



**Australian Government**

**Government Response to the Independent  
Review of the Australian Criminal Intelligence  
Commission and associated Commonwealth  
law enforcement arrangements**

NOVEMBER 2024

© Commonwealth of Australia 2024

With the exception of the Coat of Arms, the department's logo, content supplied by third parties and where otherwise stated, all material presented in this publication is provided under a Creative Commons Attribution 4.0 International licence ([www.creativecommons.org/licenses](http://www.creativecommons.org/licenses)).

For the avoidance of doubt, this means this licence only applies to material as set out in this document.



The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 4.0 licence ([www.creativecommons.org/licenses](http://www.creativecommons.org/licenses)).

### **Use of the Coat of Arms**

The terms under which the Coat of Arms can be used are detailed on the Department of the Prime Minister and Cabinet website ([www.pmc.gov.au/honours-and-symbols/commonwealth-coat-arms](http://www.pmc.gov.au/honours-and-symbols/commonwealth-coat-arms)).

### **Attribution**

Material obtained from this publication is to be attributed as:

© Commonwealth of Australia 2024, *Government Response to the Independent Review of the Australian Criminal Intelligence Commission and associated Commonwealth law enforcement arrangements*.

### **Acknowledgement of Country**

We acknowledge the traditional custodians of Australia and their continuing connection to land, sea and community. We pay our respects to the people, the cultures and the Elders, past and present, and thank them for their ongoing contributions to the culture and prosperity of the Australian nation.

## Government Response to the Independent Review of the Australian Criminal Intelligence Commission and associated Commonwealth law enforcement arrangements

Australia needs a strong, effective criminal intelligence agency to combat organised crime. Transnational, serious and organised crime (TSOC) poses an enduring threat to Australia. The illicit activities of criminal networks undermine Australia's security, prosperity and the integrity of its borders and institutions. It is increasingly common for criminal groups to span a diverse range of activities and they are adept at protecting themselves from law enforcement efforts.

In 2020-21, the total cost of serious and organised crime to the Australian community was estimated to be \$60.1 billion. Illicit activities cause significant community harm, while consuming considerable Commonwealth, state and territory law enforcement resources. Incisive and actionable criminal intelligence is key to combating this sophisticated threat.

To ensure the Australian Criminal Intelligence Commission (ACIC) is operating as a high-performing national criminal intelligence agency delivering strategic intelligence to its partners, the Australian Government commissioned Mr Stephen Merchant PSM and Mr Greg Wilson to undertake an Independent Review of the ACIC and associated Commonwealth law enforcement arrangements.

The Review found that the lack of clarity in the ACIC's role and priorities, and its complex and outdated legislation and governance arrangements, have limited its effectiveness in performing its core function as an intelligence agency and diminished the value of the strategic intelligence it provides to partners. The 29 recommendations made by the Review set out a blueprint for comprehensive reform to the ACIC to provide the strongest foundation for its critical national criminal intelligence role.

The Government is committed to ensuring the ACIC's legal and governance frameworks and its capabilities enable it to deliver on its core criminal intelligence role. The Government will undertake significant legislative reforms that will ensure the ACIC has appropriate powers for the collection of intelligence and an information disclosure framework that enables timely sharing of that intelligence with partner agencies.

Oversight and safeguards will be key features of the new legislation. This will include a strengthened 'double lock' authorisation for the use of coercive powers, and oversight by the Inspector-General of Intelligence and Security and the Parliamentary Joint Committee on Intelligence and Security. These changes will align the ACIC's oversight arrangements with those of other agencies in the National Intelligence Community.

As recommended by the Review, the Government will reinvigorate national governance and coordination arrangements for responding to TSOC. This includes replacing the ACIC Board with a new national committee that brings together the heads of Commonwealth, state and territory law enforcement and justice agencies to develop strategy and set priorities for the national effort against TSOC. Internal ACIC governance and organisational changes are also proposed to support the agency's management of risk.

To address the Review's finding that public awareness of the threat of TSOC is lacking, the Government supports the recommendation that the ACIC release an annual public TSOC threat assessment. This will increase awareness of threat and the efforts of Australian intelligence and law enforcement agencies to respond to it.

The Review confirmed the importance of the ACIC's systems and services in enabling policing information and criminal intelligence to be shared across jurisdictions. These systems, including the National Criminal Intelligence System (NCIS) and National Firearms Register (NFR), strengthen police and community safety including by ensuring frontline officers have access to near-real time information. The Government provided funding in the 2024-25 Budget to complete integration of the remaining state and territory law enforcement partners into NCIS by the end of 2025 and to establish the NFR.

The Government also recognises the value of reinforcing the independence of the Australian Institute of Criminology's (AIC) national crime and justice research through a dedicated statutory appointment of an AIC Director.

The reforms will be implemented in close consultation with the ACIC's Commonwealth, state and territory law enforcement partners, including through the Police Ministers Council, to ensure they enhance the collective national response to TSOC.

The Government's response to each of the 29 recommendations is set out below.

### Recommendation 1

As Australia's national criminal intelligence agency, the ACIC have two distinct roles:

- To obtain, analyse, evaluate and communicate intelligence relating to serious and organised crime in Australia, including where it has a transnational dimension.
- To ensure there are systems and services that enable criminal intelligence and police information to be shared across jurisdictions, including the provision of Nationally Coordinated Criminal History Checks.

In undertaking those roles, the ACIC work closely with Commonwealth and state and territory jurisdictions.

Agreed. The lack of clarity in the Australian Criminal Intelligence Commission's (ACIC) role and priorities, reflected in its complex legislation and governance arrangements, has limited its effectiveness as Australia's national criminal intelligence agency. While the ACIC's legislative functions and capabilities are focused on the provision of criminal intelligence, most of its legislative powers are premised on the investigation of specific offences.

In order to support the national response to TSOC, the Government agrees the ACIC should be focused on its role as Australia's national criminal intelligence agency and provider of critical policing information and criminal intelligence systems. These roles will be clearly set out in legislation, as proposed in the response to Recommendation 2.

### Recommendation 2

The *Australian Crime Commission Act 2002* be repealed and replaced.

Agreed. The repeal and replacement of the *Australian Crime Commission Act 2002* (ACC Act) is required to support the ACIC's core criminal intelligence functions. This will ensure the ACIC's legislative framework provides the necessary foundation for the ACIC to exercise its powers for the purpose of collecting criminal intelligence and to share that intelligence in a timely way with partners to combat TSOC, subject to appropriate oversight and governance. The Attorney-General's Department (AGD) will lead development of the legislation and consultation with key stakeholders.

### Recommendation 3

To reduce duplication of effort between agencies:

- the ACIC be responsible for the production of intelligence on the impact of serious and organised crime on the border,
- the Australian Federal Police (AFP) second intelligence analysts to the ACIC to help reduce duplication of effort, ensure the ACIC's and AFP's access to relevant operational intelligence, and build the AFP's confidence in the ACIC, and
- the secondment of state and territory police intelligence analysts into the ACIC continues.

Agreed. There are existing deep and enduring relationships between the ACIC, Australian Federal Police (AFP), the Department of Home Affairs (Home Affairs) and state and territory law enforcement partners that support the production of intelligence on TSOC. It is important these relationships continue to ensure coordination of intelligence efforts, while reducing duplication where possible.

Under its new remit, the ACIC will continue to produce strategic intelligence products, such as the National Wastewater Drug Monitoring program reports, that give insights into the criminal landscape in Australia and support the development of policy and operational responses. The ACIC will also

continue to produce intelligence assessments on the impact of serious and organised crime at the border, such as on supply chains and entities' interactions with the border.

Home Affairs will maintain its focus on tactical and operational activities at the border. The ACIC will work with Home Affairs and the Australian Border Force to ensure these arrangements enable the integrated production of intelligence on the impact of TSOC at the border.

The Government supports appropriate secondment arrangements for AFP intelligence analysts to be embedded within the ACIC to support AFP's operational and tactical intelligence functions, while bolstering ACIC's function as lead for criminal intelligence. Secondment arrangements will continue to enhance the partnership between AFP and ACIC and ensure appropriate deconfliction on priorities. Similarly, secondment of intelligence analysts from Commonwealth, state and territory agencies to the ACIC will continue.

These changes will ensure intelligence efforts are directed holistically in close partnership between agencies and in a way that enhances the ACIC's criminal intelligence capability. The enhancement of the ACIC's intelligence efforts will benefit the work of the AFP and other law enforcement agencies by ensuring the ACIC provides timely and actionable criminal intelligence to support operational outcomes.

#### **Recommendation 4**

The ACIC's ability to use covert collection powers under the *Telecommunications (Interception and Access) Act 1979*, *Surveillance Devices Act 2004* and other relevant legislation be aligned with the agency's intelligence function.

Legislation should allow ACIC intelligence collected under covert powers to be used as evidence in very limited circumstances and at the discretion of the ACIC.

Agreed. The ACIC's ability to use covert powers under legislation should be aligned with the agency's intelligence function through legislative amendments.

This would not expand the ACIC's existing covert powers. It would recognise that the ACIC, as an intelligence agency, needs to exercise its powers for the primary purpose of collecting criminal intelligence rather than gathering evidence of specific offences. The ACIC currently operates under the same thresholds for use of covert powers as policing agencies. Legislating for the ACIC to use covert powers for the collection of criminal intelligence, subject to appropriate safeguards, will ensure these powers are adapted to its core criminal intelligence function.

Implementing this recommendation through the repeal and replacement of the ACC Act (Recommendation 2) will provide greater legal certainty for the ACIC's use of covert powers in intelligence collection and the limited circumstances in which that intelligence could be used as evidence. It will also allow the ACIC to use the full suite of intelligence it collects to fulfil its functions, for example to inform criminal intelligence assessments and ensure the threats posed to supply chains are effectively disrupted.

### **Recommendation 5**

The ACIC retain its ability to utilise coercive powers incorporating a 'double lock' approval process which utilises authorisations by the Attorney-General and an independent Examiner.

Agreed. The ACIC's access to coercive powers remains essential to providing key intelligence on TSOC. It is equally important that the use of these significant and intrusive powers be subject to appropriate oversight and safeguards. A strengthened 'double lock' approval process will be legislated to require that the use of the ACIC's coercive examination and document production powers be authorised by both an independent ACIC Examiner and the Attorney-General.

These authorisations would generally be valid for 12 months, with independent ACIC Examiners required to be satisfied before the issuing of each summons that the examination would assist the collection of intelligence authorised by the Attorney-General. This approval process would strengthen the existing arrangements for the use of coercive powers exercised by ACIC Examiners. Legislating this 'double lock' process will enhance the safeguards in the authorisation process, while continuing to enable the timely and agile collection of intelligence.

### **Recommendation 6**

Existing provisions in the *Australian Crime Commission Act 2002* relating to the qualifications, appointment, independence and tenure of Examiners be retained in the new legislation.

Agreed. The Government supports the continued independence of ACIC Examiners and the existing arrangements that apply to Examiners, particularly those relating to the requirement that an examiner have the same legal qualifications as a Justice of the High Court of Australia in order to be appointed.

### **Recommendation 7**

The Solicitor-General be provided the opportunity to provide advice on the formulation of the draft legislative provisions and instruments underpinning the exercise of coercive powers.

Agreed. It is appropriate that the Solicitor-General be provided the opportunity to advise on the formulation of legislation, or authorisation instruments, as is common practice in relation to a range of matters across Government.

### **Recommendation 8**

Following implementation of the new legislation, the ACIC undertake an annual assessment of the coercive powers authorisation instruments to enable early identification and remediation of any vulnerabilities which might result in a successful legal challenge to the powers.

Agreed. Given the nature of the ACIC's coercive powers, exercising those powers will always have inherent legal complexity. An annual assessment could highlight any potential or realised challenges, identify the need for any reforms and help to ensure a consistent and complete assessment of legal and legislative risks as they relate to the ACIC's use of coercive powers.

### Recommendation 9

The ACIC have controlled operations-style powers with an intelligence collection purpose, similar to the Special Intelligence Operations framework in the *Australian Security Intelligence Organisation Act 1979*.

The ACIC not have the legal function of undertaking operations that are primarily designed to disrupt criminal activities.

Agreed. The Government supports the ACIC having controlled operations-style powers that are designed for an intelligence collection purpose. This recognises there are circumstances where the ACIC may require protection from criminal liability to undertake activities that generate intelligence on criminal syndicates. The legislation will include robust safeguards, including ministerial authorisation, notification to the Inspector-General of Intelligence and Security (IGIS), and reporting requirements to the Attorney-General and IGIS.

The Government agrees that the ACIC should not be undertaking controlled operations within the regime in the *Crimes Act 1914* (Cth) as that regime is directed toward the collection of evidence in a criminal investigation and is not aligned with the ACIC's intelligence function.

The Government agrees that disruption operations should remain the responsibility of law enforcement agencies.

### Recommendation 10

ACIC staff be able to apply for and execute relevant warrants for the purposes of the ACIC's intelligence functions. This does not require the establishment of a class of ACIC authorised officers. A formal mechanism be established, and appropriately resourced, for the ACIC to reliably receive support from the AFP for the provision of policing powers. These arrangements replace the existing practice of ACIC officers being sworn in as special members by the AFP.

Such an arrangement not preclude state or territory police agencies from providing support through the provision of policing powers to the ACIC where collection of particular intelligence is a priority for their jurisdiction.

Agreed. The Government agrees that staff members of the ACIC should be able to apply for and execute relevant warrants for the purposes of the ACIC's intelligence functions. Necessary safeguards should be implemented such as appropriate delegation levels within the ACIC to limit staff who can apply for and exercise warrants, and training for relevant staff.

There will be circumstances where ACIC officers may be at high physical risk during intelligence operations and require policing support to safely exercise ACIC functions. In the counter-terrorism context, joint teams comprising the AFP and state and territory police provide policing support to ASIO. The Government supports the establishment of a similar mechanism for the ACIC to seek support from the AFP for the use of any policing powers required to support the exercise of the ACIC's functions.

Implementing a mechanism between the AFP and ACIC will not prevent the ACIC from seeking policing support from state and territory law enforcement partners where the collection of intelligence is a priority for that jurisdiction.



### Recommendation 11

The new legislation for the ACIC contain information disclosure provisions that enable the ACIC to:

- use its intelligence to inform all its legislated functions, and
- share it in a timely and equitable way with relevant government entities (Commonwealth, states and territories) and other agencies to assist those agencies perform their functions, as well as private sector bodies.

Agreed. Law enforcement and other partners require the ACIC to disseminate intelligence on TSOC actors and methodologies in a timely way that supports them to take action. Regulatory and policy agencies, private sector bodies and the public may also require access to timely intelligence in order to combat risks associated with TSOC in specific sectors.

The current information disclosure regime inhibits the ACIC from disseminating intelligence in a timely manner and to all relevant stakeholders.

Simplifying the ACIC's information disclosure provisions will enable the ACIC to communicate and collaborate with partner agencies, private sector bodies and the public. Under the new legislative framework, the ACIC will be able to use its intelligence to inform all its legislated functions, in a similar way to other National Intelligence Community (NIC) agencies. The ACIC would also be able to access its national police information holdings for intelligence purposes (subject to consideration of other relevant legislation).

Given the sensitive nature of certain types of information held by the ACIC, it is important that safeguards are maintained and to ensure that unauthorised disclosure of information does not occur, including penalties for unauthorised disclosure. The Government will consider provisions for the protection of sensitive information in line with the recommendations made in the Review of Commonwealth Secrecy Provisions released on 21 November 2023. The Government will also consider any findings of the Independent National Security Legislation Monitor's review of the secrecy offences in Part 5.6 of the *Criminal Code Act 1995*, which was tabled on 27 June 2024.

### Recommendation 12

A new committee, the National Committee to Combat Serious and Organised Crime (the Committee), be established.

The Committee be responsible for developing the national strategy and setting priorities for the national effort against serious and organised crime, including the national criminal intelligence priorities, and advising governments on the appropriate alignment of policy, intelligence and operational capabilities. The Committee prepare an annual report to the Attorney-General and all state and territory Police Ministers through the Police Ministers Council.

Agreed. The Government will establish a new National Committee to Combat Serious and Organised Crime (the Committee). The Committee should set national criminal intelligence priorities, develop national strategy and advise governments on calibration of policy, intelligence and operational capabilities. The Committee should be made up of the CEO of the ACIC, Commissioner of the AFP, all state and territory police commissioners, the Director-General of National Intelligence, the Commissioner of Taxation, the CEO of the Australian Transaction Reports and Analysis Centre, Commissioner of the ABF and Secretaries of Attorney-General's/justice departments. The Director-General of Security, Chair of the Australian Securities and Investments Commission and the Director-General of the Australian Signals Directorate should be invited if there are issues particularly relevant to their responsibilities.

The Committee should report annually to the Police Ministers Council on the effectiveness of the nation's response to TSOC. This will replace the reporting to the current Intergovernmental Committee on the ACC. The Committee represents an important opportunity to bring together all relevant Commonwealth, state and territory agencies at the highest level to consider policy and operational responses to TSOC at the national level.

The Government acknowledges the contribution of existing forums, including the Australian Transnational, Serious and Organised Crime Committee and the Serious and Organised Crime Coordination Committee. AGD, in consultation with members of those committees, will undertake a review of existing forums to consider opportunities to consolidate or streamline those governance arrangements. AGD will provide advice to the Police Ministers Council on the establishment of the Committee and Terms of Reference following consultation.

#### **Recommendation 13**

Legislate a committee responsible for overseeing the development of National Policing Information Systems. The committee also be responsible for providing oversight, advice and making recommendations on expenditure from the National Policing Information Systems and Services Special Account.

Agreed. The Government recognises the importance of appropriate investment in National Policing Information (NPI) Systems, such as the National Criminal Intelligence System (NCIS), to ensure that law enforcement partners are provided with cross-jurisdictional information that supports frontline officers and enhances community safety.

The ACC Act currently requires the ACIC Board to make recommendations on expenditure from the National Policing Information Systems and Services Special Account (the Special Account). The Special Account is currently governed by an intergovernmental agreement with states and territories. The purpose of the Special Account is to fund the scoping, development, procurement, implementation and operation of these systems. Consistent with this existing arrangement, the Government will legislate a committee responsible for overseeing the development of NPI systems and providing oversight and advice to Government on expenditure from the Special Account. Legislating this committee will ensure that state and territory law enforcement partners continue to provide advice on systems and related expenditure from the Special Account to support frontline policing efforts.

#### **Recommendation 14**

Once new legislation has been enacted and the committees in Recommendations 12 and 13 have been established, the ACIC Board be disbanded.

Agreed. Disbanding the ACIC Board will not reduce oversight of the ACIC. The Board will be replaced by new committees including the National Committee to Combat Serious and Organised Crime (Recommendation 12), which will have a similar membership to the ACIC Board but a broader strategic purpose. These new committees, along with the improved safeguards to the ACIC's use of coercive powers, will provide robust governance.

#### **Recommendation 15**

Parliamentary oversight of the ACIC be exercised by the Parliamentary Joint Committee on Intelligence and Security.

As the ACIC would be an intelligence agency, there be no residual oversight by the Parliamentary Joint Committee on Law Enforcement.

The ACIC be oversighted by the Inspector-General of Intelligence and Security, replacing the Commonwealth Ombudsman.

Agreed. Given its core criminal intelligence role, the ACIC is more appropriately overseen by the Parliamentary Joint Committee on Intelligence and Security (PJCIS) and Inspector-General of Intelligence and Security (IGIS).

The Intelligence Services Legislation Amendment Bill 2023, which is currently before Parliament, extends PJCIS and IGIS oversight to the ACIC while maintaining oversight by the Parliamentary Joint Committee on Law Enforcement (PJCLE) of the ACIC's existing law enforcement functions. The Government intends to progress amendments to the PJCLE Act to remove the residual oversight by the PJCLE concurrent with the legislative reforms to repeal and replace the ACC Act. This will not prevent the ACIC appearing before PJCLE inquiries. For example, it would be appropriate for the ACIC to provide submissions, or appear before the PJCLE, for inquiries relating to serious and organised crime.

#### **Recommendation 16**

The ACIC be exempt from the provisions of the *Freedom of Information Act 1982* (Cth).

Agreed. The ACIC has access to a large number of sensitive data sets including law enforcement data but also information gathered through collaboration with other NIC agencies and international partners. At present, the ACIC's sensitive information is not protected in the same way as the information of NIC agencies.

The Government notes that a number of other previous independent reviews have considered whether the ACIC should continue to be subject to the FOI Act, including Dr Allan Hawke 2013 Review of the FOI Act. The Hawke Review also concluded that the ACIC should be excluded from the provisions of the FOI Act to provide protection for information and intelligence held and collected by the ACIC. This recommendation was never implemented by the former Government. As with other NIC agencies, the ACIC will be subject to IGIS and PJCIS oversight to ensure the agency is accountable.

#### **Recommendation 17**

The ACIC have a Legal Counsel at the SES Band 2 level reporting directly to the CEO. The position be supported by two SES Band 1s: one responsible for legal advice, compliance and integrity; and one responsible for legal and operational risk.

Agreed in principle. In order to identify, assess and manage all operational risks, the ACIC will require a strong leadership structure reflective of its new functions. The ACIC should undertake an organisational restructure to give effect to the recommendations from this Review, noting that staffing matters are the responsibility of the ACIC CEO.

#### **Recommendation 18**

The ACIC retain a SES Band 3 Deputy (Intelligence) responsible for the intelligence function. The ACIC also have a SES Band 3 Deputy (Information Systems & Corporate Management) responsible for the National Policing Information Systems and for ACIC corporate management issues.

Agreed in principle. In order to identify, assess and manage all operational risks, the ACIC will require a strong leadership structure reflective of its new functions. The ACIC will undertake an organisational restructure to give effect to the recommendations from this Review, noting that staffing matters are the responsibility of the ACIC CEO.

#### **Recommendation 19**

A separate Office of the Examiners be established within the Intelligence Group, overseen by a legally qualified SES Band 2.

Agreed in principle. A separate Office of the Examiners should support the operations and functions of the ACIC and its Examiners, including its coercive powers function. The Office of the Examiners should identify and assess legal and operational risks that may arise from the exercise of functions of the Examiners, providing the examination function with dedicated high-level SES oversight.

The ACIC should undertake an organisational restructure to give effect to this Recommendation, noting that staffing matters are the responsibility of the ACIC CEO.

#### **Recommendation 20**

A High-Risk Oversight Committee be established that focuses on significant organisational risk and undertakes the annual assessment of the authorisation instruments underpinning the coercive powers (see Recommendation 8).

Agreed. Since the Review was undertaken, the ACIC has established a High-Risk Oversight Committee and will ensure that its Terms of Reference are expanded to specifically cover the additional risk and assessment function set out in this Recommendation and Recommendation 8.

Given AGD's responsibility for the ACIC's legislation, it is appropriate that a senior officer from AGD have membership on the High-Risk Oversight Committee.

#### **Recommendation 21**

The Department of Home Affairs continue to undertake the technical development and delivery of the National Criminal Intelligence System, under a fee-for-service arrangement with the ACIC. This arrangement be reviewed once critical components of policing agency integration and the National Firearms Register are delivered.

Noted. The NCIS is a critical tool supporting law enforcement in performing frontline duties through the sharing of cross-jurisdictional information in near real-time. NCIS directly contributes to important community safety outcomes.

The successful integration of law enforcement and intelligence agencies to NCIS will be a crucial step in fighting crime by providing additional contextual data from all jurisdictions. The ACIC is also the lead on the build of the National Firearms Register (NFR) and once developed is intended to integrate with NCIS.

The technical development and delivery of NCIS is currently managed by Home Affairs under a fee-for-service arrangement with the ACIC. The Government's position is that this function should transition back to the ACIC at an appropriate time that does not impact the delivery of the program of work to integrate the remaining agencies and build the NFR. Realigning the technical development and delivery of NCIS with the ACIC recognises that a core function of the agency is to deliver systems that promote the sharing of criminal intelligence and policing information.

#### **Recommendation 22**

The ACIC focus its recruitment and secondments primarily on the development of high-quality intelligence officers and analysts, through prioritising its annual graduate intake and complementing that with direct recruitment and secondments.

Agreed in principle. The ACIC should uplift its strategic workforce design, recruitment strategy, induction process and training programs to develop and grow the necessary capabilities and skills within the agency to deliver high-quality intelligence products. The agency should leverage and assess the Australian Public Service and NIC workforce plan initiatives to address these challenges. There may be challenges in the recruitment of intelligence officers and analysts given security clearance requirements, specific skills or training, and recruitment pressures on other NIC agencies.

The Government notes that staffing matters are the responsibility of the ACIC CEO.

#### **Recommendation 23**

The ACIC continue to develop and manage human sources both onshore and offshore. The ACIC continue to develop and manage relationships with international partner agencies, as appropriate for its intelligence function.

Agreed. The increasingly transnational nature of serious and organised crime has complicated intelligence collection efforts. Over 70 per cent of high-risk serious and organised crime targets impacting Australia are located offshore. These targets take advantage of geo-political instability and countries with poor governance. There is also an increasing convergence between TSOC and foreign interference activities. For these reasons, human sources, both domestic and offshore, are a vital capability for the ACIC's intelligence collection for the information they can provide to support disruption of these targets. They directly inform the ACIC's analytical and other collection efforts and support its domestic and international partner agencies. The ACIC's human source capability will be subject to robust oversight by the IGIS and PJCIS to ensure appropriate human source management.

The ACIC's relationships with international law enforcement and intelligence partners also provide critical intelligence insights which support the agency's intelligence collection. In continuing these relationships, the ACIC will continue to liaise with the Department of the Foreign Affairs and Trade (DFAT) and relevant NIC agencies as appropriate when engaging with international partners.

#### **Recommendation 24**

The ACIC and the Australian Federal Police develop and manage their international relationships and human sources to ensure they are complementary, not duplicative. The obligation to collaborate on these issues be captured in a Ministerial direction to ensure it is an enduring practice.

Agreed in principle. The AFP also has an important covert human source capability that supports its investigative and operational activities, and which has a domestic and offshore presence. It is critical that the AFP and ACIC continue to work in partnership to manage their international presence and domestic human source capabilities to ensure they are complementary, coordinated and support each

agencies' functions. A Ministerial Direction, or an agreement between agencies, such as an MOU, could capture liaison arrangements and the obligation for the AFP and ACIC to work in close partnership.

When engaging with international partners, the ACIC will continue to liaise with DFAT and relevant NIC agencies as appropriate to ensure the ACIC's international work is complementary to that of other NIC agencies.

#### **Recommendation 25**

The ACIC work with other agencies in the National Intelligence Community (NIC) to explore sharing of capabilities that address the NIC capability priorities. The ACIC continuously benchmarks its technical capabilities against those of other agencies in the NIC and where possible share capabilities with states and territories to uplift the national criminal intelligence capability.

Agreed. It will be important for the ACIC to benchmark its capabilities against NIC partners, and work with them to explore sharing capabilities, to uplift its intelligence collection efforts. Where possible the ACIC will also consider share capability insights with state and territory law enforcement partners to uplift the national criminal intelligence capability.

The ACIC's ability to build its relationships within the NIC will be fundamental to ensuring that Australia's covert intelligence capabilities remain ahead of criminal networks. In particular, the Government agrees that the ACIC has a larger role to play in the fight against cybercrime and the agency should continue to provide its valuable strategic intelligence assessments to allow partners to deploy disruption tactics in that space.

#### **Recommendation 26**

The ACIC CEO present an annual public threat assessment to:

- increase the public's awareness of the prolific and serious nature of the threat from transnational serious and organised crime,
- increase public understanding of the ACIC and its work, and
- raise the public profile of the Commission and thereby assist recruitment.

Agreed in principle. TSOC is a pervasive and growing threat that has an indelible impact on individuals, families and communities. Illicit drugs, cybercrime and money laundering threaten the physical and financial security of Australians. The Government considers it important to strengthen the Australian public's awareness of the threat and efforts by Australia's intelligence and law enforcement agencies to combat it, so that we can develop individual and collective responses to the threat.

The ACIC should present an annual public threat assessment on the TSOC environment. This assessment should highlight achievements of the agency, future strategic priorities, and provide the public with tangible, unclassified information on the national response to serious and organised crime. This will increase public awareness of the impact on the Australian community.

The Government notes the format of an annual public threat assessment is the responsibility of the ACIC CEO.

### Recommendation 27

The ACIC be provided a base level of funding sufficient to ensure uplift and staffing required to support its remit as Australia's national criminal intelligence agency and to sustain the following capability pillars:

- Coercive examinations
- Technical intelligence
- Human intelligence
- Data analytics

The suitable level of base funding be assessed jointly by the ACIC and the Department of Finance.

Noted. It is important that the ACIC has appropriate funding to support its functions and ensure these functions support Australia's response to serious and organised crime. The Government committed \$48.7 million, for one year, to the ACIC in the 2024-25 Budget to continue essential operational activities and address some critical core capabilities. Any further funding is a matter for Government and subject to Government Budget processes.

### Recommendation 28

The National Policing Information Systems and Services Special Account continue to provide an adequate base level of funding for the development of the National Criminal Intelligence System and other systems that maintain policing systems and support the sharing of police information across jurisdictions.

Agreed. The ACIC has an important function to deliver systems and services that enable criminal intelligence and police information to be shared across jurisdictions.

The Government is committed to the technical delivery and ongoing sustainment of NCIS and supports NCIS as a critical tool for law enforcement and community safety. It is important that NCIS and other NPI systems have appropriate funding to ensure law enforcement have accurate and effective data and information technology systems to support them to perform their duties.

The 2024-25 Budget funding of \$109.9 million over two years for NCIS included \$59.9 million from the Special Account. The Special Account will continue to provide funding for the development and maintenance of NCIS, with Government funding decisions to be informed by the recommendations of the new NPI committee outlined in Recommendation 13.

### Recommendation 29

The Australian Institute of Criminology (AIC) remain within the Attorney-General's Portfolio and continue to operate under its own Act, the *Criminology Research Act 1971*.

The Director of the AIC be a statutory appointment, with staff to be Australian Public Service employees of the AIC.

Where practicable and cost-effective, the Attorney-General's Department provide corporate services to the AIC, under a fee-for-service agreement.

Agreed. The Government supports strengthening the AIC's status as a provider of independent crime and justice research by ensuring the Director of the AIC is a statutory appointment, appointed through an open, merit-based selection process. This would enable the AIC to function as an independent statutory office, supporting the independence of its research. Any consideration of broader changes would be subject to an analysis of costs and administrative burden.

