor Schreer, would you like to add anything to this issue?

**Prof. Schreer:** I certainly agree with what Professor Broadhurst has just said. Our submission focused also mostly on the nature of operations of transnational serious organised crime. What we would like to add to the discussion is that we think it's important for this committee to not just consider the immediate impact of COVID-19 on criminal activity and law enforcement in Australia, but also really to prepare for the post-COVID-19 era. In our view, preparing for the latter period might be even more important for the committee than focusing on the short term, which of course is also important. In our assessment, this is because the post-COVID era is likely to see intensified activities of transnational serious organised crime targeting Australia. That problem is likely to be only compounded by increased domestic demand and more harmful drug use in Australia, simply due to the economic disruption, the rising unemployment and the impending health crisis that will affect so many Australians.

**Dr ALY:** Thank you very much, Professor Broadhurst, and to the representatives from Macquarie University here. I appreciate your submissions, and particularly the effort that went into your submissions. I'd like to pick up on fake pharmaceuticals. Professor Broadhurst, you've spoken at length in your submission about fake PPE and about Sino vaccines on WeChat. I want to look forward a little bit to the prospect of a fake vaccine. Let's put fake vaccine in the centre here and visualise a framework around here, where we've got a nexus between the supply and distribution of a fake vaccine, cyber organised crime, possible terrorist actors and other malicious actors. Where are Australia's vulnerabilities in this picture, and what should we be doing now to harden those vulnerabilities?

**Prof. Broadhurst:** It's a good question. Thank you, Dr Aly. There are a couple of things. No. 1 is we've got to know more about what is actually happening in relation to the likely diversion of, particularly, vaccines. We don't really have an international system as yet to protect supply chains. We know that a lot of the diversion takes place, for want of a better word, in developing countries. There is a lot of activity going on trying to address counterfeit pharmaceuticals, so there is already a considerable body of work being done.

I'll just point out one: we need, for want of a better word, an internationally seamless process or way of dealing with this kind of problem. The European Union, for example, has put together a convention, which I think is worth looking at. It's only been signed by 15 countries. It's basically called the Medicrime Convention. It's

actually looking at this very problem, because vaccines are important but we know from the data that children all over the world take fake or have taken fake antimalarials and other medicines. We know that the death from that misuse, from that profiteering, is quite extreme. So there are essentially international mechanisms, if you like, with our neighbours and the world to try to reduce the impact there, and that will have an important impact on the risks here. But I think, as the chair mentioned, as people become impoverished or under stress in terms of money and so on, the costs of medications will be a problem, so they may look to alternatives. That's certainly a risk. For example, I know Border Force seized chloroquine medicines that were coming into Australia at the height of the idea that chloroquine was going to help us treat COVID-19, so there was a rush of those kinds of materials coming into Australia. I think our border arrangements and that kind of thing are pretty good. There are new technologies coming out—they're very, very new, but—capable of detecting, for example, fentanyl, using particular kinds of new techniques that we have. They could be deployed in our mailrooms and on our borders and so on.

**Dr ALY:** Is it likely that the mail and post will be used as the supply chain conduit?

**Prof. Broadhurst:** That will be certainly one of them. What I'm really saying, and lots of other people are saying, is that what's happening with the use of the internet is it's a lifting-all-boats phenomena, both legal and illegal. At the moment, it's relatively insignificant in the sense that probably four to five per cent of narcotics and so on are distributed that way. But actually, if you look at seizures, the bulk of the seizures that take place in terms of individuals are packets coming through our mail system. We've seen recently, as you know, the Lord Howe seizure, the kind of classic cocaine drop et cetera, but actually, in Chinese we would say, 'Ants moving house'—lots of little bits going all the time. We have people who market at the low level—resellers. They buy it online, they then set up a little operation, and so on. That's in narcotics, but something like that will occur as well with pharmaceuticals. I think vaccines are a real risk—perhaps not so much in Australia. One of the problems with surveilling the datasets, or the dark nets, is that you really need to go to the granular level. We can obviously get broad pictures of what's happening in terms of trends, but, actually, the devil is in the detail. We know that these shipments, sales and so on they take place, and they come to Australia at the mid-level and then they are distributed. Again, post is very significant. I know that people in our postal service, the Australian Federal Police and so on are doing a heck of a lot to try to do something about it. I'm a little bit more hopeful because there are now some interesting techniques. They haven't been put into the field yet, but they look very promising for detecting fentanyl and fentanyl analogues. That may be what we need to look at and put into practice—put in the field as soon as we can. There is a lot going on. As to the risk for Australia, as Ben said, it will be post-COVID and it's probably going to be driven by places further away from Australia: New Guinea, the Pacific Islands, South-East Asia and so on.

**Dr ALY:** In that sense, are the porous borders in our region, particularly with some of our regional neighbours, one of the risk factors?

**Prof. Broadhurst:** Quite a lot has been done. I'm quite impressed with how things have evolved, but, essentially, if you look at border regions like North Myanmar, Laos and South-West China, they are typically porous borders, so there are risks. But there's also a great deal of traffic between East Asia and the Americas, and that's not going to stop. The profits are there. I think our best tactic or strategy is to do as much we can to help our neighbours improve their capability, and we also need to do quite a bit of education and think about what we really need to do to reduce the demand. One of the things that has really staggered me is how effective some of the transnational organised crime groups are in delivering a highly potent product. We've seen no drop in potency in, for example, methamphetamines, and prices have more or less stabilised in those regions. They're going to be hard to suppress.

**Dr ALY:** Would the gentleman from Macquarie like to add anything specifically around our vulnerabilities and what we should be hardening at the moment?

**Prof. Schreer:** Yes. Roderic has pointed this out very nicely. At present, it makes sense to invest more in the maritime border security side of things because air traffic is affected most by the disruption. Australia, to some extent, can make use of its favourable geographic location, if you will, because we are surrounded by water. But, of course, international organised groups keep looking for other ways of distribution, and the sea, at this point of time, seems to be the preferred option. What we would like to point out, however, is that, medium to long term, the impact of the current disruptions on the supply chain might not nearly be as severe as expected. Once the COVID situation eases, it is quite likely that the international organised criminal gangs will continue to do what they have done in the past. We would also like to point out that it is important to consider the very high level of organisational resilience of these organisations. For instance, I put it to the committee that they probably have a very high ability to simply wait out COVID-19, when Australian borders reopen. For instance, there has been

discussion by some that cartels, for instance, are facing significant stress in the current environment and might therefore cease, in the future, to be a major threat when it comes to the distribution of narcotics in Australia. We think it's a problematic assumption. These organisations, whether they're Mexican or from another Latin American country or from South-East Asia, have been used to operating under conditions of hard borders for almost their entire lives, if you will. They are highly skilled, and they are very well equipped to operate under such conditions. They also, usually, have access to large amounts of cash reserves. So if business dries up, to some extent, during this period, they might be in a good position to prepare for when Australia will open its borders.

The other thing we would want to point out is that these organisations—and you see some indications already of that, for instance, in the United Nations Office on Drugs and Crime report, which has pointed that out in a recent report as well—can use the time to stockpile very large amounts of illegal drugs until the borders reopen.

**Dr ALY:** Let's go to the place where there are no borders: the internet. We heard evidence earlier that there could be a situation, for example, where a fake vaccine gets into the supply chain and people get a text message saying, 'Your vaccine is ready; come and get your vaccine.' We know that the human link is often the weakest link in the security chain. Is that a particular vulnerability in Australia? Professor Broadhurst, I take your point about children in developing nations receiving fake malaria, for example. But it's a very different situation in a developed nation like Australia, where it's more likely that communications will be made via the internet. Is that a particular vulnerability that we are unprepared for or do we have mechanisms currently in place that we can draw on to address that?

**Prof. Broadhurst:** Ben, I might go first, if that's okay. That's a cracker question, because—

**Dr ALY:** We're full of them—cracker questions, that is!

**Prof. Broadhurst:** Sorry, I beg your pardon—can we change the record, perhaps! No, it's an important question, because the social media platforms are the ones that are also very important in this area. We know already—at least from the data I've seen—that children have been targeted. It's the whole child-exploitation problem. What we've been doing in that area with the Australian counter-child-exploitation people is really fantastic and we've got some great tools. It's much more difficult and much more qualitative, for want of a better word, what's going on in places like WeChat and Facebook—not Facebook now; it's other social media. That is challenging because we can't always trace that data. I mean, obviously, the eSafety Commission does a cracker—sorry!—terrific job of doing what they can to hold that. But that is an enormous challenge.

My own personal view, for what it's worth, is that I see companies like Facebook and others as publishers. They're in a public space and I think they ought to be regulated. Although there have been some signs that these corporations may pull to the will of communities like our own, we're going to have to work much harder to make sure that we do get access in a timely way—not only our kids—but it's a risk. We know that drug trafficking, at least in our domestic borders, relies on these sorts of tools. From a digital forensic point of view, these are very challenging tasks. We're basically overwhelmed. Virtually every crime now has some kind of internet connection, whether it's a hack or whether it's cyber enabled or whether it's incidental to a homicide or whatever.

**Dr ALY:** I have one more question for the academics at Macquarie. In your submission, you talk about increased fraud, particularly around JobKeeper and the early release of superannuation. Do you have any idea, or any data or statistics, on the scale of that?

**Prof. Schreer:** No, not yet. It is based on anecdotal evidence and media reporting, but we think it's fair to say that these scam attacks and attempts at fraud have been increasing simply because it is an attractive target for criminal gangs to exploit.

**Dr ALY:** Are you doing research to track it, or do you know of anyone who is tracking it, to get an idea of the scale and nature of it?

**Prof. Schreer:** Yes. We have just started a research project that is looking at online business fraud, which is trying to establish a somewhat more reliable database. It is also looking more deeply into the methods and the potential countermeasures in relation to online fraud—and also online gambling, because what we are hearing is that there is often a correlation between the two. What we also put to the committee in the submission is that we believe that illegal gambling has already intensified and will continue to do so in the context of the economic crisis that is going to be staying with us for quite some time.

**Dr ALY:** If you have a project description and scope, could you send it to us? I'd be interested to read about that research project.

**Prof. Schreer:** We'd be very happy to.

**Dr ALY:** Thank you.

**Senator SCARR:** I have two questions, one for each witness. I don't know if I'll be able to raise to the heady heights of the deputy chair's level of questioning, but I'll do my best. Professor Broadhurst, I was extraordinarily impressed with your submission. It was dense with information. I will certainly be seeking out other work that you have done, and, if you've got a book, I'm going out to buy it. I thought it was terrific. If I can just give you that rap first.

**Prof. Broadhurst:** Thank you.

**Senator SCARR:** On page 7 of your submission, you say:

In summary the risks identified by the UNODC—

You might be able to tell us what that is—

are broadly as follows:

- Organized criminal groups are targeting legitimate businesses that are struggling because of the crisis;

Could you tease out that issue a bit more for us and give us some evidence with respect to any particular way in which those businesses are being targeted and whether or not that's a phenomenon that's potentially occurring in our own country at the moment.

**Prof. Broadhurst:** Again, that's a terrific question. The meat of that question is: what's the trade craft of organised crime groups? We are aware of the fact some of these organised crime groups, or crime groups—let's call them that—have plenty of cash. There are problems laundering money, so cash is on hand. What has been seen elsewhere, and here too, is that, depending on the particular kind of business—I don't particularly want to focus on outlaw motorcycle gangs—whether it be, for example, the sex industry or the tattoo business, those businesses can be vulnerable to that kind of pressure.

We often talk about extortion leading to takeovers and so on, depending on the kind of business, but most organised crime groups—certainly the ones that I know of in Asia—are very keen to invest in legitimate business. That's a good place to put your cash, or hide it, if you like. We sometimes refer to that as 'grey business'. Sometimes they will leave the principals involved in that process. It's what others have called the hidden power of crime groups.

**Senator SCARR:** So just to tease that out, it could be a situation where a legitimate business is struggling because of cash flow issues. They have an urgent, perhaps even desperate, need for cash flow, and an organised crime group takes advantage of that to at first lend them money, and over time there's creep and they actually offer to take over the business.

**Prof. Broadhurst:** Yes, that's right. They become insurers of last resort. Loan sharking, I guess, is the word we would use. That's a very, very common practice, certainly throughout South-East Asia. That's how they get the foot in the door.

**Senator SCARR:** A question to the witnesses from Macquarie University: I refer to your recommendation with respect to responding to alternative models of drug distribution. Your recommendation is:

Potential regulation of this industry—

That's food delivery—

through introduction of measures designed to enable a clear chain of possession in the movement of a product by a courier to the receiver.

The only question which arose in my mind is that obviously there are a lot of vulnerable people who are isolated and relying on these meal delivery systems in order to get through periods of isolation. Have you considered how much this would cost and how much cost it might add to the cost of the delivery of that sort of meal in the hospital industry?

**Prof. Schreer:** Again, that's an excellent question. We were aware and we discussed internally that of course [inaudible] not for curbing or putting limitations on these kinds of delivery services, which are important, as you say, for many Australians, particularly in remote areas. What we're trying to do and point out in our submission and recommendation is that here is an area which it seems that criminal gangs have exploited in terms of [inaudible] Therefore this was an area to be looked at. It seems to us that it's very much an unregulated market or business niche. I refer to my colleague Vince Hurley, who has done work in this field.

**Dr Hurley:** Just by way of background, I spent 30 years as New South Wales police officer before coming across to academia. I spent a lot of time investigating organised crime as a detective. The information there about the couriers is anecdotal evidence, because there has to be a starting point somewhere for any new frame of

distribution methodology. This information has come from my contacts within the New South Wales police. One of the things that's difficult to prove in a drug trafficking case is chain of possession of the drug. Quite often you can't prevent the drug coming in, or if you do, [inaudible] our borders. The weak link in a legal argument for most drug trafficking cases is to show that chain of possession of that drug from point A to point A, from person A to person B. The function of the suggestions we're offering is that if we can hold an individual to account, whether they be just an agent or whether they be part of a criminal enterprise, if we can hold them to account in some way, whether we do that coding or not, that then makes it a bit more difficult for that distribution to take place. It's not going to be a panacea and it won't solve the problem. I think it's important to understand that we are here to make their jobs as difficult as possible when it comes to the distribution of the drugs once they pass our borders. Does that answer your question?

**Senator SCARR:** That was very helpful. I do appreciate that. It demonstrates the positive contribution that people with your experience can make this this space.

**CHAIR:** Professor Broadhurst, you mentioned an outbreak of fake antimalarials in the Pacific or in Asian countries. Can you expand on that?

**Prof. Broadhurst:** I was referring to the fact that back in March and April chloroquine was touted as a potential treatment for COVID-19. What's happening is we've already seen that material, that product, being shipped into Australia, either via dark net markets—not always; often online pharmacies—and that they have been seized here in Australia. One of the outcomes for the rest of the world was that the demand for antimalarials basically made supply to many of these countries that need antimalarials—or if you're a lupus sufferer it's a standard treatment for lupus—you weren't able to get that product because it was in short supply. Typically crime follows opportunity. They will look for those sorts of opportunities. The fact that we've seen vaccines on WeChat, even though the Chinese authorities were relatively quick—it's a vaccine because vaccines are out on trial and we know that those vaccines can be diverted. It doesn't matter what the drug is—

**CHAIR:** It's the imbalance of supply and demand. There was a case that in one country fake antimalarials were being manufactured—

**Prof. Broadhurst:** Correct.

**CHAIR:** Where was that?

**Prof. Broadhurst:** There are several countries. Off the top of my head I might not list them all, but certainly places like India, Indonesia, I think Cambodia, and I'm not sure about Laos. They're the ones that I can recall. Africa is targeted as well.

**CHAIR:** Why would that be? My understanding is that these antimalarials are off patent. I could understand that if a drug is on patent it makes it very attractive for a criminal syndicate. You manufacture it, effectively in breach of the intellectual property, because they're effectively stealing the intellectual property.

**Prof. Broadhurst:** That's exactly what's going on.

**CHAIR:** Where would it be going on?

**Prof. Broadhurst:** It would often be at the second tier supply chain. The farmers have pretty good supply chain protection, but when it's distributed to another country—let's say Cambodia, for example—there is a second chain of supply, and often it's repackaged or diverted or sold elsewhere. It's very easy to counterfeit that product.

**CHAIR:** I understand the cost of manufacturing is so low that where is the advantage in anyone counterfeiting? You counterfeit a dollar bill because it costs you a cent for a piece of paper that turns into \$100. You smuggle things where there's a high profit margin. Where is it in an antimalarial, where the manufacturing costs are so low? There are no prohibitive taxes that they're trying to avoid?

**Prof. Broadhurst:** Off the top of my head, it should be about US\$2 for a dose equivalent. What happens is that the hospital or the public health system in that particular jurisdiction buys what they think is a legitimate product at a reduced, discount rate, in bulk. That's one method. The antimalarials are important, but there's also a range of HIV drugs and antibiotics and so on, so it's not just antimalarial. I agree that it does seem extraordinary. What's the profit margin?

**CHAIR:** I understand that if it's an HIV vaccine there may be a market price of \$200 to \$300. There's a great incentive for illegal activity to come in. It costs us a dollar to make. But where the antimalarials are so low in price to start with, I don't understand where there would be an opportunity for a criminal syndicate to be involved.

**Prof. Broadhurst:** Understood. May I escape from your very capable question by referring to a study recently done by the OECD where that was quite clearly documented.

**CHAIR:** That's what I was interested in.

**Prof. Broadhurst:** I'm happy to pass that on.

**CHAIR:** If you could.

**Dr ALY:** Is there a difference between drugs that require a doctor's prescription—let's say a vaccine for COVID-19 is developed, as we all hope there will be within the next six months to a year. You can get it without a doctor's prescription, much like the flu vaccine—you don't need a doctor's prescription. Does that make it more open to or more vulnerable to counterfeit vaccine?

**Prof. Broadhurst:** Again, a good question. I'd probably defer to our colleagues at the Therapeutic Goods Administration. But, off the top of my head, yes. But in the jurisdictions that I've done field work in, for example, the degree of regulation around products and around the dispensing of products is—let's put it this way—not regulated terribly well. That's where I think the gap is.

**CHAIR:** So there's potential at the moment in the current supply chain systems that we have? We've got a chemist that houses the drugs. They've got front-of-counter and back-of-counter. They've got what they can only give out under prescription, which the doctor has to do. And they've got a supply chain. You're saying you think that's not as tight as it should be?

**Prof. Broadhurst:** I think in some jurisdictions, definitely not.

**CHAIR:** You mean within Australia?

**Prof. Broadhurst:** In Australia, I wouldn't be able to comment.

**CHAIR:** So you're talking internationally?

**Prof. Broadhurst:** Sorry, I'm talking internationally.

**CHAIR:** I was just worried about something else.

**Prof. Broadhurst:** The situation here may change. I think if there's pressure for vaccines and there's a supply problem, that's when I think the darknet market would kick in. If you're desperate for it, or think you've got a market for it, then you will definitely purchase it, and it may not be through a pharmacist; it will be just on the black market, like it would normally be.

**Dr ALY:** You can get a doctor's prescription online and buy drugs online.

**Prof. Broadhurst:** Yes.

**Dr ALY:** You can speak virtually to a doctor, get a prescription and go on to an online pharmacy and get drugs.

**Prof. Broadhurst:** I'd agree that there's a risk there. TGA certainly have been trying to increase their capability in that sort of domain. Again, it is definitely a risk via the darknet market. We have to accept that fact, that it will happen. I guess we hope it won't happen on scale. The reason why we hope it won't happen on scale is because, with the versions of those vaccines from the trials and so on, there will be consequences.

**Dr ALY:** Can I just ask a quick question of all of you? We've heard from the previous witnesses around the securitisation of health and the enforcement of health behaviours. Are we putting the wrong focus here? Instead of creating legislative frameworks for the enforcement of health behaviours, should we be creating legislative frameworks for the protection of drug supply chains?

**Prof. Broadhurst:** Ben, would you like to go first?

**Prof. Schreer:** I might refer to my colleague, Rolando.

**Dr Hernandez:** Hi, thanks for having us over. COVID definitely has made a number of changes in the demands that are being put on policing. Policing operations are now guarding internal borders, asking for exemptions with the roads between Victoria and New South Wales closed—these demands that have put a lot of stress on already stressed budgets, resources et cetera. Those will certainly have to be either enhanced or re-engineered to potentially deal with the fallout from COVID, whether it's importing new health behaviours, as was mentioned, or other kinds of regulations that we don't even know about yet that will have to be put in place. One of those may have to do with further protecting the supply chains of everything from PPE to vaccines et cetera. The way that we would like to see it is that this is going to require a lot of cooperation within government, not just within New South Wales or the AFP [inaudible] but also the health sector itself, hospitals, doctors, nurses, and the education sector. I think that will bring out a lot of challenges. It's not about increasing budget or things like that, but we need to come up with good ideas of how to more effectively use the policing resources that we have to protect borders from not just from fake drugs but all kinds of other things.

**CHAIR:** Are there any further comments, gentlemen? We're just about on time.

**Prof. Broadhurst:** Very quickly, if I may, Chair?

**CHAIR:** Yes.

**Prof. Broadhurst:** Just to stress the point that we do need to maintain our surveillance of the darknet market. We do need to contribute, as we already do, to the UNODC. I think we all know that, so I'll leave it at that.

**CHAIR:** Professor Schreer, any final comments before we wrap up?

**Prof. Schreer:** Yes, maybe one specific recommendation in terms of the webs. We recognise there are a number of good web-based investments in terms of educating Australians about the risks of fraud. But, for instance, it might be helpful in the current climate to also target other forms of media, be it television or radio media, educating Australians about the increased risk of fraud, online fraud in particular, which will only increase as some companies, for instance, are moving even more towards home ops, not just during the COVID crisis but also afterwards, which naturally increases the risk of those individuals being exposed to online fraud, whether that's business or whether that's private.

**CHAIR:** Thank you, Professor Schreer. Thank you, Dr Hernandez and Dr Hurley. And, of course, thank you to you, Professor Broadhurst.

**Proceedings suspended from 12:15 to 13:15**

**CRENNAN, Mr Daniel, QC, Deputy Chair, Australian Securities and Investments Commission**

**GREGSON, Mr Scott, Chief Operating Officer, Australian Competition and Consumer Commission**

*Evidence from Mr Gregson was taken via teleconference—*

**CHAIR:** Welcome. The committee received submissions from both organisations. Thank you for talking to us today. I remind committee members that the Senate has resolved that an officer of a department of the Commonwealth or of a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a minister. This resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policies or factual questions about when and how policies were adopted. As there's a little bit of overlap, but not a lot, I'd ask you both to make an opening statement. Mr Crennan, would you like to go first?

**Mr Crennan:** Certainly. We have filed our submission, which set out some of the matters relevant to the terms of reference of this committee that are relevant to our regulatory remit. It's a combination of things that are squarely within our remit, such as phoenixing, and our collaborative activities with other government agencies. Our contribution is limited to those things that are within our mandate. We have increased surveillance of various activities. They're set out. To repeat them in part—and I'm happy to take you to some actual figures, if you wish me to—we have noticed through our daily surveillance activity increased scam reports, approximately doubling, including various aspects of scams, such as what we refer to as romance scams and cryptoscams, cybercrimes, cyber related crime and fraud. We participate, as I said earlier, in cross-agency groups and tasks forces that grapple with those issues. We also have other operational issues, such as remote working, which in our view the agency is handling quite well, given its difficulties in relation to our criminal investigations and surveillance.

**CHAIR:** Mr Gregson, would you like to make a brief opening statement?

**Mr Gregson:** With consistent brevity, as you know, the ACCC has quite a broad mandate. There are two areas of focus that will be relevant to this committee, which might involve a criminal focus or even an approach from the ACCC in addressing. One of those two areas is our cartel program, where we both investigate and prosecute potential breaches of the cartel laws. There are certain influences or concerns about how COVID-19 could impact that work. Secondly, similar to the matters raised by Mr Crennan, the ACCC is responsible for activity in relation to scams. There certainly has been an uptick in scams, and we think that is influenced by the current environment. We're happy to talk and answer questions about what we do about that individually as the ACCC but also, more relevantly, what we're doing in combination with agencies such as ASIC.

**CHAIR:** Thank you. Mr Crennan, you mentioned phoenixing activity. Could you expand on that a little bit?

**Mr Crennan:** Certainly. Phoenixing activity is a broad problem in Australia and elsewhere throughout the world. Effectively, it's used as a tool to evade obligations such as tax. We currently are the registering agency for companies, so we have the tools and the interest and the mandate to supervise and, if necessary, investigate phoenixing activities. We also have a phoenixing task force within ASIC as part of our assessment and intelligence operations. Typically, in terms of the joint agency aspects of our activities, we might enter into a joint agency investigation with the AFP and the ATO. Phoenixing is one of the tools used in those types of complex fraudulent activities to evade a tax obligation, for example, or to hide money that is proceeds of crime. We're well-placed to participate in those types of joint agency activities because of our mandate and also because we have been dealing with phoenix activities for some time.

**CHAIR:** Have you seen an increase during this period?

**Mr Crennan:** Yes, it has increased.

**CHAIR:** What do you put that down to?

**Mr Crennan:** The number of types of criminal activities which we are aware of and surveil has increased. It's difficult without knowing the minds of the people who are engaging in this activity precisely why it has increased. It's possibly at least a combination of the general increase in criminal activities such as cryptoscams and the use of phoenixing to disguise the proceeds of those crimes. They are interrelated and co-extensive in activities. From our experience and from our investigations, phoenix activity is very seductive and attractive to those who otherwise engage in criminal activities that fall outside of our mandate.

**CHAIR:** At the moment there's currently a suspension on one of the sections of the Corporations Act, I understand, that doesn't require companies to put themselves into administration or call in an administrator if they're unable to pay their debts as they fall due.

**Mr Crennan:** Yes.

**CHAIR:** When does that expire?

**Mr Crennan:** I'm not sure of the exact date. I'll have to take that one on notice. I don't think I have that in my notes. Generally speaking, legislative instruments, at least, last for six months.

**CHAIR:** My understanding was, just roughly, it could've been the end of September. Let's assume that's what that date is. I would imagine after that period there would be a large number of Australian companies that would be in a situation where they would be required to appoint administrators. Is that something ASIC has looked at as it's considered the volume that might be involved in that?

**Mr Crennan:** Yes. I think we do refer to it in passing in our submissions, and I have some further notes here about that aspect of our operations. We do anticipate that external administration will increase significantly. We've already seen it increase, notwithstanding the relief that's available.

**CHAIR:** On that point, if you didn't appoint an external administrator under circumstances previously, you were not in breach of the Corporations Act. Even though you may think it was necessary, it wasn't compulsory, because of the legislative changes.

**Mr Crennan:** If you don't appoint an external administrator and you trade whilst insolvent, you are in breach of 588G.

**CHAIR:** But I understand that part of the Corporations Act was actually suspended for a period of time.

**Mr Crennan:** That's correct.

**CHAIR:** That's what I'm saying. Even though that suspension is in there, directors are electing to still appoint administrators for their companies.

**Mr Crennan:** That might also be for other reasons. Publicly listed companies, because of debt and other reasons, regularly go into external administration.

**CHAIR:** Have you done any quantitative estimates of the number of companies that may place themselves in external administration? And are there enough administrators in the insolvency industry to potentially do what's going to be required?

**Mr Crennan:** To take that in two steps, we have figures that relate to corresponding periods of pre- and post-COVID-19 external administration. They have gone down in amounts. For example, in the last two quarters of 2019, there were 3,912 external administrations commenced, and, in the first six months of this year, 2,932 companies entered external administration. That's a very broad figure. It could be for all reasons, as I alluded to earlier. We anticipate that there will be large volumes of unfunded liquidations, and that may place significant additional pressure on registered liquidators and may impact on the discharge of their duties. I don't have a figure of anticipated numbers of administrations, but, just taking that figure from the last six months of 2012, which roughly corresponds with a pre-COVID-19 environment, we anticipate that there will be a significant increase. There was about a 25 per cent decrease and that may be attributed to the relief, in part. It certainly wouldn't be attributed to the economic viability, for obvious reasons.

**CHAIR:** You would imagine there would be a catch-up period. Unfortunately, industry will still suffer for a significant period going ahead.

**Mr Crennan:** Yes. What's rather alarmingly referred to as reaching 'the cliff' will effect, in our view at least, a significant increase in companies. In other words—and this is rather speculative, but, if I may say, rather logical—it will not only go back to the ordinary volume but eclipse it, because of the economic circumstances that many companies, and the economy itself, find themselves in.

**CHAIR:** Do you think there's an argument for some type of further legislative change that may have extensions of that period for specific industries, so that, rather than it being, as you say, 'a cliff', it's a gentle, sloping, downward hill?

**Mr Crennan:** That really is a matter for government, but, if government were to ask us for data or any other form of assistance within the various acts that regulate our activity, we would welcome that request. But I can't comment on an argument for that.

**CHAIR:** Is there any work within ASIC at the moment where you're looking at the extent of this 'cliff'? Do you have people specifically looking at what this 'cliff' might look like?

**Mr Crennan:** Yes. The figures that I referred to, in terms of external administration, are part of a broader body of work within the Office of Enforcement in CCG and also Market Supervision, I would say.

**CHAIR:** Dr Aly.

**Dr ALY:** Thank you both for your submissions and for appearing today. Mr Crennan, I'd like to start with you and the announcement from the Commonwealth Bank on Wednesday, announcing to the ASX that ASIC's investigation into the bank's breach of anti-money-laundering and counterterrorism financing laws had wrapped up with no action taken. Does ASIC believe that no director or officers of the CBA breached obligations under the Corporations Act?

**Mr Crennan:** Under the ASIC Act, when deciding whether to bring a legal action—that is, litigation arising from an investigation—we obviously take into account whether we'd be able to establish in a court of law as to whether a contravention has taken place. That's one of the primary matters we look at. In this case, with the benefit of external advice, which is the ordinary course, we weigh up the risks and the benefits, and we formed the view that we were unlikely to establish that any contraventions of the law took place.

**Dr ALY:** But it's my understanding that the Commonwealth Bank has agreed to a \$700 million penalty.

**Mr Crennan:** Yes.

**Dr ALY:** And that's the largest ever in Australian history. Can you talk me through how it is that the bank could agree to such a high penalty but that the determination is made that there is not enough ground for prosecution?

**Mr Crennan:** I can't comment in granular detail as to the content of an investigation but I can tell you a number of aspects that may address your question to the extent that I can. Firstly, the AUSTRAC legislation is quite different from ours. It relates to reporting obligations. Because of those reporting obligations not being met, that fine, although it's much smaller than a possible fine, was agreed to and, thereafter, the court approved that amount.

We go through a similar process but, for us to establish a case against a director, we go through a number of different sections that are available to us in the Corporations Act which have a very vast body of jurisprudence which we our external barristers have to look at carefully as to whether or not we will satisfy the various elements—and we at defences as well—of those contraventions. Those elements are, in a sense, more complex and subtle. They're designed such that courts do not ordinarily, without good reason, intrude upon the boardroom. The boardroom is supposed to be a place where people do take risks, a place where people innovate and a place where, as long as they act within the four walls of the legislation, directors make decisions. Sometimes it comes down to what the board might know or not know. Sometimes it comes down to whether they knew something and took no action. Sometimes it comes down to whether or not one member knew and one member didn't. So there is a vast panoply of things.

**Dr ALY:** Does it ever come down to what they should have known?

**Mr Crennan:** Sometimes. I can't go into the evidence in any detail; I am just giving you a broad overview of how we conduct section 180 investigations and litigations. As a barrister, I have been involved in a number of those cases, and they are very difficult cases. That's not to say that we're shy of bringing them. We will bring them but you have to be satisfied that you will be able to prove that case in a court of law—because it is not an inquiry; a court of law is a much more different environment.

**Dr ALY:** Let's go to that. In your submission you outline several ways that the agency's work has been impacted by the pandemic, and the ability of the agency to carry out investigative and reporting duties. Is this a matter of resourcing for ASIC?

**Mr Crennan:** It's not resourcing per se. One of the difficulties we have is the exercising of our compulsory powers. One of those compulsory powers allows us to conduct interviews—section 19 examinations. After receiving internal advice from our chief legal office and officer, we determine that we were entitled to conduct section 19 examinations remotely and we have been doing so. That's been going on for quite some time. It's not the easiest way of examining people. In fact, in a court of law, there have been cases where the judge has determined that cross-examination by audiovisual link is not appropriate—for example, Bell and Westpac. In that case, I and a number of other barristers had to go to Europe to cross-examine bankers who wouldn't come to Perth. So it is not perfect environment; however, with modern developments in technology and so forth, we have determined that it is appropriate for us to conduct investigations in that way.

Secondly, we issue notices which are also compulsory also. We do understand and accept that the entities to whom we issue these notices may face their own difficulties in complying with those notices. That might be a temporal difficulty—in other words, it takes longer to comply with the notice than it ordinarily would—or it may be some other difficulty, because people are working from home and may not have the full access to the database or whatever it might be.

It is not really the resources that are the problem. We do have very good, high-quality IT resources. We have had that for some time, because we live in different places and we often meet by video link anyway. Unlike perhaps other businesses or agencies, we are quite used to using audiovisual communications or ICT, as it is sometimes called. But the investigations, therefore, do take a bit longer and we do have to be not exactly sympathetic but certainly acutely aware of the difficulties that we face both in conducting examinations and also the entities complying with the obligations they owe to us under the ASIC Act.

**Dr ALY:** Let me put it this way: had you been better resourced, would you have been better equipped to follow through with the prosecution of the Commonwealth Bank?

**Mr Crennan:** No, it's not a matter of resources at all. It's just about the product of an investigation that was complex and long. It was what the commission, as a whole, decided.

**Dr ALY:** In your submission, you refer to scams, or fraud, around the coronavirus economic stimulus package—and I will also refer this question to Mr Gregson, if he has anything to add as well. What evidence do we have thus far of the scope and nature of fraudulent activities around the coronavirus stimulus package, in particular JobKeeper, and what evidence do we have, if any, that there are organised crime gangs, OMCGs, outlaw motorcycle gangs, involved in these fraudulent activities?

**Mr Crennan:** Firstly, I will note that what you've described has been referred to in a number of other submissions that were made available to us, including the submissions by the ACCC, Home Affairs and the AFP. We have referred to it as well. It is the case that we don't hold the data—another government agency holds the data—so we've got limitations on what we know and understand is occurring. That's not designed to not answer your question. It's just that, as far as I'm aware, and with the data that I've got before me, we don't have the type of data to answer your question on the extent to which organised crime is involved in that type or that species of fraud. It might be better asked of—

**Dr ALY:** Mr Gregson?

**Mr Crennan:** One of the others that I just listed—and I think Professor Broadhurst, who may have already given evidence, refers to it in his submission, as does the CSCRC.

**Dr ALY:** Mr Gregson, do you have anything to add?

**Mr Gregson:** All I can add is that the ACCC is responsible for the Scamwatch website, which receives a large number of reports. We have found an uptick since the start of this year in our normal trends in scam reports, in the order of a 15 to 20 per cent increase. Not all of those are directly related to COVID-19 matters, but some of them are. Others are probably taking advantage of the situation that many are in—spending more time at home and looking for different activities. There are certainly a number that are specifically naming COVID-19-type issues. Indeed, about 4,000 of those recorded this year involve COVID-19 references. To be precise, there were 3,925. Some of those involve government impersonation scams, which I think is relevant to your question. Of those, some do relate to activities of government, such as the Department of Health and Human Services, but there are others as well, including impersonations of the AFP or Services Australia. Certainly, a number of those matters that we're seeing at the moment are trying to take advantage of the current activities of government.

**Dr ALY:** We heard some evidence today that suggests that the possibility of a counterfeit vaccine entering the supply and distribution chain in Australia is a live possibility, a live threat, and that one of the ways in which that could be distributed could be, for example, the impersonation of a government entity texting people or contacting people via text or via internet services and saying: 'Your vaccine is ready. Come and get your vaccine.' What kind of preparedness do we have—or should we have, if we don't have it—to ensure that those kinds of scams, which have very real consequences for public health, can be averted or prevented?

**Mr Gregson:** I'm happy to go first on that. That's one of a number of scenarios that might arise as we continue to press through the health crisis. There are a number of standing forums, but also others that have been established in light of COVID-19, that assist in sharing intelligence, dealing with those threats, if and when they emerge, and having plans in place to do so. The ACCC and, indeed, ASIC are participants in those forums. I have to say that the level of cooperation and intelligence sharing over the last six months is probably the most active that I've seen, and that's because of the matters that we're seeing.

The actions that regulators can take range from increased awareness and warnings—and the ACCC has a strong focus on that—through to disruption activity of taking down websites and interfering with communications, where they're of that kind, through to law enforcement, particularly by police agencies. We've certainly seen some of that reported in recent times.

**Dr ALY:** Mr Crennan, do you have anything to add?

**Mr Crennan:** I might add to that. As you would know, there is a bifurcation as to the regulatory mandate of the ACCC and ASIC. That was established in the case of ASIC v Narain. It went to the High Court for special leave, but special leave was refused. Effectively, our misleading and deceptive conduct and consumer protection provisions, both in the ASIC Act and the Corporations Act, are limited to financial products and services, whereas, for the balance, the ACCC has the regulatory mandate. In the unlikely event that it had something to do with financial services, we could take regulatory action.

To elaborate further on the education or messaging aspect of our activities, we certainly have had—and I've got some data here—a very sharp increase in our ASIC Moneysmart messaging. We did have a social media campaign regarding scams that reached more than a million people during the period March 2020 to 21 August 2020, so that seems to be an effective way in which we can comment or educate about scams, which may or may not extend to your example. Fifty-three thousand people engaged with these posts, and 24,000-plus clicked through to further information on the Moneysmart website. We find that the Moneysmart website is a very effective tool for getting messages out there, including scam warnings.

**Dr ALY:** One of the things that you do mention is early-access-to-superannuation scams. Are you at a point where you have been able to collect any evidence and case studies or to comment on the scope and nature of those kinds of scams?

**Mr Crennan:** That is one of the activities that relates to our cooperation with other agencies through task forces. As I alluded to before, we don't hold the data. We can participate and contribute to disruption and enforcement in those types of circumstances, but only, in a meaningful way, as part of a task force.

**Dr ALY:** Thank you,

**Mr CONAGHAN:** Thank you, gentlemen, for your evidence today. My question is directed to both of you. However, firstly, Mr Crennan, at point 9 of your submission, you say:

... COVID-19 ... is likely to have provided opportunities for untrustworthy advisors to promote and facilitate illegal phoenix activity.

Point 20 indicates that you have a key strategy for progressing investigations into suspected breaches of the law. Firstly, are we expecting an avalanche of prosecutions arising out of COVID and the difficulties we face? If so, is ASIC and, Mr Gregson, the ACCC, in a position to properly investigate? Will you have the resources if there is an influx or a sharp rise in detection of offences and, therefore, prosecutions? I appreciate the prosecutions are done by the Commonwealth DPP in the case of ASIC. Could you answer those questions?

**Mr Crennan:** Sure. In terms of paragraph 9, that contains a footnote, which is also numbered 9. Footnote 9 refers to an article that we published on 28 May 2020, which is entitled *COVID-19 and illegal phoenix activity*. That sets out, in much broader terms, what's effectively summarised in paragraph 9. If that's a correct prediction, in a sense, there will no doubt be an increase in prosecutions that relate to illegal phoenix activity, and possibly in combination with the other criminal activity. The CDPP does prosecute our cases, but we work closely to them. Effectively, similar to a state prosecutor, we deliver a brief, but, to deliver the brief, we have to conduct an investigation using our powers. We take phoenix activity very seriously and we are the repository of the registry, and we often interact with the ATO as to the contents of that registry, so we are well placed to conduct investigations. As to resourcing those investigations, the Office of Enforcement, in combination with Assessment and Intelligence, is well funded and much more well funded than it once was, so I don't believe that we have a resourcing issue. If we do have a resourcing issue, if there is an avalanche, to use your word, of illegal phoenix activity and subsequent prosecutions, we have the flexibility in the Office of Enforcement to move resources around. We did that with, for example, the royal commission litigation program. We sourced a taskforce to deal with the very large number of cases that related to the royal commission. I'm happy to say that it's coming towards the end of its lifespan. So we do have that flexibility. The commission itself is very receptive to forming a taskforce. Dealing with a portfolio such as phoenix prosecutions, we deal with large entities and we deal with royal commissions and other things in a portfolio approach, so, if we need to, we would be able to do that.

In terms of our difficulties, as to the investigations, I have referred to that in answer to an earlier question. Criminal investigations, by their nature, are a bit different. They rely more on surveillance and so forth—not necessarily more, but surveillance is a key activity. The execution of warrants is not entirely easy during COVID-19, but we have done so. We work with the AFP on that aspect of our regulatory remit. At this stage, I wouldn't predict that we'll be under-resourced, but we have to be flexible about how we resource those types of criminal investigations. If they are in conjunction with the taskforce itself, then that is separately funded, in any event, in part.

**Mr CONAGHAN:** Thank you. Mr Gregson.

**Mr Gregson:** Like many regulatory agencies, there's no shortage of work for the ACCC. We constantly make decisions about how we pursue matters, which matters we pursue and where we prioritise. There's no doubt that the COVID-19 experience has added to our workload, in terms of the number of approaches we get from the community and business and dealing with scams, as I've mentioned. We're doing a lot of work on consumer refund inquiries and matters that we need to take up with businesses. We're watching carefully to see if there's a change in merger activity that will impact our processes. For those who are familiar, we also have an authorisation process that allows anticompetitive conduct when it's in the public interest, and there's certainly been a surge in matters we've had to deal with there, with the necessary cooperation during this moment. Even areas such as our product safety work has a COVID impact, and we're certainly watching out for anticompetitive conduct. That's all required a high degree of reprioritisation. We've moved our resources in a very adaptable way, but it's a constant equation for regulators. There's no shortage of work and we need to prioritise and make decisions about what and how we pursue matters.

**Mr CONAGHAN:** Thank you, Chair.

**CHAIR:** Mr Gregson, you mentioned cartel activity. Can you expand on that a little bit, please?

**Mr Gregson:** As you're familiar, the competition provisions prohibit cartel conduct which involves competitors agreeing on price—

**CHAIR:** With jail penalties.

**Mr Crennan:** Indeed—very serious criminal penalties. We have a program of enforcement in that area. The experience domestically and overseas is that period of disruption to markets. In particular, there are periods when there's an increase in government spending, through stimulus and other ways. There is a potential for an increase in cartels. That comes from potentially stemming losses that businesses are experiencing or taking advantage of where they may not have all the time and capacity to have all the protections in place. There's always a lag between the conduct and our awareness and capacity to tackle it. We don't have intelligence that says it's happening, but we're certainly talking to relevant agencies, particularly procurement bodies, to make them aware of the risks of cartel conduct and encourage them to take a number of steps that could mitigate them, and we're increasing our vigilance to it emerging.

**CHAIR:** What about in the airline industry where we've seen numerous cartel cases over the years? The airline industry is suffering an unprecedented downturn. Is there any argument that maybe some of the cartel laws in that specific sector may need to be relaxed in these circumstances for industries suffering such distress?

**Mr Gregson:** That's a great question and it's relevant to my reference to the authorisation process. Sometimes those competition laws have a bit of a blunt effect and you get moments like this. Exemptions may need to be considered, and that's what we've done. We've received over 30 applications, which is more than we would receive in a year—

**CHAIR:** Which industries have they been in?

**Mr Gregson:** They've been in a number: supermarkets and health industries. Indeed, there are some applications that we dealt with very quickly. I should say that the processes often take some time and we've been dealing with them in the space of days, given the emergencies.

**CHAIR:** Are there any authorisations that you've rejected?

**Mr Gregson:** We've applied conditions, but, no, I don't think we've rejected any at this stage. We have the capacity to apply restrictions. I'll correct that if that is not right. We've approved the vast majority.

**CHAIR:** Have you had any from the airline sector?

**Mr Gregson:** Yes, indeed. We have had some from the airline sector to allow that cooperation.

**CHAIR:** But, without those formal authorisations being granted, people in those industries could potentially face a jail penalty?

**Mr Gregson:** If there were conduct that fell within the cartel provisions, the ACCC has discretion to investigate and prosecute. One of the advantages of the Australian jurisdiction is we have a process that allows conduct to be exempt—

**CHAIR:** But how much discretion do you have at the ACCC in that regard? I understand that it's black-and-white-letter law: 'Can you prove the case in court?' My understanding is that you don't really have that much discretion, other than 'Can you prove it in court?'

**Mr Gregson:** No; that's not quite right. As I mentioned before, we have more work than we can poke a stick at, and we make decisions regularly about the priority of matters and the circumstances in which they occurred. I

say that cautiously because we consider cartel conduct at the highest end. We would ordinarily pursue those matters where there is a cartel. But it is not always clear cut—the manner of the conduct and the extent of the behaviour. Not everything that we have been authorising would necessarily constitute cartel conduct. There might be other forms of cooperation that we're authorising as well. I think we're actually very well placed in Australia to commit, where necessary, and to really prioritise cartel conduct that should be pursued.

**CHAIR:** One particular authorisation request a couple of years ago came from several of the large tobacco companies. I understand that that authorisation was rejected at the time. Since then, we have seen a further increase in illicit tobacco in the Australian market. With tightening economic circumstances, potentially when the COVID crisis finishes, we may even see a greater trend of consumers purchasing a \$10 packet of cigarettes rather than a \$30 or \$40 packet of cigarettes, which will incentivise that illegal activity. My understanding is that the tobacco companies applied for an exemption that would allow them to basically get together to put some type of ban or a refusal to supply amongst retailers that they found were operating as fronts for illegal activity. What sort of time period do you think would need to go by for another authorisation exemption to be considered by the ACCC?

**Mr Gregson:** One of the benefits of our authorisation process is that it is public and very transparent. We're informed by submissions from industry and other stakeholders. We go through a draft and then a final, with other mechanisms in between to give that. When we do deny authorisation, we're quite clear about the reasons why, and it's very possible that a party can come back in a relatively short period of time addressing those concerns. Sometimes they're so fundamental that you may not be able to come back and convince us. We have had a number of matters where a second-round application has addressed the issues and we taken a different position.

**CHAIR:** A couple of years ago you were putting out Scamwatch brochures. Are you still doing that?

**Mr Gregson:** Yes. We publish a lot of information. There is certainly information on scams at large. In this day and age, as you know, there are many ways you can get messages across. Our deputy chair, Delia Rickard, is constantly on the news with these warnings.

**CHAIR:** Is there any work to get the state education departments that you're working with to incorporate that material into schools?

**Mr Gregson:** That's another great question. We work very closely with our state fair trading counterparts—

**CHAIR:** The reason I ask is that, in several of my schools in my area, I have used your material in the past—I thought it was pretty well targeted—almost like a brochure you could print out and give to students. I just thought it is something that could be done more of nationwide.

**Mr Gregson:** We do have a number of initiatives that relate to it. We would like to do a lot more there. I'm happy to get through to you information of what we currently do. If we have the capacity, we would like to do a lot more, including in partnership with financial literacy.

**CHAIR:** Do you have a special section in the ACCC that looks after that?

**Mr Gregson:** We do. We have a compliance and consumer education section and we also have a strategic communications area. I have to say that they are stretched very thin.

**CHAIR:** How many people would be employed there?

**Mr Gregson:** We have got one branch that deals with small business codes, including scams and the outreach—

**CHAIR:** I am talking about the area that produces the literature that you put on your website and things like that.

**Mr Gregson:** I will get you the precise details, but it is a handful of people. We're very stretched in that area.

**CHAIR:** Thanks.

**Dr ALY:** Mr Crennan, in the last paragraph of your submission you say that COVID-19 has impacted jury trials and that trials in five cases referred by ASIC to the CDPP have been delayed and trials in a further three cases in Victorian courts will be vacated. What are the impacts of those trials either being delayed or not going ahead?

**Mr Crennan:** The impact is that the accused will not have his or her trial heard until the state courts in Victoria are capable of hearing a jury trial. In common law, which is a bit different, there have been nonjury trials, where there would ordinarily be a jury of six. But, in criminal trials, unless the accused consents to a trial by judge alone, they're entitled to a trial by jury. So the impact is the trial won't take place until the state courts are in a position to safely conduct a jury trial. When that happens is impossible to predict.

**Dr ALY:** In terms of deterring crime in this space, do you believe that it kind of sends a message that people can get away with things?

**Mr Crennan:** Once they are charged, unless the charges are withdrawn, they will face a trial, but it won't be for a while yet. If there was, which there is intended to be, a criminal panel of the Federal Court, which I understand is being progressed, that might mean that a different registry could hold that trial. But, at the moment, our criminal trials go through the state courts. So this is a state issue in Victoria. As I understand it, jury trials are proceeding in other states.

**Dr ALY:** In paragraphs 12 and 13, you talk about opportunistic statements in the market regarding products that have the potential to combat COVID-19 and that you are currently examining whether there is a reasonable basis for such statements. Are there any active investigations underway by ASIC into claims suggesting that products can assist in combating or treating COVID-19?

**Mr Crennan:** I can't comment on individual investigations, but I can say to you that investigations are taking place in relation to statements made of public-listed companies that relate to COVID-19.

**Dr ALY:** Can you tell me how many investigations?

**Mr Crennan:** I can't tell you that.

**Mr CONAGHAN:** Mr Crennan, just on that issue of delay: as a former lawyer, when somebody is being sentenced, if there is a significant delay, they are entitled to receive a discount on their sentence. Do you think, hypothetically, some very smart senior counsel or barrister will try to rely on delay due to COVID for prosecutions to attempt to reduce any sentence an offender might receive?

**Mr Crennan:** I suppose they might. The difference between our cases, on a broad level, to violent crimes, for example, is that our accused do not spend time in remand. So they won't get a time served discount, but they might get a delay discount. It will be up to the judges to deal with that. It is a bit hard to predict, but, if the delay has not occasioned any prejudice to the person other than having an outstanding jury trial, it may fall on deaf ears. I am just not sure.

**CHAIR:** Gentlemen, thank you for your time. We greatly appreciate you coming in to see us with your busy schedules.

**WEBER, Mr Scott, Chief Executive Officer, Police Federation of Australia**

[14:02]

**CHAIR:** I now welcome Mr Scott Weber from the Police Federation of Australia. Thank you for being here today. The committee has a copy of your submission. I invite you to make a brief opening statement.

**Mr Weber:** I know your time is limited and is extremely important. Thank you to the committee for actually raising this issue. It's critically important for police. The Police Federation of Australia represents 64,000 police officers across the entire country. Police have been at the forefront in this pandemic, especially with social distancing. It has taken a heavy burden not only work-wise but personally—stress levels with regard to mental health and wellbeing. That's why we're here today: to make sure we learn from this pandemic as it continues on and we build up best practice and decide what the federal government can do in making sure there's a uniformed approach, such as with purchasing and procurement and also with standardising laws, legislation and cross-border jurisdictional issues.

**CHAIR:** I'll express a concern that I have, and you may like to comment on it. Our law enforcement officials around Australia, irrespective of what state or the AFP, on the whole have a high level of respect in the community. I think that works both ways. The fact that the community have a high level of respect, I think, means that people trust law enforcement officers. That probably makes it easier for a law enforcement officer to do their job if they approach someone and that person thinks, 'This person is going to treat me fairly.' That has been gained over many, many decades of hard work by a lot of very good police officers policing the law with common sense.

My concern is that some of the laws that state police forces have been required to enforce during this period risk damaging that long-held respect that the Australian community have had, and that's through no fault of the police. You have to enforce the law as parliament hands it down. Where you're doing the restrictions on civil liberties—telling people they can't swim in the ocean or coming up to someone and saying, 'You can't stand as close to this person,' or the video overnight of a policeman questioning a bloke who was putting his garbage bin out—there's a real danger of damaging that long-held social licence between our police forces and the community. It may risk breaking down, and that may have a heavy burden and heavy cost in years to come. I would be interested in your thoughts.

**Mr Weber:** Definitely. We've highlighted that in our report. Policing is still a very trusted profession, and there are a lot of surveys and a lot of research that have been done. We're only behind health professionals and the military in regards to that. Considering we are on the front line, we are dealing with the legislation, and some of that legislation was very quickly enacted. Police forces, commissioners and officers were learning what the new rules were through the media and not in consultation or with proper direction. We've highlighted that in our submission too, with regard to communication flow and making sure that we actually build up a proper plan for next time this occurs—hopefully it never does and it's another 100 years. In saying that, we should always be prepared.

Police have that great rapport with the community, but this has put a real strain on it. The major concern of police officers around the country is: what happens with a third, fourth or fifth wave? Let's hope that does not occur. We enact that strict social distancing, but if we look back two or three months ago we wouldn't have thought we would be in the position we are today, especially in Victoria. There are numerous issues with Victoria. We see across the other states that the police forces were the respective leads in combating this. I would stress to the committee and to all jurisdictions that, when we want to restrain someone's behaviour, whether it be social distancing or hotel quarantine, police need to be the lead agency. Police need to be in charge. If that doesn't occur, we can see from the results what has already happened in Victoria. We don't want that to happen again.

With that, police have their original jurisdiction. We're very diplomatic. We understand this is a stressful time for everyone—not only for ourselves and our families but for the community as a whole. I think across the board you've seen police be very tempered in their response to the pandemic. A lot of people are out there trying to aggravate and cause problems with police, whether it be the so called sovereign citizens or anti-vaxxers or anti-maskers. People with those issues—it's definitely on social media—and police have been extremely tolerant.

We are a reflection of society. We don't get it right all the time, but I'd say we've been exemplary in our response to this pandemic. It is a major concern for us, because we've built that up over decades. We are a trusted response to the community for their safety and wellbeing and we want that to continue into the future. I think it has to be an ongoing consultation with the community. Everyone needs to be aware, so communication flow needs to be critically important, but also police officers need to make sure that they have the most up-to-date

information, because when we are dealing with those people out on the street who are questioning us we want to make sure that we have the correct answers and the most up-to-date answers.

**CHAIR:** Say something like a curfew is being imposed, which I understand is the first time since the Japanese subs were in Sydney Harbour, and people can't be out after a certain hour—eight o'clock in Victoria. When legislation like that is introduced, what sort of training are our police forces being given to implement that? Where do they apply discretion and is that discretion something that comes from the local commander? Is it something that comes from the police minister? Where does the ability for a police officer to exercise his discretion come in? I know it's a two-part question.

**Mr Weber:** To the first part, police have been doing curfews for a long time, so we actually are trained in that. Whether it be bail conditions or parole or some other restriction put on the person—

**CHAIR:** It's fairly different for society in general.

**Mr Weber:** That's right. We're usually dealing with criminals or someone who has already committed an offence against society. We are trained for that. With these curfews, yes, it is brand new, but we already know how to use our—

**CHAIR:** I don't mean to be critical here but, yes, you've been trained, but the training is how to enforce it against criminals, lawbreakers and people out on bail and stuff. You're then applying that same training to how you handle someone in the general public. Isn't that fraught with problems?

**Mr Weber:** No, because police officers again—to touch on the second part of your question—have original jurisdiction, so they can sit there and have their discretion. In this time, we realise that everyone has issues with not only the curfews but what's occurring across not only Australia but the world. There are a lot of stressors. There is a lot of pressure there. Police are quite tolerant. Again, we'll have conversations. It's about opening up that dialogue and discussing why we're out there. You raised the issue of the bin—'Why are you bringing your bin out? What time is it? You realise the curfew is occurring. Don't do that again. The reason we're here tonight is there has been an issue in the street for the past three nights, and people have been complaining. You can't go out and do this. Where's your mask?' We have all of those conversations.

On top of that too, police have been extremely tolerant and using a lot of discretion. We're not arresting people and taking them into cell complexes and we're not putting handcuffs on them because that is counterintuitive to all that we've been trying to teach people about social distancing. We don't want to put them in a confined space. But if that person escalates the situation to where they're being violent—we've had police officers attacked, spat on and coughed on—we will arrest them. We are depending on society to actually abide by society's rules.

**CHAIR:** That's why that two-way respect is so important. As legislators we have to be very careful at all levels. We have to think, 'How will a law enforcement officer go about enforcing this law I'm about to introduce?'

**Mr Weber:** With the curfews, some people make silly mistakes or have issues at home or may just need to go outside and cool off, so police will use their discretion then, but then we have people who are driving 25 kays to get a Big Mac. Recently we had an issue where a Victorian man breached the border security. He was driving here to Canberra and he travelled for 200 kilometres. We used tyre spikes and deflated one of his tyres, he ran out of petrol and we locked him up. There are those broad extremes, but this is the nature of policing. Every single job we ever attend, we do not know what could occur. It could be as simple as a noise complaint, and it ends up being a domestic violence incident or a murder. We could be called to shots fired, and when we turn out it's fireworks. Police officers are always at that heightened awareness level, but we are there not to escalate the situation, we are there to de-escalate it.

But in this time, when everyone's extremely tense and they have a lot of pressures on them, some of those conversations seem to fall on deaf ears. We have a lot of people think they are bush lawyers. A lot of people are questioning the rule of law, of government and also of society. And we have a lot of people who are being selfish too. When police officers deal with those situations we'll make sure we take the appropriate action, whether it is fines or whether, ultimately, we have to restrain them and take away that person's liberty.

**Dr ALY:** Thank you, Mr Weber, for your really comprehensive submission and for appearing here today. Can I also thank the various police officers around the country for the work that they do as well.

**Mr Weber:** Thank you.

**Dr ALY:** I want to start off with one of the first things you mention in your submission—that is, family and domestic violence. As you point out, in Western Australia in particular we have seen an increase in family and domestic violence. In 2018, WA had the highest proportion of family and domestic violence related offences of the country. Your recommendation with regard to that is engaging with the AIC and the ANZPAA to assist with

an in-depth analysis of crime trends. I understand from the police that I have spoken to, but also as the wife of a law enforcement officer, that family and domestic violence is the bulk of what police do. How has COVID-19 impacted on the ability of our police forces to continue to respond to that continuous trend of family and domestic violence, as well as the spike in family and domestic violence with COVID-19?

**Mr Weber:** That's why we're asking for the analysis, because we really want to get to the root of the problem. One of the issues is that a lot more people are staying at home—they're working from home; people are being restricted in their houses—and what we are seeing is a spike. So if someone previously heard Scott Weber having an argument with his wife every fortnight, they may not report it to the police. But now they're at home, they're hearing arguments every single day and they're reporting it to police. Being confined to small spaces, not being able to go out to vent frustrations by going for a run, for example, as well as massive increase in the use of alcohol are happening across the board during COVID-19. All of these are contributing factors to domestic violence.

Going to the police response, we are pretty much at breaking point with regard to staffing levels. There's a huge amount of stress. It's not only about dealing with the border closures—you're talking about 10 per cent of police officers in Queensland and the Northern Territory and it's cost over \$2 million to keep the borders closed. In Western Australia, but also across the board, we've had police officers responding because we take that extremely seriously. The focus on domestic violence is one of our key areas that we target with regard to crime. The response levels, and also the way we change our procedures across the different states—there is a lot of legislation where there is a presumption of apprehended violence orders or making orders to protect the family that has been affected by that domestic violence, and also to highlight the perpetrator.

The research would be very valuable to highlight hotspots, and also as an educational tool. It could look at the social and economic issues. Again, this will be ongoing not only with the alcohol and the restrictions that are still occurring in some of the states, but also the loss of jobs and the financial pressures. Police have been able to respond to all domestic violence. Our time frames have still been suitable because we deem it to be such a priority with regard to keeping the community safe.

**Dr ALY:** Talking about resourcing for police officers, and I note there are a range of issues that you raise in here, including amenities for police officers in remote and rural areas, you'd be familiar with the fact that in WA we used to have APLOs and ELOs, so Aboriginal police liaison officers and ethnic liaison officers. We did away with that model. I believe New South Wales still have what they call multicultural liaison officers. Let's take the example of the outbreak in the towers in Victoria. I had warned of this as it was very clear to me that there was going to be a second outbreak, particularly among ethnic communities who lived in high-density housing and who worked in areas where they were not able to socially distance, so in abattoirs et cetera. Do you consider that reintroducing that model of APLOs and ELOs—I know the reasons why they were done away with—would relieve some of the pressures on police, first of all? Also, in the case of Victoria, having ethnic liaison officers or multicultural liaison officers as the point of contact for those communities would have really addressed the issue of those communities not getting the communication in language or in culturally appropriate ways that could have prevented an outbreak.

**Mr Weber:** It's very easy to make this assessment in hindsight, but the police should have been the primary response to dealing with this. Police are extremely good at communicating. We deal with a lot of people who are in high-stress situations, who have been assaulted, are hurt or are affected by drugs and alcohol. We can communicate quite clearly with them at times, even though it's extremely difficult. We are very skilled communicators. That is our core.

With the APLOs that you're talking about, different states have different models. Look, the whole police community—whether it is a police station, a commander or an individual single-unit officer—will reach out to those communities because that is our job. On top of that, we want to have those conversations before something occurs—we want to have those conversations before someone takes alcohol or drugs; we want to stop the domestic violence before it starts—so we do have people liaising with those communities. We have PCYCs. We have police clubs. We go into schools. We have police school liaison officers. These are all at different levels across the different states. Any police force that takes an opportunity to speak to different societies or groups or communities that have social or economic issues or communication issues knows that's advantageous.

This is a perfect time to review the models of policing, and also how we reach out. But it's not solely a police response. We want to make sure it's a multifaceted agency approach where education, health and community services go and have those conversations as well. Coming from a police officer, because of their standing in the community, as you highlighted, Mr Chair, it means that usually what we do say resonates with the community and is listened to, and that's where it's extremely important we have that message. Now, giving out health

messages: we want to make sure it has been discussed by doctors, subject matter experts, but police can still go out and deliver that message.

Any strategy in WA would obviously have to be reviewed. There were reasons why it left, but we could look at it in the future—especially in this present climate where communication and dealing with disadvantaged communities is extremely important.

**Dr ALY:** Just on the resourcing, do you know the ratio of sworn to unsworn personnel?

**Mr Weber:** Across the board it's usually about 15 to 20 per cent—

**Dr ALY:** Sworn or unsworn?

**Mr Weber:** sorry; unsworn—but in the AFP it is one-third sworn, one-third PSAs and one-third unsworn. In most of the jurisdictions there is a much larger sworn police force than there is a civilian police force. Our police-to-population ratios across the country are actually lower than the United States, the United Kingdom. New South Wales has one of the lowest police-to-population ratios. Northern Territory has one of the highest, but they also have numerous issues with the tyranny of distance. Talking about your home state, there's obviously a huge issue with the size of your state and getting out to those far regions where we have a single police officer who looks after communities across hundreds of square kilometres.

**Dr ALY:** Is there a problem with attracting people to a policing career, and retention?

**Mr Weber:** There is a problem with retention. There is a problem in remote communities—I've highlighted that, especially in WA—when we're talking about this. With the biosecurity issues, a lot of the police officers had to stay there a lot longer than they were designated to. On top of that, they couldn't have a break or leave the community. When you work in a regional area, you're not a police officer just nine to five; you're a police officer 24/7. Everyone knows where you live. Everyone knows your wife and your kids. They know when you're at the pub. They know when you're going shopping. Even when you're shopping—

**Dr ALY:** It's like being a politician.

**Mr Weber:** Yes, exactly right. It's a very similar role. Even at a restaurant they'll come up and ask you a question because you're their police officer. So that has been very difficult. Again, it has been very helpful for the federal government to offer the ADF to assist, especially around the border and in some of the very remote communities, and also having 104 extra Australian Federal Police officers going up to the Northern Territory. That has been extremely beneficial. We want people who already have a certain skill set to help police officers.

Retention in policing is extremely high. We don't have a high exit rate at the present moment. Also most of the police academies are quite full, regardless of COVID-19. There are extra police numbers in Victoria, New South Wales and Queensland. The academies are actually putting on a lot more extra officers across the board. But, again, this is playing catch-up. What we really worry about is the boom-and-bust cycle of policing recruits. This pandemic gives us time to review properly the statistical data and go: 'Hang on a minute. Let's make sure that we're prepared for whatever it will be, whether it be a natural disaster'—and we made a submission about the bushfires—'a pandemic, a terrorism incident or holding the World Cup or the Olympics.' In all of those issues there's a lot of planning and a lot of police officers are needed, so let's prepare for that as well.

**Dr ALY:** Thank you.

**Mr CONAGHAN:** I'd like to echo Dr Aly's comments about the police and thank all of the police across the country for the work that they've been doing, not just through COVID but for many years.

**Mr Weber:** Thank you.

**Mr CONAGHAN:** You are all servants to your masters, whether they be the commissioners or legislators. I appreciate that the police are simply carrying out orders, which segues to the second recommendation. We saw on television—more than weekly I think—police being assaulted and in particular being spat on, with the clear intention from the offender to transmit a communicable disease. I know that in some states we have offences for transmitting diseases, but I assume the recommendation is seeking that this occur on a national level—that is, through the Criminal Code. Is that the correct assumption?

**Mr Weber:** Yes, that would be sensational. Obviously with your legal and policing background you know how critically important it is. There's nothing more disgusting than getting spat on. Police officers would usually find that 10 times more horrible than getting punched in the face. It's just horrific. The added facet to it now is COVID-19. People are deliberately coughing, contaminating their hands, throwing bodily fluids and spitting on officers and then usually saying, 'I'm COVID-positive,' or, 'I have an infectious disease.' This has been happening for a long period of time.

Some of the jurisdictions are well ahead with this. They do have communicable diseases legislation where that offender can be restrained for the purpose of having a test. The offender would have to be tested at a later date as well, but having those tests initially is not only saying to the offender, 'Do not do this'—it's a deterrent—but also giving that officer, their family, their colleagues and the community a bit more peace of mind. It would be fantastic if there were harmonisation of the laws across the board and we had something federally. At the very least we'd like a standard template across the board with all of the states, with all of their different criminal codes or criminal law, to make sure that police officers are protected. If someone is willing to attack a police officer who has sworn to protect the community and who's wearing their arms, appointment and uniform, what are they going to do to you as a parliamentarian? What are they going to do to your family? What are they going to do to someone who is vulnerable? It highlights that they don't abide by society's rules. People who commit this offence should always be tested and always be locked up.

**Mr CONAGHAN:** Of course, a punch in the face is momentary whereas being spat on and then waiting for the results is long term.

**Mr Weber:** Exactly right. With infectious diseases, sometimes a test can take three and six months. If they do test positive to an infectious disease, you can be put on a course of medication that has a lot of side effects and extreme health issues. We want to make sure that we don't have to go down that path and that we have the initial tests. It can give the officer some peace of mind and the doctor can make a more informed decision with regard to if any medication and restrictions are needed. Sometimes the officers can't even touch their family. They have to be wary of that. Also it limits the ongoing mental health issues and stress, as you highlighted.

**Mr CONAGHAN:** Earlier today we heard from the Australian Strategic Policy Institute. They put forward a recommendation for a police force reservist unit—something like the Army Reserves—to alleviate the pressure on serving police officers and to take them away from what are quite often non-skilled roles, where they're not utilising the skills that they learnt through the academy or various investigators courses. What would be your view on a police force reservist operation?

**Mr Weber:** The proposal has some merit, but we're quite wary. I touched upon it on page 9 of our submission. With a reserve force we'd want to make sure that there are appropriate standards, checks and balances. We're already going down a professionalisation model, so we'd want to make sure those people are up-to-date and there are appropriate checks—criminal history checks, checks on how long they have been out of the police force and checks that their skills are still relevant. You just highlighted the reputation of police and how they deal with the community. We don't want to jeopardise that in any way. On top of that during this pandemic police have highlighted that, even though we are at that breaking point and are stretched, we can go out and still perform all our tasks, roles and duties.

Again, it has merit. I know that the AFP are speaking after me today. They're actually looking at it at the present moment. They started to do that during the bushfires. One of my colleagues who used to sit on the board of the PFA, Angela Smith, will be looking at that from the AFP point of view. She starts back in the next couple of weeks. So, yes, it does, but there has to be appropriate checks and balances. I don't think it's the be-all and end-all or panacea in regard to looking after natural disasters, pandemics or issues where there's a real surge mentality with police. Again, it's something that needs to be fleshed out and worked out. Anything that can assist our frontline officers is welcomed. We just need to make sure that they have the appropriate skills, checks and balances so that they don't jeopardise themselves, other police or the community.

**Mr CONAGHAN:** Finally, the submission in quite a large part refers to the lack of police preparedness for the pandemic. How did that affect not only performance but morale across the board?

**Mr Weber:** You want a quick response in regard to this. Police officers were learning the legislation or what they had to do from the media. And that's police across the board—I think even ranging to the commissioners. There were a lot of decisions made very quickly. I understand that we're in a unique set of circumstances—this hasn't happened for 100 years—but we should have a national approach. That's where we welcome national cabinet. We welcome a uniformed approach and also the recommendations that will come from this committee, where we can analyse the issues and build a better practice.

Then there is the morale for police officers. They were going: 'What do you want me to do today? These were the rules yesterday.' I think that's changed now. Police are quite aware. I'll come back to Victoria because that's where the most contentious issues were. Police officers were deployed to those towers without any information from the relevant agencies. It was a rapid response. They should have been informed.

In regard to a large-scale incident, whether it be natural, man-made, pandemic or health, or a large public event, it has to be coordinated by police. That's their skill set. We highlighted before about communication. Also

they have the power to do directions to actually control people's behaviour. Again, police officers aren't going to come into the hospital and deal with people that are sick and give them a shot or talk about their health. What we will do is make sure that people can't come into the hospital and contaminate anyone else or someone can't leave the hotel and contaminate anyone else. We may mess that up now and then—not very often—but that's our core skill set. I think that's what police wanted to do, and I think there was a real level of frustration and real morale sapping in Victoria that they weren't taking the charge and they had to wait for legislation to actually deal with it.

**Mrs ELLIOT:** Thank you, Mr Weber, and thanks to all your members and the police right around the country doing a really challenging job at a very, very difficult time. I wanted to ask your opinion on what the issues are around dealing with the pandemic and the responses to it. With the increase at certain times of the public wanting to report breaches of any health directions, I know in New South Wales they're essentially directed to Crime Stoppers. On the back of what you were saying about a national approach, in terms of resources is there an alternative way that might be better for that to be approached? Obviously, if it's urgent, then it's triple 0. But I know that people may need to be triaged as well, depending upon what people are calling about. A lot of people contact me, because I was in the police: 'Can you investigate all of these potential breaches?' I'm sure it must add a lot of time to the work that police are doing in Crime Stoppers. Maybe there's a different way that those breaches could be reported, or a more national approach?

**Mr Weber:** That's a really good question. Again, we've been inundated, and I highlighted in the report the massive spikes with some of the police assistance lines across the country, especially the stats highlighted in Victoria. There are a huge amount of calls coming through, but I think it's still critically important that the people who answer those phone calls are very well trained. They can pick up on the subtlety of a tone of voice or what the person's saying and ascertain, 'Hang on a minute, this is a lot more urgent than what this person's relying,' or, 'They're not giving me the whole information.' Again, we would think that people would normally phone triple 0 for even life-threatening incidents, but sometimes they phone their local police station. They may phone you because you were previously a police officer. They phone friends. So there are a lot of issues there. They phone the police assistance lines, so probably the assistance that we would need from the federal government would be in regards to funding or actually getting extra people on those phone lines who can deal with the calls quicker.

I don't think it's going to change the volume of calls, because people are very concerned. They're actually informed by the media, informed by the politicians, informed by police and informed by community leaders to actually report any of those issues, because they want to protect themselves and the community. We readily welcome that. We want everyone to phone up if they have a concern about people's behaviour. But it would be very advantageous for police across the board if there was assistance with our police assistance lines and our triple 0 networks, where we could have the propensity for extra people to come on who are trained to deal with that.

I think the other issue is—you may have been leading to this—there's obviously a lot of stress, and some people just want to have a chat. They can't go to their local GP anymore, they can't have those social outings where they did de-stress, so they do phone up the police or they do want to have an interaction with someone else. The police force is one of the only 24/7 universal problem-solver agencies out there, so sometimes we're getting those phone calls from people actually not only wanting to report something but to vent frustrations. So it would be helpful, from a federal government point of view, if there is a large incident in the future, whether it be a natural disaster or man-made or a pandemic, if there was assistance from the federal government funding the agency's main communication centres, whether they call the police assistance line or we use Crime Stoppers or triple 0.

**Mrs ELLIOT:** Given the importance of police needing to upskill and always keen to do more training, I note in your submission you've suggested a review of those VET funding arrangements. What are some of the current gaps in that? What do you see they could be changed to to increase training for police?

**Mr Weber:** We sit on the committee in regards to the VET funding, and that's where most police training sits. But, again, New South Wales and Tasmania also have higher education, education linked to their recruitment programs. We would like to see that across the board. The federal government's just announced higher education changes, and we want to make sure that police across the board still have access to that higher education, not at a higher expense that would limit not only officers upskilling but, on top of that, limit universities from actually putting people in those places.

It's very difficult at the moment with training, especially with a lot of our tactical training. It really can't be done online. Portions of it can be, but when we're dealing with firearms, batons and tasers one would want to make sure the police officer doesn't just learn that from PowerPoint. It's actually a physical hands-on approach. So we're still having those training procedures occurring for those critical issues, but everything else has gone online.

Again, a national approach would be extremely beneficial with the professionalisation of policing, where there'd be a standard for constable, sergeant, police prosecutor, police detective, police manager. We've raised that numerous times with ANZPAA. I think this is a time where we could actually look at that, same as in my submission where we talked about collaborative purchasing and looking at a national approach. I think there would be a lot of savings across the board. Also, when we start to talk about laws and different jurisdictions, how we respond to these pandemics or respond to any incident, there'd be a uniform approach and a lot more people would be aware of what that uniform approach is because everyone would be trained to the same standard, such as happens in teaching and nursing professions.

**Dr ALY:** Mr Weber, do you consider that there are enough university offerings around things like criminology and intelligence, so intel courses to professionalise particular subsets of skills for law enforcement? Just as a bit of disclosure, I wrote part of the counterterrorism intel and security course for ECU, but at the time that was the only university-level course that had an intel component and a security component, and at that time we were looking at how do you professionalise policing. Do you consider that there are enough university or vocational education offerings for professionalising the police force in that way?

**Mr Weber:** No. This is a conversation we've been having for decades. That's why we want to head towards a professionalised model. We discussed that with ANZPAA and the commissioners and also the ministers across the board. That's where it would be very helpful from a national approach, to actually have those standardised minimum standards for police officers. Whether it be in intelligence, whether it be police prosecutors, detectives, the rank of constable, the rank of sergeant, that would be great. And to make sure that it wasn't too cost prohibitive and it wasn't cost prohibitive for the university as well, because, at the moment, because of the limited numbers, it is. Most of the training is actually done by the individual police forces. They're doing it at registered training organisations.

**Dr ALY:** Yes, up at the academies.

**Mr Weber:** Yes. Western Australia is not. That is millions and millions of dollars that the police forces actually invest in their own people to train them up, where it could be actually done from a VET or higher education platform where it wouldn't be solely coming out of police departments' budgets—therefore, we could put that back on the front line. So I think that's a win-win across the board, but more courses need to be offered. But we want to make sure that the courses aren't just decided by the university; it's that the practitioners actually choose what's wanted—again, the nursing model.

**Senator SCARR:** Two quick questions from me, because I know we're running out of time. It would really help me to assess the competing arguments and the nuances of the arguments in relation to this concept of a police reserve force—I've read your submission and the other submissions on this—to have further detail from your association as to what are the basics that are, in essence, non-negotiable to make sure that your members would be happy to support it. Because, from my perspective, if your association doesn't support it, that would represent a material obstacle in how I assess the arguments. So it would be useful from my perspective to have further detail with respect to: what are the basic essentials of any police reserve force for your members to be supportive of it? Would that be possible for you to take that on notice?

**Mr Weber:** Yes. No problems at all. That's a very relevant question for the AFP, who are coming on board, because they are starting to formulate a reserve police force. They're going to flesh out the details of that in the next couple of weeks, which we're going to receive a copy of, so that will be great. Pat raised that question as well.

**Senator SCARR:** Exactly. Excuse me, Chair, if this was raised before I came. On page 5 of your submission it says:

- In the case of Victoria in particular, issues around the unique Emergency Management structure, which we have been advised, at times, frustrated Victoria Police's response.

Do you have particulars of that or just a general description?

**Mr Weber:** Yes. I touched upon it before. Obviously, with the outbreak in the housing towers, police weren't advised of what was going on, what the restrictions were or what was actually occurring, but then, all of a sudden, when they had to be locked down, police were rapidly deployed. There were requests from Health. They went there and there were no provisions for PPE. At that time, we were playing catch-up. Also, on top of that, there were no facilities for the police officers. Again, it was a really rapid response, when there should have been discussion held to highlight the possible issues. The deputy chair already highlighted that it was a foreseeable issue, for all intents and purposes. Again, there should be overriding discussions. Our biggest concern is—and

you saw this in the other states—when police have been the lead agency with regard to social distancing, restricting behaviour and hotel quarantine.

**Senator SCARR:** I'm sorry to interrupt. We're running out of time. Is that the structural issue, that the police should have been in the lead, because the police have the skills to do the relevant planning and preparation and ensure it is done properly? Is that the nub of the issue?

**Mr Weber:** Yes; that's correct. The biggest point is that, in most states, you would have seen the Police Commissioner front and centre, dealing with those issues with regard to social distancing, hotel quarantine and restrictions of behaviours. It didn't occur in Victoria to that extent until they enacted the state of emergency.

**Senator SCARR:** Understood. Thank you very much.

**CHAIR:** Thank you, Mr Weber. We greatly appreciate your time today.

**Proceedings suspended from 14:47 to 14:58**

**McCARTNEY, Mr Ian, Deputy Commissioner Investigations, Australian Federal Police**

**PEZZULLO, Mr Michael, AO, Secretary, Department of Home Affairs**

**PHELAN, Mr Michael, Chief Executive Officer, Australian Criminal Intelligence Commission**

**POINTING, Mr Brett, Deputy Commissioner Operations, Australian Federal Police**

**SAUNDERS, Ms Justine, Deputy Commissioner Operations, Australian Border Force, Department of Home Affairs**

**CHAIR:** I welcome officials from the Department of Home Affairs and the department's portfolio agencies, including the Australian Criminal Intelligence Commission, the Australian Institute of Criminology, the Australian Transaction Reports and Analysis Centre, the Australian Border Force and the Australian Federal Police. The committee has received submissions from the Department of Home Affairs with input from the all the above groups. Thank you for talking to us today. I remind committee members and officers that the Senate has resolved that an officer of a department of the Commonwealth or a state shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or a minister. The resolution prohibits only questions asking for opinions on matters of policy and does not preclude questions asking for explanations of policy or factual questions about when and how policies were adopted.

Would anyone like to make an opening statement?

**Mr Pezzullo:** Yes, Mr Chairman.

**CHAIR:** Fire away.

**Mr Pezzullo:** I thank the committee for the opportunity to attend, along with my Home Affairs colleagues, and I am pleased to be here with those colleagues. Disrupting transnational, serious and organised crime remains a key focus for the Australian government. The Home Affairs portfolio brings together Australia's federal law enforcement, transport security, criminal justice, emergency management, multicultural, and immigration and border related functions. It has played—as, hopefully, this hearing will demonstrate—a key role in keeping us prosperous, secure and united during this pandemic. Over the course of this pandemic, this portfolio, which brings together so much expertise and capabilities, has worked together with agencies from across the Commonwealth to understand COVID-19's impacts on serious crime and law enforcement issues and has focused our efforts to respond accordingly.

I wish to advise the committee that we have accentuated the work of the broader Commonwealth Criminal Justice and Law Enforcement Forum—the CJLEF—which I might take a moment to explain. I chair the CJLEF. In addition to the Home Affairs agencies represented here, it consists of a quite considerable number of agencies from across the Commonwealth, which I will quickly list for the benefit of the committee. I chair that forum, as the Secretary of Home Affairs. On the Criminal Justice and Law Enforcement Forum are the Attorney-General's Department; the Department of the Treasury; the Department of Agriculture, Water and the Environment; the Australian Border Force; the Australian Commissioner for Law Enforcement Integrity, or ACLEI; the Australian Federal Police; the Australian Taxation Office; the Office of National Intelligence; the Australian Signals Directorate; the Australian Criminal Intelligence Commission; the Australian Transaction Reports and Analysis Centre, or AUSTRAC; Services Australia; the Australian Competition and Consumer Commission, or ACCC; the Australian Prudential Regulation Authority, or APRA; the Australian Securities and Investments Commission, or ASIC; and, of course, to round that list out, the Commonwealth Director of Public Prosecutions, or CDPP. This forum has been a key mechanism in achieving the connected approach that I mentioned earlier.

The CJLEF, or Criminal Justice and Law Enforcement Forum, brings together the secretaries and agency heads from across the Commonwealth to consider the threat of transnational, serious and organised crime and provides strategic oversight and guidance for the development of a whole-of-Commonwealth strategic approach. I do want to stress to the committee that, of course, each head of agency is statutorily independent under the mandated legislation that it administers. The CJLEF specifically convened three times during the pandemic, in April, May and most recently on 14 August or mid-August. It developed two strategic reports of a classified nature, which have been provided to all of our portfolio ministers, with an evidence based picture of the threat environment during the pandemic and the opportunities that we are taking for coordinated action. I might very quickly summarise the key findings of our two strategic reports.

While the pandemic has had a short-term disruptive effect on transnational, serious and organised crime, most groups have adapted—and are, indeed, adapting—demonstrating their own flexibility and resilience. Some crime

types, such as money laundering and the importation and sale of illicit drugs, remained quite stable. Others have increased as organised crime has moved to exploit the situation. I will give a couple of examples. Scam activity has increased. July this year saw a record number of phishing scams reported, as criminals quickly moved to prey on people experiencing financial pressures. COVID-specific scams also appeared quickly, with Australians reporting a considerable amount of losses, \$3.1 million in losses, by August this year.

The unprecedented level of government spending has obviously attracted the attention of fraudsters, and we're alert to this. Key measures, such as JobKeeper, JobSeeker and the early access to superannuation scheme, have already been subject to both opportunistic and organised criminal activity. As at 14 August, over 3.9 million applications for around 2.7 million unique individuals under the COVID-19 early access to super scheme had been approved by the ATO, totalling \$33.3 billion. Of these, a small number of potential fraud cases have come to the attention of the ATO, and the ATO has advised the forum that I mentioned earlier. At the moment, the ATO's assessment is that these cases impacted fewer than 800 individuals, representing approximately 0.02 per cent of the total number of applications. But I can assure you that the Australian tax commissioner is not complacent about this risk, nor are his colleagues in the Australian Federal Police and nor is the commissioner himself.

Data also suggests that domestic violence has escalated during the pandemic. There have been increases at the state and territory level in both domestic violence related offences as well as domestic violence order breaches during the COVID-19 period. Most worryingly—and the Minister for Home Affairs, Mr Dutton, has made particular mention of this—online child sexual abuse has also risen dramatically. From April to June this year, there was a 163 per cent rise in child abuse videos and messages accessed online as compared with the same period, from April to June, last year.

To conclude, Mr Chairman—and thank you for your indulgence—to further coordinate Commonwealth, state, territory and industry efforts, the Department of Home Affairs, as part of the COVID-19 response, established and led the National Coordination Mechanism, or the NCM, of which the Prime Minister has spoken on a number of occasions. Within the NCM framework, we've established a particular community of practice and practitioners across jurisdictions to identify cross-jurisdictional issues as they relate to non-health impacts, including public safety and crime issues. Finally, the department and portfolio agencies, as will no doubt be demonstrated during the hearing, have increased their operational efforts in these areas. Thank you, Mr Chairman.

**CHAIR:** Mr Pezzullo, on the child exploitation numbers you quoted, the 163 per cent increase is from April to June this year compared to April to June last year.

**Mr Pezzullo:** That is correct.

**CHAIR:** Is that arrests?

**Mr Pezzullo:** That's accessing material. The Australian Centre to Counter Child Exploitation, which is convened by the AFP—and perhaps the deputy commissioner may wish to speak to this—has partnerships with international partners, but it also has its own sensors and its own feeds from the tech companies and others. What that's detecting is material accessed.

**CHAIR:** It's an extraordinary increase. Has that number come about because of greater surveillance activity—that you're detecting more—or does that number reflect greater activity in that space?

**Mr Pezzullo:** Our surveillance is getting better, but I might get the deputy commissioner to speak to that. The ACCCE is overseen by the Australian Federal Police.

**Mr Pointing:** Thanks for the opportunity to address this issue. During COVID-19, with restrictions, certainly lockdowns and other measures, we've seen people—children, parents and offenders—spending more time at home, and that's provided a rich environment for offenders in this particular area. In essence, the ACCCE has seen almost a doubling of the activity online, on the clear web and on the dark web. In response to that, the AFP has launched a number of prevention strategies, one of which is the ThinkUKnow program, which educates children, parents and teachers about the dangers of the net to try and counter those who might prey on children over the internet.

Yes, we have seen a doubling of activity and references, but, in response to that, we've also had significant arrests. We've had two major operations close down. The first operation resulted in, I think, 20 arrests on 800 charges. That was closed down in April this year. The previous operation, which closed down in March, was 161 offenders on 1,214 charges. That was a doubling of arrests compared with that period. It's a serious issue. Of course, as I mentioned, with COVID-19, more people are at home, and criminals are involved—

**CHAIR:** So, you're quite convinced that the statistics are because of an increase in this terrible activity—I'm lost for words for it sometimes—rather than detection?

**Mr Pezzullo:** Yes.

**CHAIR:** Okay.

**Mr Pezzullo:** Mr Chairman, it would be remiss of me not to mention—and Mr Dutton has made a couple of significant statements on this—that the detection is getting more difficult. That has to be said. The activity goes into the dark web. The dark web, of course, is a particularly reprehensible layer of the internet. Frankly, you don't need to be on the dark web, but, if you're there, you're there for nefarious purposes. But it's not limited to child exploitation; there's also weapons trafficking and other reprehensible behaviours. You see a sophistication in relation to anonymised browsing, so it's hard to detect who's browsing into the dark web. That's how the dark web works. But there's also the anonymisation of where the server is and where the IP address is.

It's, perversely, the opposite problem to the one that the parliament has had to deal with. I'm obviously foreshadowing this. Mr Dutton has announced that legislation will be coming before the parliament to deal with this, so it would be remiss of me to miss the opportunity to explain the nature of that problem. With encryption, ironically, you can see the two ends or the two devices, but the content's encrypted. Of course the parliament dealt with that through the telecommunications amendments of a year or so ago. With the dark web, perversely, if you have the right anonymising browsing technology, you can see the content to some extent. You've got to get into the chat rooms and portals where some of this reprehensible material is located, but you can generally see the content. What you can't see is where it's located. So it's the opposite problem to encryption.

**CHAIR:** You mentioned that the COVID lockdowns have provided a rich environment for paedophiles to engage in activities. It's basically the same number of paedophiles engaging in more activities?

**Mr Pointing:** That's correct. The reality is that the criminals involved in this horrendous form of crime have seen COVID-19 as an opportunity. They know that more children are at home online. We picked that up through their chat rooms. We picked up the fact that they see COVID-19 as an opportunity to offend more, knowing that more children will be online.

**CHAIR:** Does any of this information, such as what we've just talked about, get funnelled into the state chief health medical officers when they are making their decisions about how lockdowns should be?

**Mr Pointing:** Certainly from a law enforcement point of view we're very connected with all our jurisdictional partners. The way we investigate child exploitation is very much joined up with—

**CHAIR:** We have state chief medical officers at the moment making decisions about lockdowns, which you've said are creating this rich environment for paedophiles. Are they getting this information directly, so that when they make a decision that yes we should lockdown or no we shouldn't, they're weighing up the fact that if they do engage in lockdown, what they're doing is, in your words, providing a rich environment for paedophiles?

**Mr Pointing:** Certainly we communicate that to our law enforcement colleagues from other states. Whether or not they—

**CHAIR:** You're reporting this information. Have there been any requests from any of the state health medical officers asking for this information from you?

**Mr Pezzullo:** The Department of Home Affairs is represented as an observer on the Australian Health Protection Principal Committee. It would be remiss of me not to mention that. The state chief health officers to whom you refer—the CHOs, to use their acronym—have certainly looked at many sectors. I will take on notice and refer to my colleagues in Health whether there's been an explicit discussion. There have been so many meetings and I've read so many records. I wouldn't want to mislead you. There have been some discussions around public safety. Whether it's got to the granular point you're making—

**CHAIR:** My concern is that as a society we have to make these decisions about the lockdown and what the costs and benefits are. My concern is that if we're going to provide a rich environment for paedophiles to operate in, we have make sure we weigh up that cost to make sure that the benefits that we're getting on the other side—

**Mr Pezzullo:** Completely understood. Because the state chief health officers meet with the Commonwealth CMO, currently Professor Kelly, I will take an action, if it pleases the committee, to take that on notice and I'll see if Professor Kelly as the chair has anything to add. They have had a number of sector-by-sector impact discussions. Whether it's got to this level of detail, I don't know. I'll have to take that on notice.

**CHAIR:** On another subject, the early release of superannuation, you said there were 800 individual cases of fraud.

**Mr Pezzullo:** As advised by the ATO. That is as at 14 August. Were they cases of someone trying to access someone else's superannuation?

**Mr Pezzullo:** I believe typically. That's the advice that Commissioner Jordan has provided to the law enforcement forum that I mentioned.

**CHAIR:** Was that someone accessing someone else's superannuation or trying to access their own superannuation making fraudulent statements?

**Mr Pezzullo:** Specifically it is someone who has stolen an identity and says, 'I'm here to get my \$10,000' or whatever the amount is. They're there under false pretences. Perhaps the deputy commissioner can add to that.

**Mr Pointing:** That's correct. We've had 25 referrals with respect to fraud on the Commonwealth government's stimulus packages. The ones relating to early release of superannuation have involved individuals stealing other people's identity and then accessing their super.

**Dr ALY:** Are these carried out by organised crime gangs or OMCGs, or are they individual criminals?

**Mr Pointing:** There's a varying degree of sophistication. One of the cases has been very, very complex. It involved offshore players. That was conducted by a very organised group, people who had highly skilled technical ability and who understood Australia's tax systems. We're still investigating that one. The ones we've resolved to date have been much less sophisticated. An opportunity has arisen, and they seized that opportunity and tried to access or have accessed someone's super.

**CHAIR:** When that happens, where is the liability for the loss? Is it on the individuals or the superannuation fund? Who actually incurs the loss? I understand that if someone steals your bank card or your credit card and uses your credit card, the bank becomes liable. Is it the same situation?

**Mr Pezzullo:** We'll need to check with the tax office. We'll take it on notice.

**Dr ALY:** Thank you all for your submissions and for appearing here today. We've heard a lot of evidence today, and one of the questions that I've been asking of the witnesses is around the threat level or risk of a fake or counterfeit vaccine getting into the supply and distribution chain in Australia, and what our vulnerabilities might be around that. We've heard some evidence around counterfeit pharmaceuticals and the extent to which that's an issue here in Australia. I wonder if you could comment. This is to all of you, but perhaps Mr Pezzullo to begin with. Where are our vulnerabilities around this? Has this been assessed as a credible, live threat? Has there been a risk assessment done about this threat, and what are we doing in preparedness for such a threat?

**Mr Pezzullo:** The answer is in two parts. In relation to counterfeit therapeutics and pharmaceuticals, it's a matter that both the Australian Border Force and the Australian Federal Police attend to because fraudulent medicines sold under false pretences are typically imported. I might ask the deputy commissioner of the Border Force to speak to the work that she does with the TGA to ensure that there's proper trademarks and proper insignia and identifications.

On the vaccine it's a somewhat different situation because the vaccine is not generally available. It will become available in the way that the world community comes together to do agreements between governments and the corporations that will have to manufacture the vaccine at scale. The Department of Health, through the work that they're doing, both through the committee that I referred to, the Australian Health Protection Principal Committee, but also it's a federal regulatory responsibility, the proof of identity of the medicine, the proof of custody of where it's been manufactured, whether it's properly certified and properly labelled—that is a federal health responsibility. I don't think I will be chancing my arm in saying that the minister, Mr Hunt, and the secretary of that department, Professor Murphy, will be ensuring that nothing other than the most robust integrity measures are built in. How that's specifically done in terms of the regulatory responsibilities of the Department of Health, particularly the TGA, and how they interface with the ABF, is something that we're doing general planning around. There is no vaccine, but we are thinking about it. You won't want to get it on eBay. You won't want to google the vaccine. We are going to want a controlled rollout which is managed through the public health strategy that the federal and state health departments determine to be the case. I might ask Deputy Commissioner Saunders to address the initial question of counterfeit medicines and therapeutic goods otherwise and any discussions that might have arisen around the controlled deployment of the vaccine.

**Ms Saunders:** Just to give a general overview of how the arrangements work from an ABF perspective, we work closely with trademark owners, other government agencies, states and territories and our international partners to target shipments of counterfeit goods. Our focus has only increased since the threat of COVID-19 has been upon us.

We conduct risk-based intelligence-led targeting to identify and seize counterfeit goods and prevent dishonest traders from exploiting the Australian market. We prioritise intervention based on the harm the product could do. As you point out, pharmaceutical goods and the potential of a false vaccine would carry significant risks. We recognise that counterfeit pharmaceuticals generally are a significant danger to the community danger. On that

basis, we work very hand in glove, under the Therapeutic Goods Act, with the Therapeutic Goods Administration and we regularly refer the intended importation of prescription medicine, medical devices or goods to the TGA to review their compliance with Australian standards. That occurs as a matter of course. The TGA determine if the items are therapeutic goods and if compliance action should be undertaken. The ABF also has powers to detain medical goods if they qualify as prohibited imports or exports under the Customs Act. So we certainly recognise the threat.

In terms of what has occurred practically since the COVID-19 threat, we've been working hand in glove with TGA. We've obviously been focused on the export of goods as well as the import of goods. Just to focus on the import of goods, the TGA has issued written guidance to the ABF requesting the temporary targeting and referral of certain imported goods, such as PPE, specific test kits and the like. As we see the threat environment changing as it relates to vaccinations, we will have closer engagement with TGA in that regard. Medical devices and specified items of PPE being imported, such as face masks, are regulated under the Therapeutic Goods Act. If an ABF officer suspects goods may contravene that act the goods are held and referred to the TGA, as I mentioned.

To give you a bit of an indication of activity, we have identified goods that are of a suspicious nature and we've referred those to TGA. In some instances, they have referred those matters and, in other instances, the TGA have in fact come to the ABF and sought our assistance with examining goods that are not related to the emergency exemptions as they relate to COVID-19 and the Commonwealth measures that have been put in place but are such things as infrared thermometers and some hand sanitiser products. As a result of that, we have seized a very small quantity of face masks—totalling about 8,000—that were of concern. But we're not aware of any criminal links to that action. But, where there is potential criminality, we have referred that to the AFP. I hope that is a useful overview. Do you have any specific questions?

**Dr ALY:** Yes, very much so. That is a useful overview of the regulatory framework. But already we have seen sino vaccines available on WeChat and the Chinese government going to stop that. Outside of the regulatory framework, what about the situation where somebody might get a text saying, 'Your vaccine is ready; come and get your vaccine.' We don't know what people want to buy on Facebook and Ebay and those kinds of things. As far as that nexus of the cyber, the communications and the production or distribution of the fake pharmaceuticals, could you perhaps comment on that, Mr Pointing?

**Mr Pointing:** One of the key things we can add is that during COVID-19 we very much joined up with law enforcement globally. We have police in 34 countries—or 33 at the moment. We're fortunate that only one of our members hasn't been able to continue with their work in Bahrain. So we're very networked. We've formed joint intelligence groups nationally and globally. We're very alive to the issue of fake pharmaceuticals and working hand in glove with Border Force and other agencies. At this stage, it's very much a strong focus of our intelligence gathering. It is something that will remain a very high priority for us, working in particular with Border Force to prevent, disrupt, and, of course detect, hopefully if it becomes an issue.

**Dr ALY:** I have in front of me the Council of Europe Convention on the Counterfeiting of Medical Products and Similar Crimes Involving Threats to Public Health. It is a fairly recent convention. EU Convention on the Counterfeiting of Medical Products and similar crimes involving threats to public health. It's a fairly recent convention. Given the porous borders that characterise some of our neighbours in our region, do you see any value in Australia undertaking a similar agreement with our neighbours in the region—similar to what the EU has done with this convention?

**Mr Pezzullo:** It's a different governance and operational challenge, because you have 26 member states that all have different regulatory regimes, whereas of course we have a national government with a single therapeutic goods regulatory framework, which the deputy commissioner spoke about. It also helps that we're surrounded by an ocean. I have a vague awareness of the convention, but I must say that I haven't studied it in any great detail, and I suspect that, if you have it in front of you, Dr Aly, you've probably read it and I haven't. So I won't put myself in danger there by speculating what may or may not be in it.

**Dr ALY:** It's what you would expect in a convention around this.

**Mr Pezzullo:** Understood. I can sort of guess at what is in there, but I won't chance my arm. I am on the planning group with Dr Murphy and we report to ministers, including with the health minister being co-opted on the security side. We're precisely concerned about the diplomatic issues and global supply chain issues. The Prime Minister has spoken recently about sourcing the vaccine, and the government have made some announcements about some arrangements that they have entered into. The supply chain and how we design that supply chain is part and parcel of that discussion. I know that for a fact because I'm involved in those discussions with my colleague Professor Murphy, the secretary of the department.

What I will do, as I did with the other matter that was in the tax lane, is refer your interest to the Secretary of the Department of Health to see if he has any more that he might wish to add. But, if you break it down logically into its operational component, there's a discussion to be had about sourcing the vaccine and making sure that it's credible, effective, safe to use et cetera. was, et cetera. The other day I think the Prime Minister said with regard to the so-called Oxford strain or vaccine—and I stand to be corrected—that we are going to order 25 million doses, which is pretty handy because there are 25 million of us.

There will have to be a supply chain established to get the gear into the country. Border Force will be part and parcel. I don't want to speculate, but I imagine that it will be a highly controlled process, so that it's not just jump onto eBay or jump onto Facebook. It will be a controlled distribution. That's being led by the Minister for Health. So I think the best thing that I can do in this circumstance is to discuss your interest and the committee's interest with my colleague Professor Murphy and see if there is anything that we can come back to the committee with at this early stage. Sourcing it, the supply chain, the distribution and then having an integrity framework around it is all going to be part of one operation. If there is anything that the Department of Health might wish to communicate back to the committee, I will arrange for that to be done.

**Dr ALY:** Should it be led by the Department of Health? Should there not be more of a law enforcement framework around this?

**Mr Pezzullo:** I can assure you, Dr Aly, that the Department of Health works very collegiately and collaboratively with all of its principal partners—including the fact that Professor Murphy and I are in discussions about this. We will gather the security, law enforcement and border. The value we bring is that we bring the team. So the team comes in with all of the angles—whether it's the federal criminal code, the border, the Criminal Intelligence Commission, whether it's the ability to track transactions through AUSTRAC. So we come as a team. That way, the Department of Health can rely on subject matter experts who have a law enforcement, security and border expertise, and they can focus on the things that they really need to focus on, which is the medicine. I'd prefer not to make extemporise or make judgements on clinical matters. That's why we have a department of health. That's their job.

**Dr ALY:** In April, Minister Dutton, in a radio interview with Ray Hadley, mentioned JobKeeper and the fraud that was expected as part of the program and noted that the department had established a task force with the AFP and investigators in other relevant agencies. The following week, we had the AFP confirm that the task force was focused on the prevention of fraud against COVID-19 economic stimulus measures, as well as identifying and taking action against those who commit fraud against those measures and other welfare measures. Is this task force still in operation?

**Mr Pointing:** The original task force, which was a combination of AFP, Attorney-General's and other stakeholders, worked in the initial stages of the COVID-19 response, particularly around prevention. Their focus was to develop protocols and crime prevention strategies and share those with all their Commonwealth partners. The reason it stopped in June was the prevention work. The toolkits were developed, and then it transformed into an investigation group. It transformed into Operation Iris, which is primarily an AFP-led investigative group. It still works with all of the same partners, but its focus now is on disruption, detection, prevention and prosecution. Since it's been set up, we've had 25 high-level referrals resulting in seven arrests.

**Dr ALY:** What is the broad nature of those?

**Mr Pointing:** There are three key categories: early release of superannuation, JobKeeper and JobSeeker. Through the intelligence network, we've also found links to those who want to commit fraud against the bushfire stimulus packages and others. We're currently working on a range of investigations involving the NDIS and child care. It's quite interesting when you investigate matters like this. You often find links to other stimulus packages.

**Dr ALY:** Just to clarify, the original intent of the taskforce was to come up with some prevention protocols. Its remit then moved on from prevention to disruption and detection, but is continuing with prevention?

**Mr Pointing:** Yes. There's a constant feedback loop, because every job brings new learnings and it's critical to feed those back into all the relevant agencies, which is happening on a daily basis.

**Dr ALY:** Can you give me some idea of the nature of some of the prevention protocols that the taskforce came up with?

**Mr Pointing:** Certainly. I'm aware that the prevention toolkit that was developed was shared with the agencies. I don't know the exact details of what's in the toolkit, but there are certainly details around how agencies and the administration of Commonwealth expenditure can prevent fraud. I don't have the exact details. I do recall reading it some months ago and thinking it was a wonderful product and very useful to those involved in the administration of stimulus packages, but I don't recall the exact details. It's very much focused on prevention and

putting controls in place that can alert one to fraudulent behaviour. That feedback loop is in place, so lessons learned from every investigation are fed back into the relevant agencies.

**Dr ALY:** Is there continuous monitoring of the uptake of those protocols?

**Mr Pointing:** Not from an AFP point of view. Every investigation results in learnings around methodology, for example. Obviously, we can't necessarily talk about methodology. We don't want to educate those who—

**Dr ALY:** Who are listening!

**Mr Pointing:** are listening, but certainly, in terms of methodology, it's critical to feed that straight back into the agencies administering stimulus packages, and that happens with every investigation.

**Mr Phelan:** I could add a little bit to that. The guidance that's provided by the Attorney-General's Department in relation to government departments for all sorts of stimulus packages and other large packages pushed out by the government is based on a lot of the work that they've done, as well as our agency and the AFP and others, on previous packages over the years and the lessons learnt as a result of that. One interesting fact on the current round of stimulus, disregarding the amount of money that's out there, is that the fraud proportion is much lower than we've seen before in other government programs, certainly in terms of percentage points.

**Dr ALY:** Can you give us a comparative?

**Mr Phelan:** Yes. Normally with government packages, right across the board—state, federal or whatever—up to five per cent is fraud. That's a public figure. We've put that figure out before. It's in our annual reports and so on. As Secretary Pezzullo said right at the beginning, the amount that's been detected so far is way less than that. Normally, complaints about fraud are a very good indicator of the amount of fraud. The number of complaints coming from individuals whose superannuation accounts have been drained is very minimal, relative, in percentage terms. I was talking about up to five per cent in previous large government programs.

**Mr Pezzullo:** One of the key learnings as a result of the investigations that were done into the so-called—I can't remember the formal name of the program—pink batts program was that the department that owns the policy isn't necessarily the one best equipped to deliver the effect. Particularly with money, there are a couple of major scaled-up organisations within government. There is Services Australia, which is a payments platform and processing agency that has batched up a lot of payments, protocol systems and back-end processing. The Australian Taxation Office know identity, how to process payments and how to establish that you are who you say, and they work with my department for documentation verification and facial verification. So we have anchors for a person's identity. The Australian tax office is similarly equipped. The policy posture—and Mr Phelan made reference to the Attorney-General's Department—has changed significantly. In 2015 or 2016, there was the Shergold report into pink batts, so I'm thinking it's over the last five years. The Attorney-General's Department now mandates the fraud prevention standards. In fact, they have a centre for fraud prevention against the Commonwealth. The Federal Police work very closely with them so that those feedback loops about the evidence that they see coming through their operations are constantly fed back into the counterfraud centre. By design, we all have to put it in all of our programs, whether we're rolling out an economic package, a trade measures package or fraud prevention protocols—COVID being a very topical example—and, wherever possible, we try to route the benefit transactions through large agencies that have the tech, the biometrics and the identity management. That is typically Services Australia for payments, and the ATO's got particular responsibilities as well. Even as recently as, probably, 10 years ago, that would typically have been the case.

The home insulation program—its name escapes me—was an example where you have policy intent, you have regulatory and/or legal design, legislative design, and then you have delivery. Dr Shergold, who did the review into that program, found this. Sometimes those vertically integrated activities are not the best way to deliver, because sometimes policy intent, when it's disconnected from operation capability, isn't the best way to do things. Going for larger agencies that have scale—JobKeeper and JobSeeker, respectively, have gone to Services Australia and ATO—helps to mitigate. It doesn't reduce it to zero, but it helps to mitigate the leakage into fraud.

**Dr ALY:** I have more questions, but I'm mindful of other people. Thank you.

**Senator SCARR:** Mr Pezzullo, I will use your expression, that 'the team' was liaising with the Department of Health with respect to importation of vaccines et cetera. I couldn't help but wonder whether you have any thoughts, looking back on the history of the department, on how the department, under its existing structure, with the agencies coming in underneath it, has performed in the context of these challenging times? Do you have any reflections on that?

**Mr Pezzullo:** Self-assessment is always a fraught proposition because you've always got to discount for optimism bias, and some people bring pessimism bias, I suppose, to their self-assessment. I will try to moderate. It strikes me that, having a large operationally focused department that has regard for and a clear relationship with

the Attorney-General's Department, that focuses on the legislative framework, is the right balance of responsibility. You have a department that has it in its DNA, whether it's the visa program, the border programs that we run or transport security, operations and delivery. That's a partnership model that makes sense—we don't have ASIO here today, because that's a different problem set—whether it's ASIO, the Federal Police, Border Force, the ACIC or AUSTRAC. Equally, there's the gravity that the mass brings, when you add the multiplier effect of the partnerships that I mentioned earlier, with the Australian tax office and the counter-fraud work that I've just described. Similarly, Services Australia has very strong fraud practices that the deputy commissioner and Mr Phelan spoke about. Also, some of the other regulators bring incredibly potent tools: ASIC, the ACCC and APRA. They are really starting to get a team of teams. While one team is under the Home Affairs minister and is very much focused on law enforcement, domestic security, border management and the like, criminals are constantly looking for ways to get in through gaps in legislation or gaps in regulation or gaps in capability. All of us at this table I suspect have been in discussion with international counterparts—and this somewhat goes to the point I made to Dr Aly. They're very siloed. They're very effective in their lane and sometimes it takes a bit of effort to get that collaboration going horizontally.

I won't rate the performance because, as I said, you're accused of either optimism bias or pessimism bias. The benefit of having this group together and then working collegiately with the other teams, whether it's the tax office or Services Australia, is it really gives the federal government a team of teams approach. That forum that I mentioned has got no statutory remit. We don't dictate to statutorily independent officers. It's a collaboration forum. At the last count I think there were 16 agencies. To have the Australian Signals Directorate with all of their high-end top-secret-level capability giving us insights into what's happening, for instance, in the cybercrime world is just simply phenomenal. So I wouldn't want to, by any stretch of the imagination, just simply highlight the work done by the department and its portfolio agencies. It really is a team of teams.

I'll give a final reflection, if I might, seeing as though you invited me to reflect on the work of the department. December coming will be the three-year anniversary so, as is required under our corporate plan, we'll be taking a step back and looking at our performance. Perhaps early next year I'll come back and share a more granular evidence based report card. Then maybe you can score my report card against your own views.

**Senator SCARR:** I'm sure it'll be a fair and reasonable depiction without any bias. I want to ask Ms Saunders about fake or counterfeit medications and pharmaceuticals. I raised with the previous witness my concern with respect to the exposure of our Pacific family to such counterfeit products, because they simply don't have the resources which are collected in this room to counter that. I know that we have a program to assist our Pacific neighbours to access the vaccine, but are there any programs or thoughts around how we can assist our Pacific family to protect themselves from those sorts of counterfeit products?

**Ms Saunders:** I'll pick up on the secretary's comments in terms of a team of teams. Obviously how we work internationally is critically important to the way we engage. Whilst we don't have any specific programs of work with our stakeholders within the region, obviously we do share information intelligence as it relates to threats of this nature. We'll continue to share that. As I pointed out previously, we work very closely with the TGA and the like in identifying threats and responding. We would apply the same principles as we engage with our Pacific partners, certainly in relation to goods that are transiting through Australia and the like.

**Senator SCARR:** I'd like to turn to the AFP now. I waited for a tactical moment when you were reading something, Mr Pointing. A number of witnesses have raised the concept of a police reserve. I understand the AFP has been taking positive steps in that regard. My understanding is that the AFP's reserve is based essentially on ex-officers. Do you think that concept could be extended beyond ex-officers? Would it be prudent just to keep a reserve force at ex-officers more generally even than the AFP?

**Mr Pointing:** It's probably good just to chat very quickly about why we brought it into being. The AFP is a very much a lean organisation. It's funded and well-staffed to do its work, but, of course, sometimes things like pandemics bring novelty and we have to respond to a whole new range of tasks and responsibilities that are very valid. That's what has happened with COVID-19. As an example, very early this year we've joined with Australian Border Force and assisted in multiple locations in Australia with the repatriation of Australians—on Christmas Island, Howard Springs et cetera. That has been critical because AFP assistance was needed to enforce aspects of the Biosecurity Act.

We're also very proud of the fact that we have been able to deploy up to 100 people to the Northern Territory to assist with border crossings, biosecurity checks and protecting vulnerable Indigenous communities. There's also been a lot of additional staff needed to run the operational protect command centre, which, as I have mentioned, is very much joined up with other jurisdictions and our joint intelligence. It was really important to dig deep and have a look at ways to provide a surge capacity. When we analysed the time it takes to find new staff in a very

difficult time, the onboarding of people who require security passes, medical passes et cetera, the AFP Reserve emerged as a very good solution to provide that surge capacity. At this point in time its focus has been on supporting the COVID-19 response. We have onboarded 12 ex-members. It's not a huge reserve, though we are onboarding other members in case we had to respond to new emergencies. We've onboarded 12. They are very much focused on either responding to COVID-19 related duties, some in intel, some in the command centre, or taking on the role of someone else who might be deployed. So at this stage our focus is very much on providing a surge capacity during COVID-19. At the end of COVID-19, whenever that will be, we'll obviously review it and assess the merits of the program and whether or not it could be extended to other areas. When we do that, we'll obviously talk to the association, the federation, as you would with any industrial change.

**Senator SCARR:** Absolutely. We've touched on a number of the task forces that have been investigating fraud, counterfeit goods et cetera. One of the task forces we haven't talked about yet—I would like to get an update—is Operation Hangfire. The Home Affairs submission says:

The ABF established Operation Hangfire in response to the COVID-19 pandemic to combat the diversion of essential goods and protect the community from counterfeit or illegitimate goods ... The operation was established to focus on trade related fraud and the risk posed by trade based money laundering from the commercial sale of unapproved [goods].

Operation Hangfire was looking at counterfeit goods. Taskforce Quadrant was looking at non-commercial exports. That's the one I wanted to talk about—the non-commercial exports of essential PPE and medical goods. That's the one we haven't touched on yet. I was interested to get an update on how that's progressed. What issues have been identified? How many infringements have been discovered so far?

**Ms Saunders:** Thank you very much for the question. I will hand over shortly to the ABF, who lead in terms of Quadrant. Obviously what's key to inform Quadrant is the Hangfire task force, because that's where the information is derived from. I can give you a general overview as it relates to our findings since that time. I should go back a step. The biosecurity determination was made by the Minister for Health back in March. That of course gave us the powers upon which we now take action in regard to seizing and forfeiting to the Crown and the prescribed protective gear and disinfectants and the like. There are essential goods under the Act. Since that time we have had, in terms of face masks, 1,877 cargo consignments, which equates to about 782,000 face masks; and 199 cargo consignments for 10,244 sanitiser products.

**Senator SCARR:** Can I just clarify? These are numbers of products—

**Ms Saunders:** That we have seized at the border.

**Senator SCARR:** Coming in or going out?

**Ms Saunders:** Going out.

**Senator SCARR:** 782,000 face masks?

**Ms Saunders:** That's correct.

**Dr ALY:** Where were they going to?

**Ms Saunders:** A range of locations internationally. I don't have the breakdown before me. If you'd like further information I'm happy to take that on notice. In terms of other PPE as determined by the regulations, we have had disposable gloves 51,347 units; eye wear 150 units; disposable gowns 1,917 units; mask filters 105 units; and other PPE products. Of note, though, is that very little of that has proven to be non-legitimate. Very little of that has proven to have any criminal nexus. I might hand over to Deputy Commissioner McCartney to talk about the work of Quadrant. But that is the nature of the information and goods that we have seized to date.

**Mr McCartney:** In relation to Taskforce Quadrant, it's supported by legislative reform approved by the government. There have been two key focuses: firstly, the export of prohibited goods and, secondly, profiteering or price gouging. Like every taskforce we've initiated during the response to the COVID-19 pandemic, it has very much been a joined up approach with agencies here, including ABF in particular, in terms of the work we have done in this space. In terms of both of those issues, there have been no arrests in relation to applying the legislation, but we believe it's had a significant deterrent effect. We've obtained intelligence, which we've shared with other partners. There have been numerous compliance check visits to companies we believe may have been in the process of exporting prohibited goods. We believe it's had a significant and beneficial effect in this environment.

**Senator SCARR:** Excellent. The other operational working group I want to receive some feedback on in terms of its findings is the operational working group on human trafficking and slavery. Could someone provide an update on that? I'm giving everyone an opportunity to get to the front table!

**Dr Armstrong:** In relation to human trafficking at the border, one of the interesting things about the COVID environment is that the numbers have gone down—that's largely due to the fact that there are fewer people crossing the border—so those stats are a little bit encouraging. The number has dropped 60 per cent, compared to the previous quarter—sorry, that was forced marriages. I jumped around a bit there. But the number of cases has dropped. The taskforce works closely with the AFP, the Director of Public Prosecutions and the Australian Border Force, of course, and so far it's cracking on.

**Senator SCARR:** Excellent. I have no further questions.

**Mrs ELLIOT:** I have questions in relation to some of the things you've pointed out about the changes in criminal activity, and how we've seen a rise in so many new areas as well. Obviously some criminal gangs have to change a lot of their behaviour, particularly around money laundering and the handling of cash. What have you seen in that particular area? How have they modified their behaviours? What areas are they in now?

**Mr Phelan:** We've certainly seen some changes in the way in which serious and organised crime have done their business since February in particular. We've got that from our human source information, plus what we're seeing. They have certainly modified their operations to fit within the current environment. They've changed a little bit, but at the end of the day it's pretty much back to business as usual for them, albeit with some differences—they can't have face-to-face meetings and those sorts of things.

Certainly the same problems that affect normal trade also affect the drug trade in terms of products coming in et cetera. Money was an interesting one. You've brought that up. Normally there is a reticence by the money launderers to handle a lot of cash, so we have seen some of the money-laundering techniques change a little bit and the way in which that happens—there's an increase in offsetting and so on. We also believe there's probably a little bit more cash being stockpiled that would otherwise be moving out of the country. There's not as much moving in physical cash as we have seen in the past. That's certainly the information we've got from our intelligence sources right across the board.

**Mrs ELLIOT:** Thanks for that. Some of the information we've heard from a number of different sources today is the concern about the increase in scams right across the board. Obviously some of those are reported and some are not. Given some of the evidence that you have given, there may be scope for more awareness campaigns. I think a lot of it isn't even reported, and the bits we're seeing that are reported are fairly extensive. The lengths they are going to are really concerning, and they're becoming more and more sophisticated in the way their scams are done. Is there scope in the future to look at more public awareness about that? It's obviously only going to increase while we're in this current pandemic environment.

**Mr Pezzullo:** I can only imagine, notwithstanding the disruption of COVID, that at some point we'll get back to something that looks like normal. Whatever that looks like, it's going to be deeply digital. Our lives have become highly digitised. The Federal Police have the ThinkUKnow campaign that was mentioned earlier. The ACCC, the consumer protection authority, have a very complementary campaign. There are a number of authorities that have to have coordinated and synchronised but nonetheless complementary campaigns, because you're looking at slightly different things. One of the deputy commissioners can speak to ThinkUKnow. The e-safety commissioner is much more focused on protection of intimate and private matters so that you don't expose yourself to that vulnerability. The e-safety commissioner does a lot of good work in that regard.

The scams are principally for the ACCC, which is both competition and consumer protection authority. Rod Sims, the chairman there, puts a lot of effort into best practice consumer protection. We certainly try to link up our websites, make sure our campaigns are synchronised. They're interoperable and they're cross-referable. So if you go in through one website, it's got links. And for the harder cybersecurity awareness, that's the Australian Signals Directorate.

You might think, 'Well, why is it all split like that?' You're really dealing with different audiences that are seeking different types of information. If you want to know about how to lock down your device or how to protect your device, the Australian Signals Directorate has terrific resources. If you want to protect your children online from paedophiles, groomers, trollers then you go to e-safety. There are also great resources at the Australian Federal Police. But when you make reference to a scam, the best place to start in terms of scam awareness is the ACCC material. But perhaps the deputy commissioner can add to that answer?

**Mr Pointing:** Certainly the issues around countering child exploitation, very quickly—whilst we've always been in the prevention space, COVID-19 has meant that we've had to do more. In April we launched an extension of the ThinkUKnow child exploitation prevention strategy, which really gave families—instead of just focusing on parents, it focused on teachers and children. It gives them seven individual challenges that they could work through as a family to understand online safety. In addition to that, we've introduced a whole range of other

things. We've launched another project with the e-safety commissioner to look at early childhood, to try and teach our youngsters at a very early age.

**Dr ALY:** Can I jump in here and clarify: with the increase in the child exploitation online, are the victims located within Australia or are they international victims?

**Mr Pointing:** Both.

**Mr Pezzullo:** Both.

**Mr Pointing:** Our latest operation that resulted in those 20 arrests on hundreds of charges, most of those victims were in Australia.

**Dr ALY:** And it was accessed online?

**Mr Pointing:** Accessed online.

**Dr ALY:** Is that a change from what we've seen in the past, where most of the online activity, for want of a—

**Mr Pointing:** I think we've seen a gradual—the digitisation of society, the Internet of Things, the amount of time people are spending online. Criminals, sadly, will exploit that.

**Dr ALY:** But in terms of the victims, in the past have they predominantly been international—overseas—but now they're more domestic?

**Mr Pointing:** No, there has always been a mix. Some children are exploited overseas, particularly in South-East Asia, but certainly, unfortunately, we've got a significant problem of our own in Australia.

**Dr ALY:** Heartbreaking.

**Mr Pointing:** Very much so.

**Dr ALY:** I'm done.

**CHAIR:** Ladies and gentlemen, we might call it a day. Thank you for all coming today. I know it's a busy time for you all. The word unprecedented gets said many times, but we certainly are in unprecedented territory. I thank you for all the work you do and for helping our committee today. The committee has agreed that answers to any questions taken on notice at today's hearing should be returned by 11 September 2020. I thank the witnesses for their evidence today. I also thank Hansard, Broadcasting and the secretariat.

**Committee adjourned at 15:59**