



Submission to the Commission of Inquiry into Organised Crime in Queensland

IN-CONFIDENCE

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The Crime and Corruption Commission (CCC) and organised crime

Under the *Crime and Corruption Act 2001* (CC Act), the CCC has two principal purposes, as set out in section 4:

- (a) to combat and reduce the incidence of major crime; and
- (b) to reduce the incidence of corruption in the public sector.

The definition of major crime in Schedule 2 of the Act includes, inter alia, organised crime. The term organised crime is itself defined as follows:

organised crime means criminal activity that involves—

- (a) indictable offences punishable on conviction by a term of imprisonment not less than 7 years; and
- (b) 2 or more persons; and
- (c) substantial planning and organisation or systematic and continuing activity; and
- (d) a purpose to obtain profit, gain, power or influence.

The definition of organised crime contained in the CC Act has been found over time to be broad enough to be resistant to changes in how organised crime operates. Importantly, it is also consistent with definition of “serious and organised crime” in section 4 of the *Australian Crime Commission Act 2002*. Consistent definitions and terminology across jurisdictions ensures that we have a common understanding of what organised crime is, so that we can share intelligence on nature, extent, impacts and enablers, and be talking about the same thing.

The CCC currently has a mandate to investigate six areas of major crime under general referrals: organised crime; money laundering; terrorism; internet-related child sex offending; extra-familial child sex offending by networked or recidivist offenders; and offences of violence involving victims in a position of particular vulnerability.¹

In fighting organised crime, the CCC has four main strategies:

- identify and investigate high-level operational targets
- focus ongoing intelligence monitoring on priority major crime areas
- remove or reduce the profit motive for crime
- inform government policy responses.

Structure of this submission

The purpose of this submission is to:

- give an overview of organised crime in Queensland
- outline how Queensland-based agencies come together to address organised crime
- detail how the CCC contributes to that response
- bring suggestions for legislative reform to the attention of the Commission of Inquiry.

¹ Three previous general referrals continue to exist only for the purpose of completing operations previously authorised under them: Freshnet, Weapons and Hydra.

The submission is structured as follows:

Part 1 is an overview of the main areas of organised crime, as set out in the COI terms of reference –

- the illicit drugs market
- child sexual offending
- financial crime
- the links between organised crime and corruption
- the enablers and facilitators of organised crime
- likely future trends in organised crime
- gaps in our understanding of organised crime in Queensland.

Part 2 overviews the law enforcement responses to organised crime, including

- the coordination and strategy environment
- the CCC's main response mechanisms
- gaps in our responses
- suggested legislative reform.

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Part 1:

Current and emerging issues in organised crime

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Organised crime: Key focus areas

High-threat illicit drugs and/or precursor markets

Illicit drug markets remain the most prominent and visible form of organised crime activity in Queensland. The CCC conducts assessments of organised crime activity in illicit drug markets in Queensland which includes attributing a level of risk for primary drug markets in Queensland. The CCC will soon commence its 2015–16 crime markets assessment which will involve collection and analysis of information of crime markets and organised crime networks. The process will provide the opportunity to contemporise and re-establish understanding of the scope of organised crime activity in Queensland.

The CCC reviews the risk level of illicit drugs. It produces an annual *Drug and Commodities Guide*, which provides an overview of the most readily available illicit drugs in Queensland and estimates of prices to assist operational police and law enforcement practitioners. The CCC focuses its operational activity on those illicit drug markets assessed as posing the greatest risk to the Queensland community. Recent crime operations completed by the CCC have focused on organised crime groups operating in the methylamphetamine market and the cocaine market in Queensland [REDACTED]

The CCC's last illicit drug market assessment (2012) found that since 2009 there had been minimal change in the level of risk associated with traditional illicit drug markets but there had been substantial growth in illicit markets for non-traditional drugs such as performance and image enhancing drugs (e.g. steroids) and new and emerging psychoactive substances (NPS). It was found that methylamphetamine, particularly in a purer crystalline form (known as "ice"), continues to pose a significant threat to Queensland.

Table 1: Assessed levels of risk for illicit drug markets 1999–2012

Drug market	1999	2004	2009	2012
Cannabis	Medium	Medium ↔	High ↔	High ↔
Cocaine	High	Medium ↑	High ↑	High ↑
Heroin	Very high	High ↑	High ↔	High ↓
Amphetamine-type stimulants — methylamphetamine	High	Very high ↔	Very high ↓	Very high ↑
Amphetamine-type stimulants — MDMA (ecstasy-group substances)	Not rated	High ↑	High ↔	High ↑
New and Emerging Psychoactive Substances (NPS)	Not rated	Not rated	Low ↑	Medium ↑
Pharmaceuticals	Not rated	Low ↑	Low ↔	Medium ↑
Performance and image enhancing drugs	Not rated	Not rated	Not rated	Low ↑
GHB (fantasy)	Not rated	Low ↔	Low ↔	Low ↑

Note on interpretation: ↑ = increasing; ↓ = decreasing; ↔ = stable.

Where a risk level is assessed as medium↑ this means that there is currently a medium-level risk in relation to this commodity but indicators are that this risk level is likely to increase.

Methylamphetamine market

Risk is currently assessed as **VERY HIGH** with an increasing market trend.

The illicit drug market assessed by the CCC as the greatest threat to Queenslanders is methylamphetamine because of its prevalence, significant harms and strong presence of organised crime.

Intelligence collected from a range of sources² indicates an increase in the prevalence of crystal methylamphetamine (ice) in Queensland and entrenched criminal activity in this market. Intelligence indicates strong demand and increasing supply for methylamphetamine across Queensland and in some regional areas. The CCC has received reports of Brisbane and Gold Coast based crime groups supplying methylamphetamine into areas such as Townsville, Mt Isa, Mackay and Rockhampton. Changes in the methylamphetamine market in Queensland, including the increasing demand for ice and reported growth in regional markets, is an intelligence collection priority for the CCC. This issue will be explored in greater detail as part of the upcoming illicit drug market assessment.

The increased demand for ice is attracting greater involvement of organised groups due to the profits available in the market. Ice is the desirable form of methylamphetamine amongst many users, as it can be smoked rather than requiring intravenous injection and it is perceived as being more potent (due to higher purity). The CCC's analysis of Queensland Health Forensic Scientific Services (QHfSS) data for the past five years provides supporting evidence of an increase of high purity methylamphetamine being seized in Queensland.³ An increase in the demand for and use of crystal methylamphetamine in Queensland is also reflected in higher prices paid for crystal forms of methylamphetamine than for powder forms of the drug.

Wastewater data indicates an increase in methylamphetamine consumption in the Toowoomba and Gold Coast communities from 2010 to 2014. Results indicate a much higher use of methylamphetamine within the community than has previously been identified by user surveys. Testing of the wastewater system can estimate levels of illicit drug use by calculating the population size, daily volumes of wastewater produced, and the excretion rate of the drug. The CCC has been analysing data from wastewater treatment plants at the Gold Coast and Toowoomba to help assess changes in the methylamphetamine, MDMA and cocaine markets.

For further information see: *Use of wastewater analysis for drug use monitoring: its potential value to law enforcement* (March 2014)

There are also indicators that organised crime groups in Queensland, including outlaw motorcycle gangs (OMCGs), have become increasingly involved in the illicit precursor market.⁴ The CCC has identified that organised crime groups traditionally involved in heroin trafficking have expanded their activities to become involved in the trafficking of methylamphetamine as well as precursor chemicals to take advantage of these growing markets. The transition by these groups into the precursor chemical market has been enabled by overlapping established international supply networks for the imported commodities.

The ability for organised crime groups to reliably source pseudoephedrine to manufacture methylamphetamine has been affected by domestic market regulation, but there is evidence that organised crime groups have adapted to these regulations and a distinct illicit market for precursor

² Key expert opinions gathered during consultations with representatives from law enforcement and health agencies, human source and operational intelligence, and drug use survey data (Injecting Drug Users Reporting Survey (IDRS) and Ecstasy Users Drug Reporting Survey (EDRS)).

³ QHfSS seizure data.

⁴ The term 'precursor chemical' refers to substances that can be used in the production and/or preparation of illicit drugs.

chemicals has evolved [REDACTED]
[REDACTED]

Organised crime groups are also identifying and accessing substances that are not traditionally associated with illicit drug manufacture, from a variety of legitimate sources, in response to increasing regulatory controls on traditional precursors. A wide range of chemicals that have legitimate use in industry (for example, chemicals used to manufacture fragrances, flavouring agents, fertilisers, gardening chemicals and paints) may be used to manufacture amphetamine type substances (ATS). Such chemicals are not subject to the restrictions and controls placed on traditional precursors such as ephedrine and pseudoephedrine. Intelligence also indicates organised crime groups are increasingly setting up businesses either for the sole purpose of appearing legitimate to obtain precursors or conducting a legitimate business whilst diverting precursor chemicals.

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

The CCC completed a strategic report on trends in the precursor market in Queensland in 2013. See: *Trends in the Queensland precursor market* (July 2013)

CASE STUDIES	IN CONFIDENCE
The following case studies show some of the methods that are being used in Queensland to divert precursors for illicit drug production:	
[REDACTED]	
[REDACTED]	
[REDACTED]	

[REDACTED]
[REDACTED]
[REDACTED]

In Queensland the domestic production of methylamphetamine has traditionally been adequate to supply a relatively stable user base. Since 2010 there has been a considerable increase in methylamphetamine detections at the border. Further, QPS has reported a decrease in the detection of clandestine laboratories in the past twelve months (approximately 30% decrease). This could be indicative of organised crime groups becoming increasingly involved in the importation of high purity “ice” to meet the demands for this substance.

It is noted that despite the 30% decrease in clandestine laboratories detections in Queensland, the number of laboratories detected in Queensland still exceeds detections in other Australian states. The supply of methylamphetamine in Queensland is facilitated by imported product and interstate and regionally produced methylamphetamine. It is believed that imported methylamphetamine is the primary supporter of demand for methylamphetamine both nationally and in Queensland.

MDMA (4-methylenedioxyphenyl-2-propanone) also known as “ecstasy” market

Risk is currently assessed as **HIGH** with an increasing long term market trend.

After a global shortage of MDMA, Queensland drug market indicators suggest that MDMA availability is increasing, which is consistent with the interstate resurgence of the substance.⁶ The lack of MDMA in Australia since mid to late 2008 is largely attributed by law enforcement as the driver for the development and availability of a range of new and emerging psychoactive substances (NPS) and also growth in the methylamphetamine market.

Despite indicators of increasing MDMA availability in Queensland, pills marketed as “ecstasy” continue to contain a range of substances such as psychedelic phenethylamines and analogues of MDMA. In Queensland methylamphetamine is also available in pill form with the drug increasingly being pressed into pills (in conjunction with other substances) and sold as MDMA or promoted as an alternative to MDMA. Intelligence indicates the popularity and frequency of use of MDMA in crystalline (rock) form are increasing.

Organised crime groups are bypassing precursor controls through the identification of new sources of precursor chemicals, and the use of non-controlled “pre-precursor” chemicals, which are then converted into precursor chemicals to facilitate the manufacture of MDMA and MDA (analogue MDMA). Organised groups are also identifying new methods of producing MDMA and MDA. Law enforcement expects to see more ecstasy tablets in the Queensland markets containing MDA which has been produced using this method.

Cocaine market

Risk is currently assessed as **HIGH**.

The Queensland cocaine market remains a secondary market to larger southern markets but there has been expansion in the market in recent years. Intelligence indicates that cocaine use is increasing throughout Queensland, including in regional centres. An increase in the weight of state and national seizures also indicates there is expansion in the cocaine market. The demand for cocaine has traditionally been from users with higher socio economic status than other illicit drug users. Law enforcement agencies continue to report the demographics of the cocaine user groups are consistent

⁶ N Sindich & L Burns, *Australian trends in ecstasy and related drug markets 2013: findings from the Ecstasy and Related Drugs Reporting System (EDRS)*, Australian Drug Trends Series no. 118, National Drug and Alcohol Research Centre, University of New South Wales, 2014.

with educated professionals, wealthy socialites, sporting identities and social drug users. User surveys indicate cocaine is seen as a “special occasion” drug by users of other recreational drugs such as “ecstasy”. The CCC continues to see organised crime involvement in cocaine market in Queensland due to the high profits in this market.

CASE STUDY
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The consistently high price of cocaine and its low levels of purity in Queensland have limited significant growth in the market. Continued growth in the demand for cocaine in Queensland combined with the lucrative nature of the market is likely to lead to a range of organised crime groups attempting to establish a greater foothold in Queensland, particularly in Brisbane and the Gold Coast.

Heroin

Risk is currently assessed as **HIGH** with a decreasing market trend.

There remains an established and stable heroin market in Queensland with concentrated activity in Inala, Oxley and the Gold Coast. The heroin market in Queensland relies heavily on links to consistent supply from Sydney and Melbourne. The heroin market is decreasing which is believed to be largely due to an ageing user group and low uptake among young drug users.

While the heroin market in Queensland is not controlled by particular organised crime groups, [REDACTED]

[REDACTED]

CASE STUDY
<p>Operation Storm was a CCC investigation (2012) into an Albanian/Bosnian drug trafficking syndicate based in the Gold Coast and Logan areas of Queensland involved in the trafficking and supply of dangerous drugs, primarily heroin as well as amphetamine-type substances (ATS) and cocaine. The network serviced a number of heroin distribution points in suburban Brisbane. It is conservatively estimated that the network was responsible for distributing at least 20 kg of heroin, with an estimated street value of \$25 million. In addition to this regular supply, the investigation identified the source of the heroin (New South Wales), the persons involved in the distribution of heroin within Queensland, the distribution points within Queensland and further successfully dismantled a persistent and ongoing presence of heroin distribution throughout South East Queensland.</p>

Cannabis

Risk is currently assessed as **HIGH** with a stable market trend.

Cannabis is a stable and well-entrenched market in Queensland. It is not controlled by specific organised crime groups, however law enforcement agencies⁷ in Queensland have identified a number of family based networks and individual entrepreneurs that have had a lengthy and dominant presence within the market. The cannabis market continues to attract a large and diverse range of participants from

⁷ Consultation with the QPS State Drug Squad

varying backgrounds, with the primary attractions being the profitability and strength of the market. Unlike the situation in some southern states, in Queensland specific organised crime groups do not control the cannabis market.

Cannabis is the most used illicit commodity both nationally and in Queensland. The harms associated with cannabis use are significant and the use of high-potency hydroponically produced cannabis increases the potential harm to the user. Cannabis use is associated with a range of physical and mental health harms to the individual. Cannabis is considered a “background” or “gateway” drug and many cannabis users progress to use of other illicit drugs including poly drug use.

Cannabis traffickers continue to exploit the transport industry, assisting the movement of cannabis from South Australia and Victoria to supplement supply in Queensland. The misuse of the freight and courier industry has been continuing, including heavy haulage trucks used to transport cannabis from South Australia and Victoria into Queensland. The level of sophistication in concealment methods has been increasing for interstate trafficking of cannabis.

Organised crime groups and individuals are engaging the services of mortgage brokers, real estate agents and tradespersons to facilitate cannabis cultivation. The ease and anonymity through which cannabis seeds can be ordered online and the low risk of detection are an increasing attraction for organised crime groups. Cannabis producers are increasingly engaging the services of professionals and trade persons to achieve their outcomes: mortgage brokers and real estate agents were being engaged to identify ideal property locations and types including properties which may be next to national parks and reserves. Builders and trade persons are being used to custom-build hydroponic facilities and modify homes for hydroponic cannabis production. There has been a significant increase in the sophistication and level of organisation of hydroponic set-ups based in Queensland.

Performance and image enhancing drugs (PIED) market

Risk is currently assessed as **MEDIUM** with an increasing market trend.

There has been strong growth in the performance and image enhancing drugs (PIED) market in Queensland in the past few years. The CCC's most recent assessment of the PIED market (2012) reported growth in Queensland, in particular on the Gold Coast and in Northern Queensland. The CCC has continued to see an increase in the use of PIEDs by younger people, particularly male adolescents, and increase in the involvement of OMCGs in the supply of PIEDs.

PIEDs are readily obtainable over the internet, and other sources include distributors at gymnasiums and sporting clubs, supplement stores and various other methods of diversion (for example, at hospitals and veterinary clinics, or by forged and stolen prescriptions). Unethical medical practitioners have been identified prescribing PIEDs without patients displaying the appropriate symptoms to warrant legitimate use. There is little to no regulation of the production and trafficking of PIEDs in many countries. Intelligence indicates that Queensland-based PIEDs users and suppliers, including OMCGs, frequent Thailand to source PIEDs. China and India are reportedly the fastest-growing source countries for PIEDs.

PIEDs have been previously identified as a secondary commodity to other primary illicit drugs: they are distributed by suppliers and detected by law enforcement officers while searching for other drugs.

The CCC has noted increasing OMCG involvement in the PIED market over the past five years. Of note, QPS arrests of OMCG members and associates for both supply and domestic manufacture of PIEDs more than doubled from 2013 to 2014. According to CCC intelligence, the use of steroids is encouraged within most OMCGs so members develop muscular physiques.⁸ This intelligence is supported by the appearance of super-sized upper-body muscles of some OMCG members and the known use of

⁸ CCC Paper – Use of injectable steroids is permitted in CMGs.

intimidation through appearance which has been used to facilitate criminal activity such as extortion. The CCC recently undertook a strategic project to further explore OMCG participation in the PIED market and found there has been a shift from OMCGs predominantly being identified as PIED users in the market to acting as suppliers and manufactures.

Recent investigations indicate there is an increase in the production of PIEDs in Queensland [REDACTED]. [REDACTED] The high profits to be gained from PIED manufacture and supply may lead to greater involvement of organised crime in this market. OMCG involvement in the supply and manufacturing of PIEDs in Queensland is likely to increase with growing demand and minimal barriers. The simplicity for domestic manufacturing combined with the prevalence of PIEDs through gyms and supplement stores presents a challenge for law enforcement to disrupt the production and supply of these illicit drugs.

New and emerging psychoactive substances (NPS)¹⁰

Risk is currently assessed as **MEDIUM**, with an increasing market trend.

In Queensland, the NPS market was first identified as an emerging threat in 2009. The CCC's 2012 illicit drug market assessment identified further growth in the range and availability of NPS, and a gap in law enforcement's understanding of this market. Since 2012, the evolution of the NPS market has been an intelligence collection priority for the CCC and in 2014 we completed a strategic assessment of the market.

For further information see: *New and emerging psychoactive substances market in Queensland (September 2014)*

The project found that the NPS market is volatile and subject to rapid change. Demand for NPS appears to be influenced by trends in traditional illicit drug markets, and driven by affordability, availability and opportunistic suppliers. The use and the availability of NPS in Queensland are particularly high in the Northern and Central policing regions, including mining towns. The prevalence of NPS in those areas is likely to be largely due to a shortage of traditional illicit substances and factors associated with the mining industry, such as high levels of disposable income and the failure of employee-based drug testing procedures to detect these substances. Organised crime involvement in this market remains low compared to some other illicit drug markets but is increasing and it is assessed that organised crime involvement will continue to increase over the next two to three years.

There is evidence that NPS are being produced and distributed at a commercial level in Queensland. Some dealers are importing psychoactive substances and producing NPS products domestically. Marketing of NPS is frequently deceptive — for example, describing NPS as safe or legal, or presenting NPS as traditional illicit drugs. They are also being aggressively marketed to young people by using logos and patterns drawn from popular culture. The harms resulting from NPS use can be very significant. They have included death, suicide, serious injury, and adverse health effects.

The accessibility of NPS and high profit margins has led to new entrepreneurial dealers entering this market, including some with no previous criminal history or connections with illicit drugs.

In January 2015 the CCC released a public version of the NPS report to raise community awareness about the risks associated with using illicit drugs and the growing role of organised crime in producing and supplying these substances.

¹⁰ The term 'new and emerging psychoactive substances' refers to the increasing range of substances designed to mimic the effects of traditional illicit drugs such as LSD, amphetamines, ecstasy, cocaine or cannabis. These substances are typically produced by modifying chemical structures of controlled substances in an attempt to avoid drug regulations.

The following table sets out at a glance the jurisdictional source and supply dynamics for each of the main illicit drug commodities.

Table 2: Overview of illicit drug markets in Queensland

Commodity	Primary Source	Main Supply to Queensland	Source Country	Demographic User Group	Regional Usage
Cannabis	Domestic Production (National) Limited Importation	Local and Interstate (South Australia)	Australia Papua New Guinea	Across all age groups	Widespread throughout Queensland including remote communities
Methylamphetamine	Importation Interstate Production State-based Production	Local small scale (addict based) New South Wales	China/SEA	Across all age groups	Widespread throughout Queensland including major regional centres
MDMA	Importation Limited Domestic Production	New South Wales	Netherlands/ Belgium/ Canada	Younger user groups	Primarily South East Queensland but supply through regions
Cocaine	Importation	New South Wales	South America	Across all age groups but generally appeals to higher socio economic groups	Primarily South East Queensland.
Heroin	Importation	New South Wales	Myanmar, Thailand, Vietnam, Laos, Afghanistan, South America	Ageing user group –low uptake from younger users	South East Queensland and some regional centres
NPS	Importation and limited production	Domestic Retailers Internet	Asia and Europe (online retailers) China (production)	Across all age groups – marketed to young people	Widespread throughout Queensland

High-risk crime groups

The nature and structure of organised crime networks has evolved significantly during the past 20 years. Ethnically based and hierarchical structures have been replaced by individuals and groups that are dynamic, entrepreneurial and prepared to set aside cultural and ethnic bias for the purpose of effective business and financial gain. Groups form on an opportunistic basis and “membership” is based on availability, reliability, and the skills required to achieve specific goals. Specialist criminal activities are outsourced to individuals who may work across multiple criminal networks. Crime groups access the capabilities of other individuals and groups to ensure successful business outcomes. Multi-jurisdictional offending is increasing with overseas and interstate-based crime groups targeting Queensland and Queensland-based crime groups expanding their operations interstate and overseas.

One of the most high-profile and visible manifestations of organised crime groups in Queensland are OMCGs. They play a major role in illicit drug markets in Queensland and are involved in a range of other criminal activity. While OMCGs represent just one aspect of the broader organised crime picture in Queensland, intelligence suggests that the domestic and international connections of OMCGs are increasingly exploited, with gangs cooperating with other club chapters as well as with sophisticated and high-threat organised crime groups operating in Australia and internationally.

CASE STUDY
[REDACTED]
[REDACTED]
[REDACTED]

CASE STUDY
<p>A Brisbane-based syndicate, with members mainly of Chinese heritage, is believed to have obtained [REDACTED] imported from China to NSW, through family connections with a Sydney-based triad syndicate. The commodity would be regularly collected from Sydney by a drug courier and then transported by private vehicle to Brisbane. The commodity would then be sold to a range of clients, including members of an OMCG. The relationship demonstrated in this case between an OMCG and Chinese organised crime would have been unheard of even 10 years ago.</p>

Following an OMCG incident of public violence at Broadbeach on 28 September 2013, the Queensland Government introduced a variety of new laws including The *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013*. This Act included amendments to the *Crime and Corruption Act 2001* which gave the CCC new functions, including the capability to hold hearings in support of its intelligence function regarding criminal organisations or participants in criminal organisations. These have been occurring since late 2013, enabling the CCC to produce a range of intelligence products for dissemination to law enforcement agencies on the activities, methodologies and impact of OMCGs in Queensland.

For further information see:

- *Use of violence and extortion by CMGs¹¹ (February 2015)*
- *CMG infiltration into the Queensland tattoo industry (March 2014)*
- *Changes in OMCG culture in Queensland and the implications for law enforcement (October 2013)*

¹¹ OMCGs were referred to as “criminal motorcycle gangs” (CMGs) between late 2013 and early 2015

Since October 2013, the CCC has focused heavily on the activities of OMCGs and significant intelligence and investigative resources have been applied to understand and address the role and impact of OMCGs in Queensland. [REDACTED]

[REDACTED] While organised crime groups are no longer necessarily defined by ethnicity and ethos, the CCC recognises that ethnicity can remain a strong bonding mechanism for crime groups. Several successful CCC operations in the past five years targeting the trafficking of illicit drugs in Queensland have identified crime groups comprised of members of primarily Balkan heritage. The CCC has noted changes in the behaviour of these groups, both criminally and socially, such as an increased use of violence, overt displays of wealth and among younger participants a move towards “gang-like” behaviour.

[REDACTED]

See: *Changes in Balkan organised crime groups in Queensland* (July 2014)

(IN CONFIDENCE) In one investigation (Operation Storm) the primary target (an ethnic Albanian born and raised in Montenegro) utilised intermediaries, usually young men from within the Bosnian or Albanian communities to conduct the actual drug supply transactions to protect him from detection and prosecution. [REDACTED]

Internet or electronic or technology-enabled child sexual offending, including the child exploitation material (CEM) market

Online paedophile networks can provide a systematic, organised, coordinated and secure environment for the consumption of large quantities of Child Exploitation Material (CEM) and, by creating a heightened demand for new and unique child exploitation material, encourage the commission of child sex offences (CSO). Online paedophiles using these networks are therefore more difficult to detect, investigate and prosecute, especially within the international context in which they operate.

Internet or technology-enabled child sexual offending may be committed by both solitary online paedophiles (i.e. those online paedophiles who use the Internet solitarily to commit CSO and CEM offences) and networked online paedophiles (i.e. those online paedophiles who eventually seek out networks and participate within them).

Solitary online paedophiles include:

- “browsers” who stumble on and store CEM
- “producers” who create CEM for personal use
- “trawlers” who trawl the Internet for CEM without networking
- “groomers” who groom a potential victim, solicit or commit offences against children solitarily (Krone 2004).

Networked paedophiles may also engage in these activities, however there is significant evidence that networked paedophiles have access to – and distribute – greater amounts of CEM and commit organised contact and non-contact offences involving greater numbers of victims (AFP National Media

Team 2011; BBC News 2001; Crime and Misconduct Commission 2011; McKenna 2008; Queensland Police Service 2008). Networked paedophiles may include:

- “collectors” who collect large amounts of CEM, especially secure collectors who use anonymising and encryption technologies to access networks as a hidden way of collecting
- “producers” who produce CEM for distribution, commercially or for free
- “distributors” who trade or share large quantities of CEM
- “offline contact offenders” who physically victimise children and may use a network for ideas, advice and validation as well as producing CEM of their activities
- “groomers” who offend with other online paedophiles or use networks for ideas and advice (Jayawardena 2011; Krone 2004).

Over the past several years it is clear the online and/or virtual environment in which child sex offenders operate continues to change and evolve in line with technological advancements. This has resulted in the rapid expansion of this crime type, particularly the avenues in which child exploitation or child abuse material is made accessible from various online environments. As a result, the prevalence of users accessing and distributing child exploitation material, both as individuals and as part of an organised network, has developed to the point where global law enforcement is realistically unable to adequately address the increase in prevalence of offending despite a coordinated, international approach.

Demand for new and unique child exploitation material continues to drive the cycle of abuse of children internationally and the challenge for law enforcement is how best to identify those offenders who are responsible for the contact offending against children and limiting those persons who are responsible for feeding the global demand for new child exploitation material.

In order to be effective in detecting, apprehending and successfully prosecuting offenders, law enforcement officers need to adapt quickly to a rapidly shifting environment. The nature and platforms utilised by child sex offenders continue to change in an attempt to avoid detection. Compared to other online paedophiles, networked online paedophiles tend to display a higher level of self protection techniques (Jayawardena 2011), which include many varieties of anonymous proxies and the use of hidden, decentralised and encrypted services.

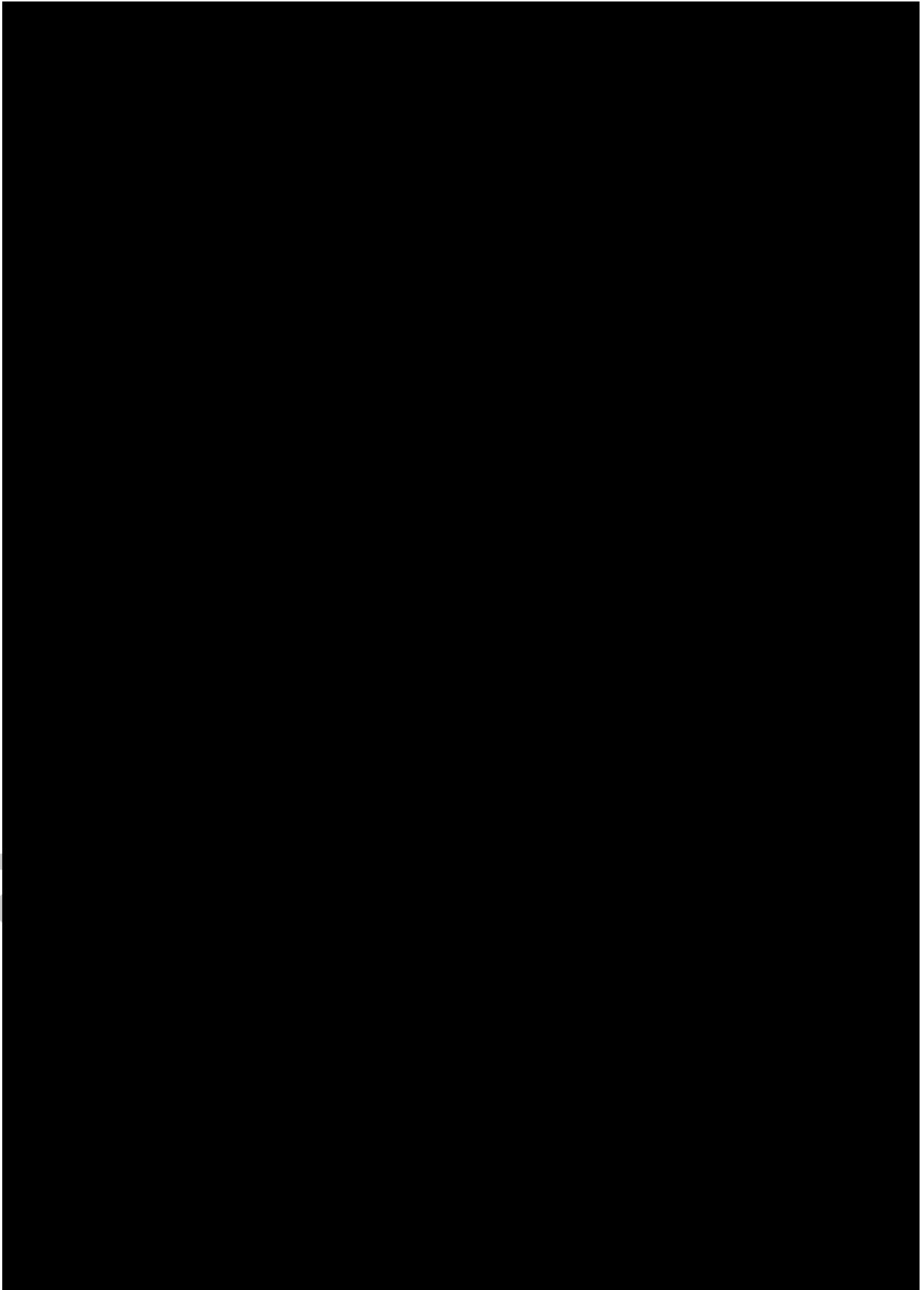
The use of online networks by paedophiles and people wishing to sexually victimise children is growing. Corresponding to increased uptake in online communication among the general population, including the widespread use of the Internet by children, online networking between paedophiles appears to have become increasingly prevalent (Federal Bureau of Investigation 2005; Sheldon & Howitt 2007). The Internet provides paedophiles with a real and perceived anonymity with which to network for legal and illegal purposes. Furthermore, with the increasing sophistication of software and hardware (especially stable, fast and affordable broadband Internet connections), the Internet also provides an effective and easier medium for interacting with children and conducting CSO and CEM offences. The perpetrator is further “removed” from the offence, giving him or her a sense of anonymity, safety and protection as well as easy access to a vast range of material.

The extent of the online CEM market is difficult to quantify. Sources such as Bourke and Hernandez (2009, p. 184) have cited a CEM industry worth \$1–20 billion dollars per year, although these claims cannot be substantiated by verifiable research. The United Nations Office on Drugs and Crime (2010, p. 211) estimates a potentially more realistic annual value of US\$250 million dollars per year.

A study of peer-to-peer (P2P) networks in 2013 identified over 2.5 million distinct peers from more than 100 countries sharing CEM on two particular networks (Hurley et al. 2012). On one network alone (Gnutella, with over 700 000 peers), nearly 10 000 unique CEM files were trafficked each day (Hurley et al. 2012).

The case studies below are drawn from the CCC’s investigations of Peer to Peer (P2P) environments, including closed online networks that have resulted in the identification of child sex offenders. These offenders can be categorised as collectors of child exploitation or child abuse material and

those who distribute the material, making it available to other users within this online environment. These investigations have identified offenders who have offended against children, i.e. the commission of sex offences against children under 16 years of age. The case studies illustrate some of the types of exploitation to which children may be subject.



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Additional detailed case studies can be found in Appendix 1.

Challenges for law enforcement

The continual evolution of the online environment in which child sex offenders operate presents significant challenges to law enforcement. In order to keep pace with this changing environment, law enforcement agencies operating in the area must:

- develop flexible and responsive strategies that keep pace with rapid technological evolution
- build and maintain networks to enable effective multi-jurisdictional operations and information exchange
- effectively communicate forensic evidence to prosecutors and the court
- monitor the nature and prevalence of offending, to assess the effectiveness of law enforcement responses.

Rapid evolution of child exploitation methodology

The number, type and accessibility of platforms utilised by child sex offenders continues to evolve rapidly as users attempt to avoid detection. [REDACTED]

[REDACTED] Similarly a recent trend has been for paedophiles to target single mothers in on-line dating applications in order to access and groom children. The dynamic nature of this evolving type of offending demands that law enforcement operating in this area maintain a high level of training and visibility of developments in both technology and methodology.

Categorisation of CEM images

Law enforcement officers in Queensland currently experience significant difficulties in respect of describing and categorising child exploitation images for prosecution and sentencing purposes. Further detail of this issue is provided in the discussion of legislation on page 69.

Financial crimes – primarily investment and financial market fraud and financial data theft

Until recently the CCC has had limited investigative focus on organised financial crime. Since 2014 it has held hearings in support of a QPS investigation and more recently conducted its own investigations into cold call investment frauds (CCIF), often described as “boiler room” frauds, based in Queensland.

Hearings-based assistance to QPS Investigations

CASE STUDY
<p>Operation Mike Reflection</p> <p>In early 2014 the Criminal Economy Unit of QPS Task Force Maxima sought hearings assistance from the CCC in relation to an alleged Gold Coast-based boiler room which was promoting two investment schemes. These schemes operated by setting up a “front man” as the person in whose name companies were established to engage in “trading” activity. Client funds were deposited into bank accounts held by these persons, for which they received a small payment. The operations continued until a critical mass of complaints from disgruntled customers were received, at which point the company was shut down and commenced as a differently-named operation.</p> <p>Hearings were undertaken to explore the operations of the particular network under investigation, but progressed to explore the “boiler room industry” more generally, including identification of its methodologies and key players. [REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

Current CCC cold call investment fraud investigations

In 2014, following engagement with the Criminal Economy Unit of QPS Task Force Maxima, the CCC commenced the first of two current investigations into alleged boiler room fraud based on the Gold Coast. The CCC is applying substantial resources to these investigations and has formed a Special Investigations Unit for the purpose. Likewise the QPS has contributed substantial human resources enabling the creation of police task forces to assist the CCC in undertaking the investigations.

The suspected fraud that is under investigation relates to companies engaged in the marketing of the following products:

- Sports arbitrage software
- Gambling products
- Managed betting
- Investment software packages
- Financial management services.

Due to the currency of these investigations, only limited information can be provided at this time. However in broad terms the criminal methodology that is being identified can be described in the following terms.

Contact with victims

- Contact with victims is generally by cold calling whereby victims' details are obtained from lead sheets purchased by the company. Persons employed at call centres contact victims to encourage them to invest in the schemes or purchase software packages. In some instances, victims have referred other family and friends based on the representations made to them to induce them to invest. Promises of substantial returns and guarantees of profit usually accompany the representations.
- Persons contacting victims use false names.

Reality

- After victims have purchased software or invested in managed betting or investments, profits appear to be fruitful for a period before they commence to decline. This is to allow the scheme to continue until such time as the company shuts down and victims no longer can contact anyone.
- Companies involved in these fraudulent enterprises generally operate until either guarantee periods are due to expire or internet complaints start to impact on the scheme.
- Closure of companies – After the victims have been scammed of their money, or managed funds have been depleted, the company shuts down only to re-commence under a different name.
- Directors are usually “dummy directors” (often vulnerable and/or commercially illiterate persons) paid to simply have their name on the ASIC registers and banking accounts to distance the principal operators from the scheme.

Due diligence

- Victims of these schemes have attempted to conduct due diligence on the companies including checking the registration of the companies with ASIC, checking for online complaints or adverse comments about the company and also checking directors. Some victims have also sought testimonials from other clients who have purchased the products and checking business premises.

Some problems with due diligence checks are:

- **Trading history** — Companies used in these schemes are usually companies that have been registered for many years as shelf companies but have not been trading and therefore have no complaint history. The company purchases the shelf company to give an impression of lengthy trade.
- **Directors** — Directors of companies have been back-dated (in some cases back-dated a number of years) to give the impression that the director has been running the company for a considerable period of time. Directors are usually persons with no involvement in the companies and merely receive payments to sign paperwork.
- **Business addresses** — The business address is generally a virtual office which is often located in a different State. Receptionists at the virtual offices are employed to purport that the business operates from that location and can include presenting boardrooms to further give the impression the company operates from that location. The actual location of the trading room is not identifiable to the victims.
- **ASIC complaint history inquiries** — Because the companies have not been trading, inquiries with ASIC do not reveal any history of complaints.
- **Online complaints** — At the start there are no complaints. During the course of the companies' fraudulent activities, the companies employ individuals to engage with internet providers to have any new online complaints removed from the internet.
- **Testimonials** — Companies employ other persons in the company including telemarketers to contact potential clients and purport to be customers who have purchased the package and then sing the praises of the product.
- **Trial periods** — Potential investors are often offered trial periods to test the packages. In these situations the data provided to the victim is manipulated to give a false representation of the progress of the investment. To achieve this, bets or investments are entered on the data base after the result of the race/competition or after the trading has been done.

The CCC envisages that the experience derived and yet to be derived from its current CCIF investigations may give rise to law reform proposals to aid in the disruption or dismantlement of boiler room fraudulent enterprises and the recovery of monies by defrauded investors.

A specific issue that has already arisen relates to the safeguarding and return of monies suspected of being derived from fraudulent activities. In short form, what steps may and should be taken where a law enforcement agency discovers the existence of substantial funds in a bank account in the name of a company suspected of having been created to engage in CCIF fraud? The issue of victim compensation is discussed on pages 72–73.

The CCC notes that it is likely that other issues raising the need for law reform will emerge as current investigations progress.

Real estate fraud

There have been reports of frauds involved in real estate transactions on the Gold Coast. These apparently occurred in the 2007-11 period (approximately). While the number of frauds involved is not large, it appears that the amounts defrauded from innocent people are significant. In addition, the public records have been distorted in these cases. It has been reported also that a small number of solicitors and/or real estate agents have been complicit in these frauds. The CCC has not investigated these to date.

Organised crime and public sector corruption

Organised crime and corruption can be interlinked, most often when organised crime groups form corrupt relationships with public officials to gain an advantage (for self or others) to continue criminal activity. However, the CCC's experience is that in Queensland, since the Fitzgerald Inquiry era, corruption is most often opportunistic rather than endemic. One of the common types of corruption identified during the Fitzgerald Inquiry was "protection of offenders". The CCC has continued to investigate allegations of police officers and public sector officials protecting the activities of criminals and involved in criminality. Some of these investigations have involved persons who were directly or indirectly connected to serious and organised crime networks, however the majority of Queensland-based investigations involve criminal activity that does not involve persons who have connections with organised criminal networks. Protection is usually alleged to take the form of the release of confidential information from police databases or in relation to operational activity.

There has been no significant evidence observed of organised crime entities attempting to proactively infiltrate government departments or agencies for the purpose of furthering their criminal activities. This is not to suggest that such conduct is not a real risk to government, but the CCC is unable to point to this being a significant corruption problem at this point in time. Part of the CCC's corruption function is to head off any such large-scale intrusion before it becomes established.

Corruption risks

Whilst the public sector is exposed to risks of corruption from a variety of sources, both external to the organisations and from within, by their own employees, there are some areas in which the CCC believe the public sector may be particularly attractive to organised crime groups. Law enforcement agencies and public sector agencies which are responsible for controlling regulatory activities or producing identification documents are at risk of being targeted by serious and organised crime networks. More broadly, the CCC believes that any government agencies which have access to or relate to a number of functions may be attractive to organised crime. Such functions include:

- **Databases:** personal and business data and other official documents
- **Controlled goods:** pharmaceuticals, hazardous compounds, arms, ammunition, and explosives
- **Licensing and accreditation processes:** Transport (licences and registration), Security (Security Operator licensing and criminal history checks), Liquor (licences, inspections/raids, bulk stores), Gaming (money laundering and match/race fixing), prostitution, tattoo parlours
- **Operational intelligence:** Police (Intelligence holdings, upcoming search and arrest warrants, operational methods and human sources), Corrections (prisoner movements/discharge dates and security systems), Security (IT, alarm and CCTV systems), Freight movement (cash/valuable goods in transit, goods in bond)
- **Financial transactions:** Money laundering, unexplained wealth
- **Uncontrolled goods:** all attractive items liable to ordinary theft.

CASE STUDY

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CASE STUDY

Compromising behaviours in the Queensland Police Service

Operation Tesco (2009–10) revealed some long standing problem behaviours among police officers on the Gold Coast which included:

- improper associations
- the receipt by police of gifts and gratuities
- cultural reluctance to report misconduct
- alcohol and drug use.

The conduct occurred around an environment — the Gold Coast nightclub industry — which is known for its strong relationship with organised crime. Such an environment is conducive to “grooming” of police officers by criminals and can be a “slippery slope” for officers who are not strongly resistant to corrupt influences.

Although the QPS responded swiftly when these issues were reported, some of the problems identified continue to be seen in CCC investigations today.

See *Operation Tesco: report of an investigation into allegations of police misconduct on the Gold Coast* (June 2011) (public report available at www.ccc.qld.gov.au)

The use of prohibited substances, including performance and image enhancing drugs (PIEDs) by police officers continues to be of concern to the CCC and an identified corruption risk. There is an increase in the use and

availability of PIEDs in Queensland and it has been identified that the use of PIEDs by police officers could be exploited by suppliers, particularly members of OMCGs, to assist in their criminal activities. In 2012 the CCC completed a strategic report in relation to the use of steroids by police officers.

See: *Anabolic and androgenic steroids: use by police officers* (August 2012)

CASE STUDY	IN CONFIDENCE
[REDACTED]	

Enabling factors

The CCC has identified a number of factors that may enable organised crime groups to corrupt public sector officials. These factors include:

- Vulnerabilities or weaknesses in internal control mechanisms and practices
- Poor supervision
- Introduction of new technologies

- Improper associations between employees and their friends and family. Many UPAs (except QPS) do not have policies and procedures requiring public officials to report and manage inappropriate associations
- Poor recruitment processes such as inadequate vetting processes where only a criminal history check is undertaken (or not undertaken at all)
- In the case of the QPS, the lack of a directed transfer policy enables police officers to stay in a single region long-term. This has been a particular and longstanding issue on the Gold Coast (see Operation Tesco, referred to above) [REDACTED]

Risk-minimisation strategies

In order to protect the Queensland community from the threat of organised crime, the following measures are useful in identifying and managing corruption risks:

- the requirement for high-risk agencies or positions to have Declarable Associations policies in place
- investment in data mining to enable agencies to proactively identify and manage inappropriate associations
- well considered recruitment strategies including stringent vetting processes
- strong internal control mechanisms and practices, particularly around sensitive work practices
- in relation to QPS, a directed transfer policy
- “zero-tolerance” policies, supported by severe penalties for staff who knowingly assist criminals, either directly or by inaction, in corrupting officials or official processes
- timely exchange of information between law enforcement agencies.

Managing undesirable associations

Certain positions are high risk by virtue of the functions performed or the access such a position allows to valuable or sensitive information/assets. In order to minimise potential corruption risks, the CCC recommends that agencies:

- a. conduct a risk assessment to identify information, assets and materials attractive to corrupting influences and on the effectiveness of the controls employed to safeguard those assets
- b. implement a “Declarable associations” policy.

Such a policy requires staff to identify and properly manage any relationship that is incompatible with or may compromise the work of their agency, or one which could give rise to a conflict of interest.

The need for such a policy may be determined by the nature of the agency (e.g. Department of the Premier and Cabinet, Police, Corrections, port authorities, integrity agencies, and Justice and Attorney-General) or by the nature of the function performed (e.g. systems administrators, licensing or other regulatory roles). All government departments should undertake an audit to identify high-risk areas in which their employees should complete (and keep current) a statement of their declarable associations.

Additionally, mandatory staff rotations in identified high risk roles and within identified agencies will ensure professional distance in the oversight/client relationship and minimise risks inherent in familiarity, territorial claims and habitual use of government assets.

The CCC's role in corruption prevention

Until 2014, the CCC had a statutory corruption prevention function, designed to assist government and units of public administration prevent misconduct by identifying and protecting themselves against high-risk activities, persons or other threats. It achieved this by identifying systemic weaknesses or gaps with the making of recommendations, either agency-specific or more broad-based, to reduce opportunities for misconduct/corruption.

Although the function was repealed in 2014, the CCC considers there remains ample justification for its resources to be re-applied to prevention of public sector corruption. A reinvented corruption function could be developed with a whole-of-organisation strategic direction for prevention, including:

1. the mapping and analysis of the CCC's extensive historical data holdings of public sector complaints, to identify high-risk areas or examine emerging corruption trends
2. use of the Strategic Intelligence Unit to assist with identification of high-risk persons
3. upon identification of targets or areas of high risk, use of proactive corruption investigations eg Project Dorsel
4. the external communication of noteworthy investigations or audits, e.g. more direct engagement with executives and public sector leadership, and innovation in relation to recurring problems such as conflict of interest and procurement fraud.

Reclassified as Public
as at 4 April 2016

Organised crime enablers

Cyber and technology-enabled crime

Technology underpins a range of organised criminal activities. It can be used to disguise communication between criminals, create false identities or mask a criminal's true identity. Innovations in technology have enabled crime to be committed remotely, which can provide some insulation against detection and prosecution. Increased accessibility to technology means that a much broader range of people can move in and out of the market at will. The CCC completed a strategic report on technology trends affecting organised crime in Queensland and the implications for law enforcement.

For further information see: *Technology trends affecting organised crime* (April 2013)

Emerging technologies are transforming local and global crime markets. New technologies are creating opportunities for organised crime groups to undertake high value criminal activities, at high speed, with fewer resources. New technologies have provided further opportunities for organised crime in financial sectors. Prevalent organised criminal activities that are facilitated by the use of technology include fraud-related offences, identity crime, and money laundering. Cybercrime committed against Queenslanders is understood to be largely carried out by individuals and organised crime groups based offshore. However, increasing awareness of, and access to, online criminal forums and marketplaces (such as "darknets") is also enabling Australia-based cybercriminals to share information and to trade illicit services and commodities internationally.

Social media has been employed by organised crime groups in Queensland for the recruitment of new members, communication between members, and to target potential victims. Such platforms give organised crime groups access to individuals who can be filtered according to their interests, locations and contacts. The use of social media for criminal purposes is likely to become more widespread as more offenders and more potential victims create online profiles.

Online communication allows individuals and groups that might be socially or geographically distant to connect and cooperate. It creates opportunities for overseas-based groups to remotely target Queensland without the need for local support networks.

Increased reliance on electronic financial transfers across legitimate markets has resulted in a shift away from physical cash. This trend is being reflected in Queensland crime markets, with groups transferring money overseas, exploiting the accounts of innocent third parties, and using virtual currencies¹² to avoid law enforcement detection and to launder proceeds of crime. The use of virtual currency ensures that monetary transactions cannot be intercepted or blocked by regulatory agencies.¹³ The unregulated environment of Bitcoin and anonymity of transactions make Bitcoin attractive to organised crime for money laundering. Queensland-based offenders have been identified using Bitcoins to purchase illicit commodities such as drugs through the darknet.¹⁴

12 Virtual currencies are a form of 'digital cash' that exist solely in a digital form and all transfers are final. Although they are legal, virtual currencies are unregulated and are not backed by a central authority such as a national government that guarantees the currency's value.

13 Crime and Misconduct Commission, *Hidden in plain sight: darknets and virtual currencies — the challenge for law enforcement*, CMC, Brisbane, 2012.

14 ALEIN IR serial number 61495849 and consultation with ACBPS.

CASE STUDY

During a CCC investigation it was identified that a primary target installed a Bitcoin ATM at his business premise [REDACTED] in May 2014. It was reportedly the first one of its kind to be installed in a business premises in Queensland. It was reportedly purchased for \$15 000 from the United States.¹⁵ During the closure of the operation, the QPS Fraud and Cyber Crime Group seized the Bitcoin machine for examination to retrieve digital evidence from ATM storage media. Currently, the relevance of the Bitcoin machine to the criminal network remains unknown. At the time this was one of two Bitcoin ATMs in operation in Australia.

It is assessed that a Bitcoin ATM could be used by its owners to accumulate bitcoins then buy illicit commodities on the darknet e.g. Silk Road 2. The machine could also be used to convert the bitcoins that have been made through the sale of illicit commodities on darknet markets, into cash. Bitcoin ATMs may also be attractive to an individual who deals in cash (legitimately or not) and would rather save the cash in Bitcoin than in a bank account, thereby avoiding cash transaction recording processes (e.g. through Australian Transaction Reports and Analysis Centre AUSTRAC).¹⁶

Online drug sales

New technologies allow Queensland-based individuals – some in remote locations – to engage directly with international drug markets. Traditional and non-traditional illicit drugs can be bought and sold from marketplaces and websites operating on the Darknet, and to a lesser extent on the surface web (internet). Queensland-based offenders are using hidden areas of the internet called darknets¹⁷ to access criminal marketplaces. These marketplaces – [REDACTED] are used to buy and sell illicit commodities such as drugs, as well as uncut gemstones and stolen credit card numbers. These online criminal marketplaces are comparable with eBay, with users able to search for particular products, contact vendors directly, and rate other users based on the quality of the service and product. They are associated with high levels of encryption and anonymity, making it difficult for law enforcement to identify users.¹⁸ Silk Road was the most popular and well-known illicit drug market operating on the Darknet until it was disrupted in late 2013 when the alleged founder was arrested by United States authorities [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

15 <http://www.brisbanetimes.com.au/queensland/queenslands-first-bitcoin-atm-installed-in-south-brisbane-20140516-zrffy.html>

16 <http://www.networkworld.com/article/2167059/malware-cybercrime/bitcoin-atm-is--horrible-for-money-laundering---co-creator-says.html>

17 Darknets are hidden areas of the Internet that can be accessed using special software. They can also include private online networks formed with trusted associates to exchange information and data.

18 Tor, Freenet and I2P are the main Darknets that contain illicit content.

Communication technology

Highly secure communication technologies are increasingly employed by organised crime groups across Queensland. There is widespread use of encryption, both by groups that deliberately seek out highly encrypted platforms to protect their communications, [REDACTED]

[REDACTED]

CASE STUDY	IN CONFIDENCE
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]

Violence and extortion

Violence and extortion continues to be used by organised crime groups in Queensland as both a means to facilitate criminal activity and for financial gain. As previously stated the CCC has identified an increased use of violence by Balkan crime groups in Queensland in recent years and a move towards “gang-like” behaviour. It has been noted that younger Balkan crime entities in particular are attracted to gang culture and are more visible in their use of violence.

The most prominent and visible organised crime group involved in the use of violence and extortion in Queensland is OMCGs. CCC intelligence confirms the ongoing use of violence by OMCGs to extort money and assets from a range of targets including legitimate business owners, non-affiliated drug dealers, rival OMCGs, people operating in OMCG territory and fellow gang members. The OMCG brand is heavily relied upon as a means to gain compliance for extortion demands. Some OMCGs at the chapter, state and national levels are exploiting the use of their brand for profit and have sanctioned criminal activity committed by members and associates. The CCC completed a strategic report on the use of violence and extortion by OMCGs in early 2015.

In Queensland, law enforcement hearings and investigations over the last 18 months confirm that gangs are continuing to exploit their violent reputation for the financial gain of members and associates. However, there is evidence that such violence has become more brazen over time. In particular, younger OMCG members and associates have appeared to be more willing to commit acts of violence in public — including using weapons— as a means of extorting cash and other commodities such as vehicles from victims. The number of extortion offences reported to the QPS since 2011–2012 rose sharply from 43 reported offences in 2011–2012 to 122 in 2013–2014. Although it was not possible to determine the exact percentage of extortion offences that were OMCG-related, a review of the available data indicates that the majority of arrests for extortion have involved offenders who are believed to be members or associates of OMCGs. Most other reported extortion offences in the period from 2012–2014 involve low level criminals and do not appear to be organised.

It is suspected that the increase in reported extortion offences is largely due to law enforcement agencies focus on OMCGs since the introduction of anti-criminal gang laws in October 2013. In addition, it is likely that victims may feel more comfortable reporting this type of activity to police because of the heightened attention and media coverage on OMCGs. (IN CONFIDENCE)

Other methodologies

There appears to be a general increase in the knowledge of law enforcement methodology among organised crime groups which is increasing the complexity of investigations. [REDACTED]

[REDACTED]

CASE STUDY	PROTECTED
[REDACTED]	

[REDACTED]

CASE STUDY	IN CONFIDENCE
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Legitimate and illicit business

Organised crime operates within, and alongside, legitimate business. This can make it difficult for law enforcement, government and industry to identify the criminal component. Criminal enterprises can be established in such a sophisticated way that they have a legitimate facade that masks their criminal activities. Legitimate businesses may also (knowingly or unwittingly) provide facilities and financial instruments that organised crime groups use for money laundering or fraud.

Facilitators

As organised crime infiltrates various markets and sectors of the economy, its activities are often supported by, or outsourced to, a range of people with specialist skills and/or who have access to information or infrastructure. These people are typically industry professionals or persons capable of providing other services. They are termed “facilitators” because they help (knowingly or unwittingly) to facilitate the criminal activities of organised criminal groups.

Organised criminal groups are motivated to use facilitators for two main reasons:

- They may lack the necessary skills, knowledge or access to carry out crimes, including in particular sectors such as in complex financial or computer-based sectors.
- Using facilitators helps criminals distance themselves from criminal activity and, correspondingly, professionals can give criminal activity the appearance of legitimacy.

Some facilitators are willing and paid for their assistance, which they knowingly provide. In an era of increasingly competitive business markets, legitimate companies and individuals may switch to unethical practices to survive. Providing services to criminal groups may represent an attractive source of income. Criminal networks are skilled in identifying and exploiting these weaknesses. Indeed, some facilitators may assist because they have been coerced through blackmail and intimidation.

Other facilitators may be entirely unaware they are in fact facilitating crime: organised criminals depend on professional advice and services just as ordinary people do.

Types of facilitators

Professionals

Particular professions can be useful to the activities of organised criminal groups, for example:

- accountants
- financial advisers or planners
- bankers
- lawyers
- private investigators
- information technology specialists
- chemists
- real estate agents.

Professional facilitators play a key role in helping criminal networks to operate undetected across both legitimate and illicit markets. Some professional facilitators may apply their specialist knowledge and expertise to exploit legal loopholes, find opportunities for criminals, or help criminals retain and legitimise proceeds of crime. Accountants and lawyers, for example, may be engaged because of their capacity to provide financial advice, establish layered corporate structures and manage trust accounts. Such capabilities allow organised crime groups to launder the proceeds of crime, avoid tax, disguise criminal activity, avoid regulatory controls and frustrate law enforcement intervention.

The increasing use of professional facilitators represents a significant concern to law enforcement agencies. Current and potential impacts include:

- broadening of the sectors that are open to criminal infiltration
- exploiting vulnerabilities in business sectors
- damaging the integrity and reputation of sectors in which professional facilitators operate
- allowing criminals to distance themselves from their criminal activity by blurring the lines between what is legitimate and what is illegal
- creating additional cost to Australians through lost income to governments.

The recent *Evaluation Report* issued by the global Financial Action Task Force (FATF) in respect of Australia's anti-money laundering and counter-terrorist financing measures noted the "major risk" that is posed by professional facilitators (including, in particular, lawyers, accountants and real-estate agents) in facilitating the establishment of legal structures and advice to facilitate money laundering by organised crime groups.¹⁹ The following table shows the categories of business and profession that were identified as being of particular risk in the money laundering context.²⁰

¹⁹ FATF, *Anti-money laundering and counter-terrorist financing measures in Australia* (2015), 2.23.

²⁰ *Ibid*, 5.5, Table 5.2.

Table 3: Businesses and professions that pose a risk in the money laundering context

Business / Profession	Number of entities in Australia
Lawyers	56,000
Notaries	260
Accountants	150,000 CPA Australia members in 121 countries
Precious metals and stones dealers	82 bullion dealers, 1100 jewellery outlets
Company formation agents	300
Real estate agents	35,019

Persons with access to skills, knowledge and information

The activities of organised criminal groups may also be facilitated by persons who are not members of a profession or professionally qualified, but who, nevertheless, have developed a specialist skill base and/or extensive knowledge, or have access to valuable information and knowledge.

A primary case in point is persons who have developed expertise concerning the manufacture of dangerous drugs and precursor substances. Such persons may be engaged by various organised criminal groups, and develop their skill set, over time. They may be involved, for example, in the “cooking” of methylamphetamine, in the manufacture or extraction of precursor chemicals, or in the conversion of one substance into another (such as a “proto-precursor” into a precursor chemical, or methylamphetamine oil into ice).

It may be attractive for organised criminal groups to engage these sorts of persons because of their propensity to knowingly engage in criminal activity. Professional facilitators, on the other hand, usually must overcome a code of conduct enshrining their moral and ethical obligations if they are to knowingly assist organised crime, which may act as a deterrent to their involvement.

Facilitators of the kind described are not mere “assistants” to the organised criminal group concerned. Rather, by knowingly contributing their skills or information, they are fundamental to the success of the criminal activity being engaged in.

Another instance is persons who are “insiders” – those who, by virtue of a position of trust they hold, have information and/or knowledge. Employees of private companies or government agencies may have access to database information, or have knowledge of processes, practices or institutional weaknesses, which may be useful to organised crime groups to facilitate their activities. Examples would include the employees of banks, casinos, insurers, cash-in-transit operators, shipping agents and some government departments or agencies.

Organised crime trends

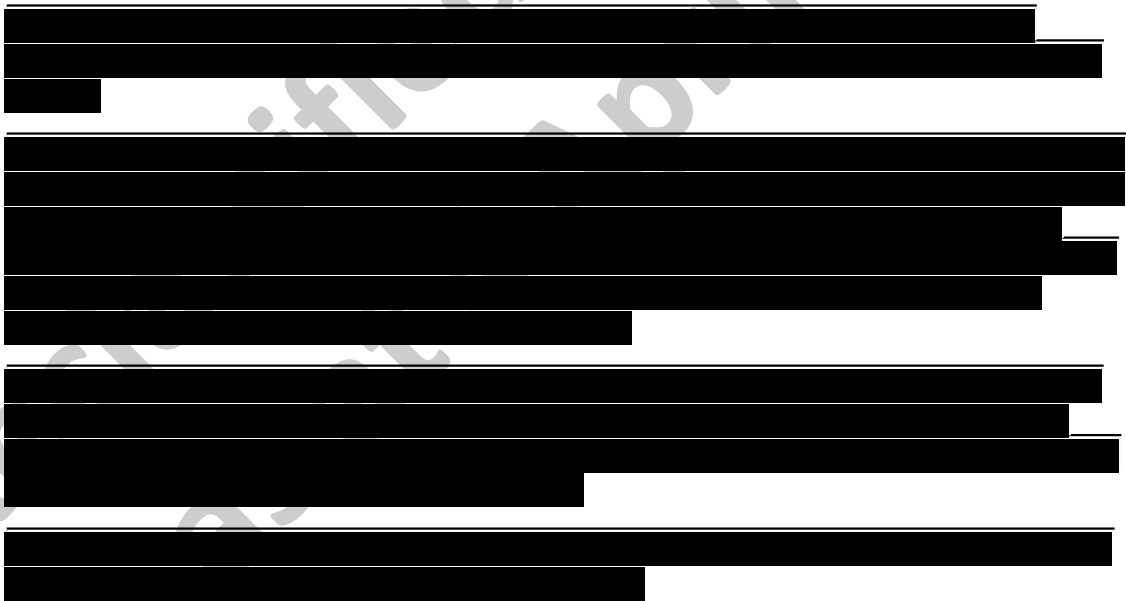
The following organised crime trends have been identified from CCC intelligence, investigations and hearings and monitoring of organised crime and illicit markets.

Organised crime

Organised crime groups in Queensland are developing in ways that mirror large corporations. These developments include the centralisation of operations, greater connectivity, growing sophistication, increased professionalism, and long term strategic planning geared towards growth. This is leading to more sophisticated criminal activities, broader criminal networks, and groups with greater capabilities. As a result, multi-jurisdictional offending is increasing with overseas and interstate-based crime groups targeting Queensland and Queensland-based crime groups expanding their operations interstate and overseas.

Organised crime and the methylamphetamine market in Queensland

Organised crime involvement in the Queensland methylamphetamine market is likely to continue to grow due to strong demand for the drug, particularly in crystalline (ice) form and the high price it attracts. This may lead to attempts to manufacture "ice" domestically in larger scale clandestine laboratories and/or increasing importation of the substance.



Illicit drug markets

Continued growth in the demand for cocaine in Queensland, combined with the lucrative nature of this market, is likely to attract more organised crime groups.

The clandestine production of NPS in Queensland is rare as substances are readily available for individuals to purchase via the internet and darknet. However, NPS production and supply by organised crime groups in Queensland may increase if changes in international regulations and online marketplaces affect availability of these substances or if border detection increases.

There has been an identified increasing in the domestic production of PIEDs in Queensland. [REDACTED]
[REDACTED]. There has been a shift from OMCGs in Queensland being predominantly users in the market to increasing involvement as suppliers and manufactures and this is likely to continue.

Telecommunications and technology

The disruption of Silk Road in late 2013 appears to have had little effect on the ability of motivated persons to source illicit drugs on the Darknet. [REDACTED]
[REDACTED]

While there are legitimate uses for virtual currencies (e.g. Bitcoin), there is a significant amount of suspected illicit activity associated with the currency. Technology-based money laundering involving the exploitation of virtual currencies by organised crime groups has been identified overseas and has the potential to develop into a more significant issue in Queensland.

Distribution methodology

[REDACTED]
[REDACTED]

Intelligence gaps and law enforcement challenges

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Part 2:
Law enforcement response

Reclassified as PUBLIC
as at 4 April 2016

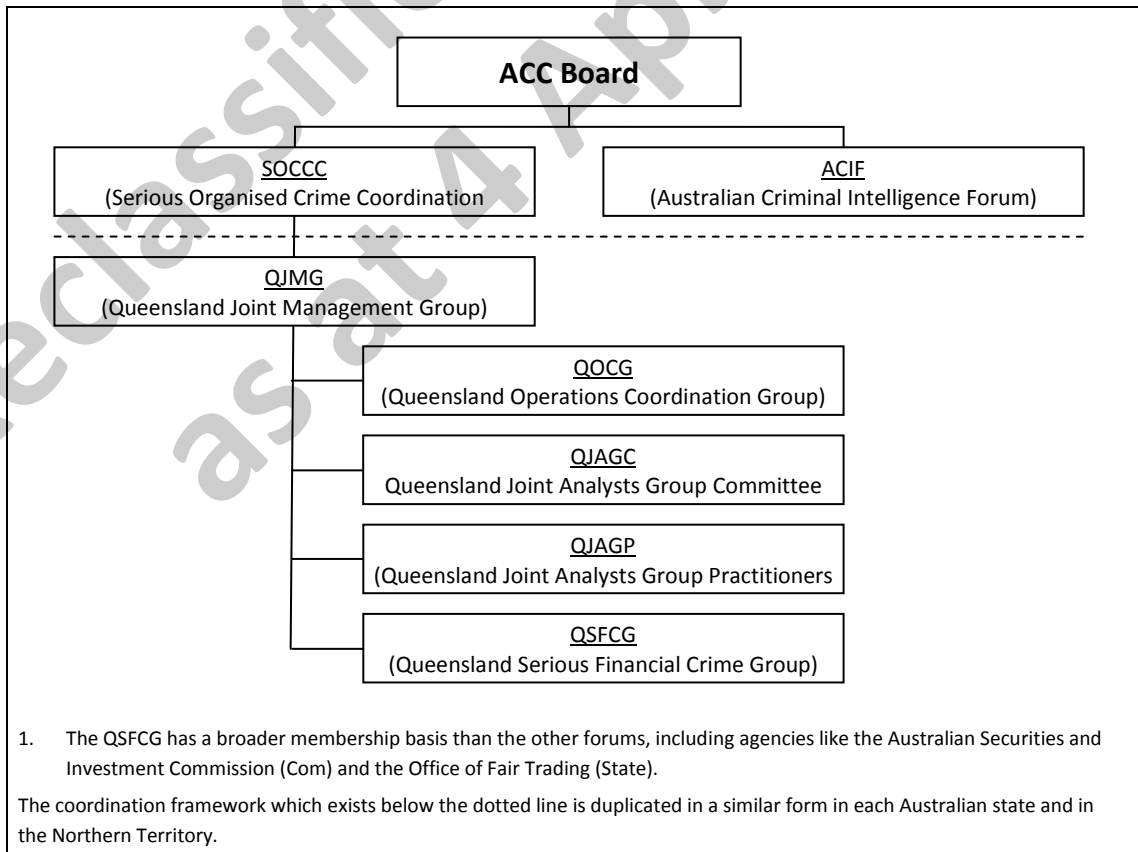
Law enforcement coordination framework

The ability of law enforcement to effectively impact on organised crime is beyond the scope and capability of any one agency. Collaborative national and interstate arrangements are essential.

The CCC together with the QPS, ACC, AFP, AUSTRAC, Australian Customs and Border Protection Service and ATO are participants in a framework of law enforcement forums that are oversighted by the Queensland Joint Management Group (QJMG) in Queensland (see diagram below). These collaborative arrangements are duplicated in similar formats in each State and the Northern Territory. The multi-agency forums that sit under the QJMG in Queensland are the Queensland Operations and Coordination Group (QOCG) the Queensland Joint Analyst Group Committee (QJAGC) the Queensland Joint Analyst Group Practitioners (QJAGP) and the Queensland Serious Financial Crime Group (QSFCG).¹

The focus of this framework is the coordination of multi-agency activities around serious and organised crime in Queensland. These forums operate to ensure (amongst other things) that:

- There is a shared view of serious and organised crime threats in Queensland
- There is a multi-agency commitment to the identification of serious and organised crime threats and risks
- There is a multi agency commitment to the intelligence development of the most serious threats
- Serious and organised crime operational activity engaged in by all member agencies is de-conflicted
- Where appropriate, agencies come together to address serious and organised crime threats
- Agencies collaborate to develop multi-agency capability and shared learning and development opportunities.



As the first part of this submission demonstrates, the picture of organised crime in Queensland is complex and evolving. The 2014-15 budget for the CCC crime function is \$6.5 million and there are currently 53 staff positions allocated to this function. It is critical therefore that the CCC's decision making around what work it applies its resources to, and how that work is undertaken, is strategic and supported by a sophisticated understanding of the intelligence environment. This rigour around decision making and execution is necessary to maximise the impact that the CCC can deliver.

The next section of the submission addresses how the CCC prioritises and uniquely contributes to reducing the impact of organised crime in Queensland.

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as at 4 April 2016

How the CCC uniquely contributes to the law enforcement response

How the CCC determines its operational priorities

Step 1. Building the intelligence picture

The Crime and Corruption Commission (CCC) conducts strategic intelligence assessments of organised crime activity in Queensland, including the level of organised crime involvement in illicit drug markets, every three to five years. Previous assessments (1999, 2004, 2008–2009 and 2012) have used a market based approach to analyse the nature and extent of organised crime in Queensland. Plans are underway for the CCC's next assessment of illicit drug markets and organised crime trends in Queensland to be completed in the second half of 2015 to 2016. The Intelligence Development Unit collects and collates information from a wide range of sources including CCC investigations and hearings and intelligence holdings of partner agencies to ensure the currency of its understanding of organised crime in Queensland. The CCC contributes that intelligence picture on organised crime to ACC's national reporting.

Step 2. Developing intelligence priorities

The CCC's intelligence collection priorities (ICP) are developed through the Crime Market Assessment process and are updated by regular monitoring of the national and state-based organised crime environment. The ICP are a summation of a contemporary assessment of the markets, networks and activities which are assessed to pose the greatest harm to the people of Queensland. The ICP supports the objectives the 2014–2018 CCC strategic plan and is incorporated in the 2014–2015 Intelligence Operational Plan. The purpose of the ICP is to ensure rigour and assist organisational decision making processes with respect to the investigational and strategic activities undertaken by the CCC. Consideration of ICP in the decision making process should assist the prioritisation of high risk matters and aid efficient use of CCC resources to target matters of greatest harm. The current ICP are attached as Appendix 2 to this submission.

Step 3. Assessing the threat level posed by identified crime networks operating within areas of intelligence priority

CCC intelligence uses an operational threat assessment to assist in the selection of crime networks for targeting by Crime investigation teams

[REDACTED]

This assessment process is designed to achieve objectivity of decision making for future operational activity and rigour in the selection of targets. The process is aligned with the CCC's ICP and the ACC's National Criminal Target List (NCTL) to ensure the networks selected for targeting are criminally significant in Queensland and involved in criminal activity considered to be an operational priority to the organisation.

Step 4. Developing a unique response

Just because a high risk crime group or a high threat organised crime issue exists does not mean that the CCC should or can commit resources to that matter. In addition to the subject of the investigation being at least high threat, there must also be an opportunity for the CCC to uniquely contribute; that is, to deal with that matter or area in a way that the QPS or another agency could not. The CCC seeks to be innovative in considering what are the best ways for the agency to respond to high priority issues or high risk crime groups. Developing such responses requires a sophisticated intelligence understanding of opportunity and vulnerability and cognisance of the appropriate management of operational risk.

The CCC's unique contribution generally takes one of the following forms:

1. The CCC organised crime teams have the combination of the skills (multi-disciplinary teams) and the time, necessary to undertake the difficult, long term investigations that may be required to identify sufficient evidence to interdict and disrupt the most sophisticated organised crime groups. These sorts of investigations are highly resource intensive relying on a high level of physical and technical surveillance support or computer forensics.

2. The CCC may also undertake shorter term disruption strategies. Complex analysis of a high risk crime group's activities, based on extensive intelligence collection, allow for the identification of vulnerabilities of the group and consideration of whether there are viable strategies for effective shorter term disruptions of their activity. The consideration of a disruption strategy is based on understanding the roles, expertise, capabilities and methodologies adopted by the individuals who comprise the high risk crime group and the identification of high value targets, without whom the high risk crime group could not operate.

. Disruption strategies may vary significantly based on the nature and activities of the high risk crime group and the need to ensure that the proposed disruptions are effective and efficient. Disruption activities may also be considered to address high risk organised crime priorities, such as the methamphetamine market. Market or activity based disruptions are developed to determine what is the best way to create sustained impact on priority issues with available resources.

3. The production of targeted strategic intelligence or research products that contribute to increased public awareness, influence broader law reform responses or crime prevention outcomes; including potential law, regulatory or policy reform.

CCC response capabilities

The CCC employs a range of specialist functions to understand and respond to organised crime:

- Investigative teams (a dedicated organised crime team and a criminal paedophilia team)
- Hearings
- Proceeds of crime
- Intelligence
- Research
- Witness Protection.

These capabilities may be deployed individually or in combination, depending on how the CCC can best contribute. While some of these functions have already been discussed in previous content, the following sections outline the use of coercive hearings, the role of proceeds of crime recovery and the CCC's criminal paedophilia response capabilities in more detail.

Use of the coercive hearings power

The CCC has the power to call witnesses to coercive hearings and compel them to give evidence and/or produce stated documents or things. Hearings may be held in support of any CCC major crime investigation, which includes any CCC organised crime investigation. Hearings are also held in support of a broad range of QPS major crime investigations when statutory thresholds to do so are met.

What can hearings achieve in organised crime investigations?

As a general proposition, persons are not called to hearings with a view to strengthening the existing prosecution case against them. Rather witnesses are identified and are called with a view to eliciting evidence from them implicating other members of the alleged network. The usual objective is to seek evidence about persons “higher up” in the network.

Hearings may achieve other objectives of value to organised crime investigations, such as the following.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CASE STUDY

Hearings throw spotlight on sophisticated drug network

A series of hearings were held in Cairns and Proserpine shortly after the covert phase of our most significant organised crime investigation to date ended with the arrest of numerous offenders and the seizure of substantial quantities of cash and drugs.

The investigation related to the trafficking of a range of illegal drugs by several interrelated networks, which were based on the Gold Coast but operating from Cairns to Melbourne. A number of syndicate members occupying various positions within the hierarchy were called to hearings for questioning about the syndicate's activities. Realising the nature and extent of the earlier covert investigation, most were forthcoming in providing relevant information.

The hearings proved highly successful in consolidating an already strong case and providing a very clear picture of the involvement of key members of the network.

CMC Annual Report 2009–10

[REDACTED]

How the use of hearings helps the CCC in understanding organised crime

Organised crime hearings provide a vehicle by which the CCC can augment its understanding of current and emerging issues in organised crime in Queensland and represent a valuable intelligence source. When hearings support is made available to QPS investigations, the CCC is given a window into a wide range of investigations across the State in which the CCC would not otherwise be involved. These investigations can range from the importation and distribution of synthetic drugs within particular communities or industries, the trafficking in firearms by criminal organisations, the commission of boiler room fraud by criminal enterprises or criminal networks involved in organised property crime.

When pending hearings are assessed as being of potential intelligence value or capable of filling intelligence gaps, the CCC is proactive in harnessing the hearings in question as an intelligence tool. Practical measures taken may include assigning an intelligence analyst to the hearings, briefing Counsel Assisting as to the intelligence gaps etc and, to the extent legally appropriate, questioning witnesses as to matters of possible intelligence value. Consents to publication issued post-hearing ordinarily extend to permitting the hearings product being used for intelligence purposes, subject to appropriate conditions and limitations.

CASE STUDY

In 2014 the CCC was asked to provide hearings support to a QPS investigation of a syndicate who were allegedly using the Internet to import synthetic drug analogues from China and Russia, which were then being distributed within a Queensland city as "synthetic speed". Witnesses called to these hearings included persons engaged in the on-line importation of the commodities. These witnesses gave detailed evidence of the methodologies used, the websites of most utility to their activities, how financial transactions were undertaken, comparative prices from different countries etc. Other witnesses included customers of the syndicate, who were themselves long-standing users of methamphetamine. Having been provided with the usual legal protections against self-incrimination available in a hearing, these witnesses presented as fully cooperative. Apart from lines of questioning of evidential significance to the investigation, the witnesses were questioned at length on such matters as the comparative pricing of the new synthetic product as opposed to methamphetamine, their experience of the pharmacological effects of the synthetic product compared to methamphetamine and the relative availability of the synthetic product compared to traditional commodities. [REDACTED]

Proceeds of crime

The objects of Queensland's proceeds of crime regime include to:

- remove the financial gain and increase the financial loss associated with illegal activity
- deter persons from committing serious criminal offences by increasing the financial risk associated with committing serious criminal offences; and
- prevent the reinvestment of financial gain in further illegal activity.

Proceeds of crime recovery is therefore both an important component of Queensland's response to organised crime, and the prevention of organised crime. The CCC's proceeds of crime function can also provide valuable inputs and insights into activity within Queensland's illicit commodity markets and individuals/entities or networks worthy of further target development.

Queensland benefits from a fairly comprehensive set of proceeds of crime tools which are contained in the *Criminal Proceeds Confiscation Act 2002* (CPCA). Notwithstanding this, proceeds of crime recoveries represent a small proportion of the likely total criminal economy.

A summary of confiscation schemes across Australian jurisdictions, and how Queensland’s confiscation jurisdiction compares, is contained in the table below:

Table 4: A comparison of confiscation schemes across Australian jurisdictions

	Conviction based	Non-Conviction proceeds of crime recovery	Non Conviction (Unexplained Wealth)	Conviction based Declared Drug Trafficker
Commonwealth				
Queensland				
New South Wales				
Western Australia				
Victoria				
South Australia				
Northern Territory				
Australian Capital Territory				
Tasmania				

Proceeds recovery and organised crime in Queensland

Referrals for confiscation assistance are received from QPS officers all over Queensland and or arise out of the CCC’s own organised crime investigations. As such the POC is a repository of an extensive amount of raw financial intelligence regarding serious organised crime in Queensland. The CCC’s hearings powers are also a valuable source of financial intelligence which can be used to maximise asset identification and proceeds of crime outcomes.

87.5% of all proceeds of crime referrals actioned by the CCC relate to organised crime. The table below breaks down proceeds of crime outcomes in Queensland (restraints and forfeitures) against organised crime since 1 January 2003.

Total value of restraints — organised crime <i>(this represents 86.1% of the total value of all restraints)</i>	\$165,382,635
Total value of settlements — organised crime <i>(this represents 78.7% of the total value of all settlements)</i>	\$55,847,035
Total value of active organised crime matters# <i>(this represents 94.8% of all active matters)</i>	\$47,679,744

active matters are matters currently the subject of restraint where a forfeiture outcome is yet to be finalised.

Similarly, the following data records the value of restraints and forfeitures as against particular illicit drug markets, noting that many referrals relate to allegations of poly drug trafficking.

Table 5: Restraints and forfeitures related to particular illicit drug markets

	Total value of restraints	Total value of settlements	Current value of restraints
Cannabis	\$100,824,774	\$37,318,787	\$24,403,113
Amphetamine/Methylamphetamine	\$73,461,590	\$26,175,746	\$22,921,851
Ecstasy/MDMA	\$27,637,209	\$10,129,708	\$9,126,753
Cocaine	\$16,469,899	\$4,189,667	\$4,511,951
Heroin	\$16,548,344	\$7,042,999	\$5,942,384
Morphine	\$1,540,622	\$1,032,274	\$0
GHB/GBL (Fantasy)	\$3,977,755	\$964,250	\$0
Steroids	\$15,261,488	\$9,486,652	\$1,795,890
LSD	\$1,498,205	\$1,089,349	\$152,284

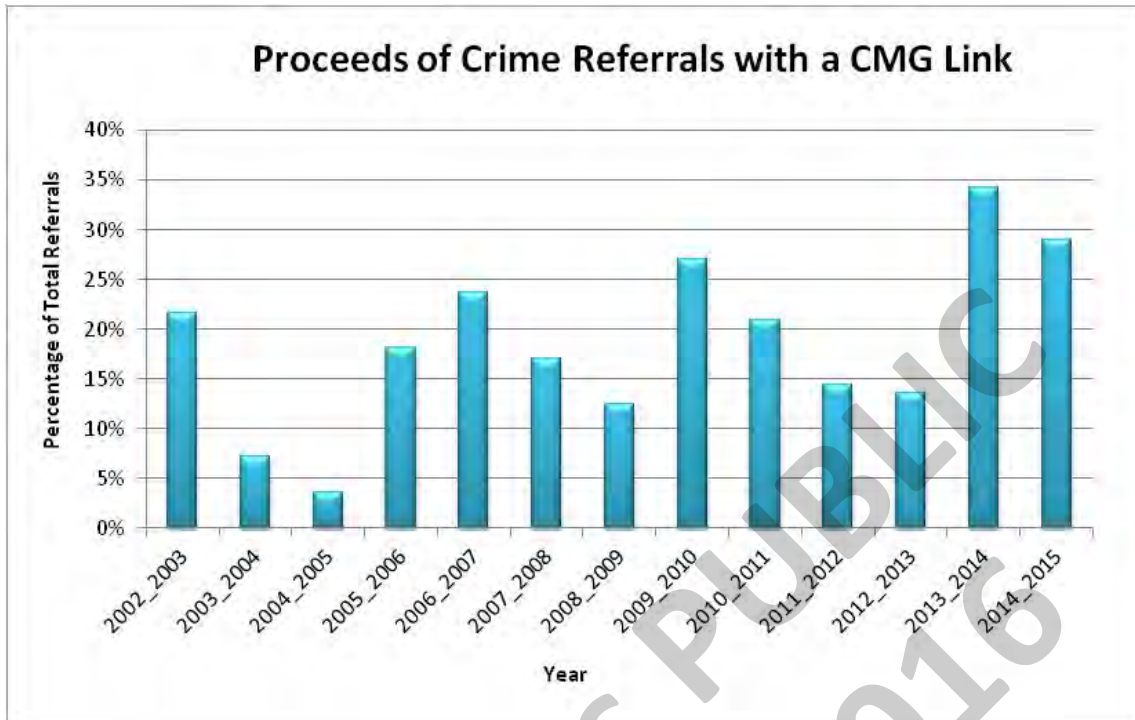
This area represents all other forms of non-drug related serious criminal activity. It includes prostitution, fraud, stealing, money laundering; secret commissions and property offences.

Total value of restraints — other	\$20,557,296
Total value of settlements — other	\$14,312,942
Current value of restraints — other	\$2,725,009

It is also noteworthy that 20.3% of all proceeds of crime referrals to date have known OMCG connections.

Value of OMCG related restraints	\$44,390,578
Value of OMCG related settlements	\$9,747,072
Value of OMCG related matters currently active	\$21,906,446

The following graph depicts the percentage of OMCG matters referred to the CCC as percentage of total referrals.



**Qualification: Links to OMCGs are based on information received by the Proceeds of Crime team from referral material. There may be matters with OMCG connections that we are unaware of. The information is an indication that the respondent has dealings with, is a member of or an associate of an OMCG.

Financial intelligence available to the CCC through the administration of the proceeds of crime function has also been a valuable input in the selection and target development of high risk crime groups targeted directly by the CCC's organised crime teams, as the following case study demonstrates.

CASE STUDY
<p>Operation Warrior</p> <p>A proceeds of crime referral was received by the then CMC which related to the arrest of a 28-year-old individual who had been found in a motel room with \$166,000 cash and drugs. The person concerned held no material bank accounts and owned no real property or vehicles.</p> <p>In this case, initial asset checks disclosed that the offender was the sole director and shareholder of a company which was undertaking a 9-lot residential development. The company also owned 3 Mercedes Benz vehicles. At this stage the CCC obtained a restraining order over the subdivision and the motor vehicles.</p> <p>Further investigations revealed that the acquisition and development costs for the current residential development had been entirely debt-financed. The security offered for that debt finance was an earlier 23-lot subdivision.</p> <p>Investigations into that earlier subdivision revealed the property was purchased at a substantial undervalue, raising the prospect of undisclosed cash payments to the vendor, with development costs met by capital contributions from family members and debt finance. Investigations into the family contributions found that, in each case, those contributions had been preceded by a series of cash deposits. These cash deposits totalled \$226,000 and were deposited to various bank accounts and a solicitors' trust account in a structured manner, that is, in amounts less than \$10,000.</p> <p>The CCC broadened the scope of inquiries to include other family members. It was found that the offender's father had been arrested some 7 years earlier in New South Wales in possession of commercial quantities of cannabis which had been sourced from South Australia and that his cousin had an extensive criminal history in New South Wales and Queensland.</p> <p>The CCC was subsequently contacted by Victoria Police which, in the previous 12 months had uncovered a</p>

hydroponic cannabis-growing operation and had recovered documents from a BMW motor vehicle abandoned at the scene. Those documents were financial records relating to our person of interest.

Immediately after a restraining order was granted over the offender's property, the offender's uncle became the sole director of the development company. The uncle has no criminal history but has been associated with a number of companies which had been incorporated and ostensibly operated for a short period of time before being liquidated or deregistered. The nature of business of these companies was recorded as "import/export activities".

It was suspected the former import/export companies may have been used for money laundering prior to moving into property development. It also appears that up to \$5 million could have been laundered through the property developments.

As a result of the confiscation investigation, the CCC organised crime function commenced Operation Warrior targeting large-scale organised drug distribution network based on the Gold Coast. The network stretched from Cairns to Melbourne and included criminals in Brisbane, the Gold Coast, the Sunshine Coast, Cairns, Townsville, Bowen, Airlie Beach, Sydney and Melbourne. As a result 71 people were arrested on over 375 drug related charges including trafficking, supply and possession of dangerous drugs from cannabis to amphetamine and other poly-drugs. All people arrested have been sentenced.

The CCC forfeited \$3.19 million in assets including cash of \$1.123 million as a result of Operation Warrior.

An interception of a drug dealer in a motel room who was referred for confiscation action to recover \$166,000 cash found in his possession, has ended up being the main target of a major drug trafficking operation spanning 3 states, being sentenced to 14 years imprisonment and having property restrained to the value of \$4.5 million.

This case demonstrates the intelligence/investigation/proceeds recovery cycle and highlights the value of good financial investigation emanating from even limited pieces of financial intelligence. Quality financial intelligence assists the CCC to identify the crime networks who are exploiting Queensland's illicit commodity markets.

Criminal paedophilia response capabilities — role of the CCC's Cerberus Unit

Criminal paedophilia is a diverse and target-rich environment. Within that broad environment, the CCC ensures that it has particular areas of expertise and does not replicate the activity of other law enforcement agencies. The CCC's Cerberus unit, which comprises experienced police investigators, forensic computing experts and an intelligence analyst, specifically targets internet-based offending, repeat offenders and paedophile networks. The unit works closely with QPS's Task Force Argos and its regional Child Protection Investigation Units, the Offices of the Commonwealth and Queensland Office of the Director of Public Prosecutions (ODPP), and interstate and international law enforcement agencies. It disseminates information uncovered by our investigations to other jurisdictions worldwide to identify child victims and identify offenders in advance of any contact offending with children.

To protect children from harm by paedophiles, the CCC's efforts are directed to:

- using covert investigative strategies where appropriate to build strong briefs of evidence
- using its coercive hearings powers either to progress its own investigations or to support QPS investigations
- prioritising investigations and taking action in cases that involve a risk of contact offending
- proactively examining various platforms and software [REDACTED]
[REDACTED] identify highest threat child sex offenders.

The CCC focuses wherever possible on offenders based in Queensland who are engaging in aggravated networking offences (a Commonwealth offence). This offence attracts a higher penalty (25 years imprisonment under Commonwealth legislation introduced in 2010) and is significantly more resource-intensive, requiring a substantial degree of forensic analysis from the beginning of the investigation. Since March 2010, 14 people have, or are currently being, prosecuted by the Commonwealth DPP for aggravated networking offences. The CCC has initiated more cases (5) under this offence type than any other Australian law enforcement agency.

The CCC's Cerberus Unit is also known for its strength in the collection and examination of computer forensic evidence. Where possible, it provides high-priority Taskforce Argos investigations with this forensic support as part of a broader joint agency agreement which enables the best use of resources by both agencies in the investigation of priority child sex offender matters.

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Strategic gaps in Queensland's response to organised crime

[REDACTED]

2. Current lack of a strategic intelligence–policy formulation interface

The CCC produces regular strategic intelligence assessments on the organised crime threat and risk environment in Queensland, drawing on the intelligence inputs of all relevant Queensland and Commonwealth agencies, and taking into account international trends. However the link in Queensland between strategic intelligence and evidence based policy development has not been a strong one. In the absence of a formal interface between strategic crime intelligence and government policy, political priorities rather than intelligence priorities may drive the serious and organised crime policy development agenda and the areas identified for broader government responses.

Moreover serious and organised crime priorities, the areas of organised criminal activity that are creating the greatest harms and impacts on the Queensland community, raise complex issues that are beyond the capacity of law enforcement alone to deal with. To deal holistically with the complex

issues arising out of illicit commodity markets for instance, requires parallel and complementary health, education, regulatory, law enforcement and policy formulation and the ability to co-ordinate these efforts. These responses may also benefit from private sector or community engagement, depending on the issue. This would inform the development of innovative joined up solutions that deliver law enforcement focus and interventions, education, diversion and demand reduction and harm minimisation strategies.

The Commonwealth have implemented an organised crime strategic framework to interface with and inform government of the priority areas for organised crime policy development and government responses. The ACC have a unique role in developing that intelligence picture and informing those policy priorities at a Commonwealth level. The existence of such a framework helps to ensure that government policy responses are directed at the most important organised crime issues (based on intelligence) and to ensure that the responses are proportionate to, and tailored to, the problems identified.

It is respectfully submitted that the introduction of a serious and organised crime strategic policy framework in Queensland would improve responses to serious and organised crime priority issues in Queensland. The CCC's intelligence capability positions the CCC well to identify and report at a strategic level on key emerging issues and potential harms to which Queenslanders may be exposed – and to monitor those threats in an ongoing way.

The terms of reference for the current Commission of Inquiry into Organised Crime require it to make recommendations identifying “current and emerging organised crime threats, identifying those high risk threats, particularising the areas of focus which should be the highest priorities for government and for law enforcement.” Were a serious and organised crime strategic framework to be implemented in Queensland there would be an ongoing mechanism to make recommendations to government about priority serious and organised crime threats and (where appropriate) emerging issues or trends that require a co-ordinated multi agency response. Such a framework could not only deliver joined up responses to serious and organised crime priorities, but provide a mechanism to consider how we measure the effectiveness of those responses, and develop the learnings to improve our performance in this area over time.

3. Queensland law enforcement’s technological capability

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Gaps in response to organised fraud and cyber crime

The extent of organised crime's involvement in fraud in Queensland is difficult to measure — primarily because information and data captured does not discern between organised crime fraud and other fraud offences but also because of the increasingly borderless nature of fraud offences. There is also an issue with the under-reporting of fraud by individuals and corporate institutions.

Advances in technology and communications have made it easier for global organised crime to exploit this crime type. Organised fraud and cyber crime are increasingly overlapping. The investigation and disruption of organised fraud often requires significant and effective co-operation at the national and international level. While organised fraud may result in either Commonwealth or State offences, the law reform implications of organised fraud and cyber offences are most likely to relate to Commonwealth financial, corporation or consumer legislation or regulation.

Whilst the CCC has been recently active in investigating investment fraud operations based on the Gold Coast [REDACTED]

[REDACTED]

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Recent High Court decisions impacting on the use of coercive powers

In May 2014 the High Court delivered a judgment in a criminal appeal against conviction, *Lee v The Queen* [2014] HCA 20. The judgment was the third in a series of recent decisions of the court which have had serious implications for the way law enforcement agencies use coercive hearings. The first was the decision of X7 (26 June 2013), the second was *Lee v NSWCC* (9 October 2013).

The CCC's powers to conduct hearings derive from the Act. The CCC is established as a standing royal commission, with coercive powers not ordinarily available to the police service. In that regard, the CCC is similar to other agencies that operate interstate and at a federal level.

One of the distinguishing features of such commissions is the availability of coercive examination of witnesses, involving abrogation of fundamental rights ordinarily available to citizens. Such powers were available to the CCC's predecessors the CJC, QCC and CMC. The powers available to the CCC are largely consistent with those of counterpart commissions in other jurisdictions, and in some important respects, go further.

Section 176 of the Act allows the CCC to hold hearings in relation to any of its functions (with the exception of the confiscation function, which has separate examination powers before a Supreme Court registrar).

Section 179 of the Act empowers the presiding officer in a hearing to issue directions about who may be present at hearings. Section 180 gives the presiding officer the power to regulate proceedings. In particular, subsection 3 empowers the presiding officer to make non-publication orders regarding the identity of a witness or evidence given by them.

Organised crime hearings are generally and necessarily held at a point in time when numerous persons involved in the criminal activity concerned will already have been charged with criminal offences and these charges are still pending before the courts. Many of these persons are called to CCC hearings held during this interval.

In *Hammond v The Commonwealth* (1982) 152 C.L.R.188 the High Court held that, where a person is the subject of pending criminal proceedings, the questioning of that person by an administrative tribunal with powers to compel the giving of evidence about matters the subject of the pending charges would constitute a contempt of court.

However, section 331(1) of the *Crime and Corruption Act 2001* provides:

The Commission may do any or all of the following, despite any proceeding that may be in or before a court, tribunal, warden, coroner, magistrate, justice or other person—

- (a) Commence, continue, discontinue or complete an investigation or hearing or any part or aspect of the investigation or hearing;
- (b) Give a report in relation to the investigation or hearing or any part or aspect of the investigation or hearing;
- (c) An act or thing that is necessary or expedient for a purpose mentioned in paragraph (a) or (b).

Section 331 was included in the *Crime and Misconduct Act 2001* which established the Crime and Misconduct Commission. It had no equivalent in the earlier statutes creating the Criminal Justice Commission and the Queensland Crime Commission respectively. The Explanatory Notes to the *Crime and Misconduct Bill* state that section 331 was intended to override the principle in *Hammond v The Commonwealth* and was based on a similar provision in a New South Wales statute.

In *Witness A v Crime and Misconduct Commission* [2005] QSC119 White J accepted that section 331 was effective in over-riding the Hammond principle.

Whilst amendments were made to other sub-sections of section 331 in 2013, section 331(1) continues in its original form.

In the light of the foregoing, it can be seen that section 331 is central to the CCC's ability to conduct hearings programs in the aftermath of the closure of an organised crime investigation.

This is under-scored by the implications for other Australian law enforcement agencies whose legislative charter does not include an equivalent to section 331, following the High Court decision in *X7 v Australian Crime Commission* (2013) 248 C.L.R.92. In that case, Hayne and Bell JJ, Keifel J agreeing, held that to authorise the compulsory examination of a person charged with, but not yet tried for, an indictable Commonwealth offence about the subject matter of that offence would depart from the accusatorial nature of the process of criminal justice and thus the general system of law. For an alteration of that kind to be made by statute, it must be made clearly by express words or necessary intendment.

The Supreme Court (Dalton J) in *Younan v Crime Reference Committee & Anor; Hamdan v Crime Reference Committee & Anor* [2012] QSC 225 held that section 331 of the Act contained the clear language which was absent from the ACC Act to effect this alteration. That decision was affirmed by the Court of Appeal (*Hamdan v Callanan; Younan v Callanan* [2014] QCA 304).

The Lee issue

However a 2014 decision of the High Court has had significant implications for the CCC and doubtless all other agencies in Australia with a coercive hearings power, and likewise, for all prosecuting authorities. In *Lee* the High Court considered a matter in which the transcripts of the evidence of two witnesses given in coercive hearings of the NSW Crime Commission were unlawfully published to a prosecutor in advance of those persons' joint trial, contrary to the terms of a non-publication order made by the Crime Commission. The two witnesses, at the time questioned, were suspects who were imminently to be charged. The unanimous judgement of the court was that what had occurred affected the criminal trial in a fundamental respect, because it altered the position of the prosecution vis-a-vis the accused. The decision in *Lee* has implications for persons charged, but also for persons suspected of having committed offences.



[REDACTED]

[REDACTED]

Since the judgement in *Lee's* case was delivered in May 2014, the CCC has engaged extensively with the QPS, the Queensland DPP and other relevant stakeholders to address the issues raised by the High Court and envisages that this will continue into the future.

[REDACTED]

Derivative use of coercive hearing evidence

The central issue in the *Lee* decision was that, by allowing the prosecution to have possession of the witness's hearings evidence, it prejudiced the accused in their right to a fair trial. This was because it was said that the prosecution was given an unfair advantage against the accused. The decision was narrow in its direct application, but potentially wide in its more general implications. The cases applying the principles derived from *Lee* are limited, which means that there are a number of unanswered questions as to the scope of *Lee*. In particular, whether evidence derivatively obtained from evidence given in a hearing may be used against that witness.

[REDACTED]

The ACC Act, in its earlier incarnation as the NCA Act did have a prohibition on the use of derivatively obtained evidence, in addition to the direct evidence given by the witness. The restriction on derivative use was removed when the ACC Act was enacted, as it was submitted that the restriction unduly impeded the work of law enforcement.

Derivatively obtained evidence may include real evidence located as a result of information provided by a suspect. In a murder investigation, for example, the suspected murderer may disclose the location of a body. The body may yield useful physical evidence which could be called in aid of the prosecution of the murderer. In a drug investigation a suspect called as a witness may disclose details of telecommunications services which investigators had not previously discovered. [REDACTED]

Recent decisions, applying *Lee*, have raised questions about the extent to which use may be made of the evidence of a witness who is himself charged with the crime under investigation, or suspected of having committed it. In *QAAB v Australian Crime Commission* [2014] FCA 747, Logan J declined to present an examination of a person who might in the future “become ‘more of a focus’ in the investigation” but had not, at that point, been charged. In light of the matters raised, in *Lee*, though, his Honour suggested it may be wise to not have any officers involved in the investigation present for the examination. There have been no decisions which have directly considered whether evidence derivatively obtained as a result of a suspect or accused’s compulsory examination may prejudice the right to a fair trial.

The most recent decision to grapple with the implications of *Lee* is *R v Seller; R v McCarthy* [2015] NSWCCA 76. The prosecutions of Messrs Seller and McCarthy have had a long litigation history. In 2012 Seller and McCarthy were charged as a result of the ATO investigation Operation Wickenby. They were examined by the Australian Crime Commission as a result of that investigation. Transcripts of their evidence were disseminated (unlawfully in contravention of s25A of the ACC Act) to the Commonwealth DPP. An application for a permanent stay was initially upheld in the NSW Supreme Court by Garling J, who found that their right to a fair trial had been “irreparably compromised” by the disclosure of their examinations. This was overturned on appeal, the Court of Criminal Appeal finding that, absent any evidence of actual prejudice, it was wrong to grant a permanent stay of proceedings ([2013] NSWCCA 42). Special leave to the High Court was refused in respect of this decision. In those decisions some consideration was given to the prospect that derivative use could be made of hearings evidence without prejudice *necessarily* being occasioned to the accused’s right to a fair trial.

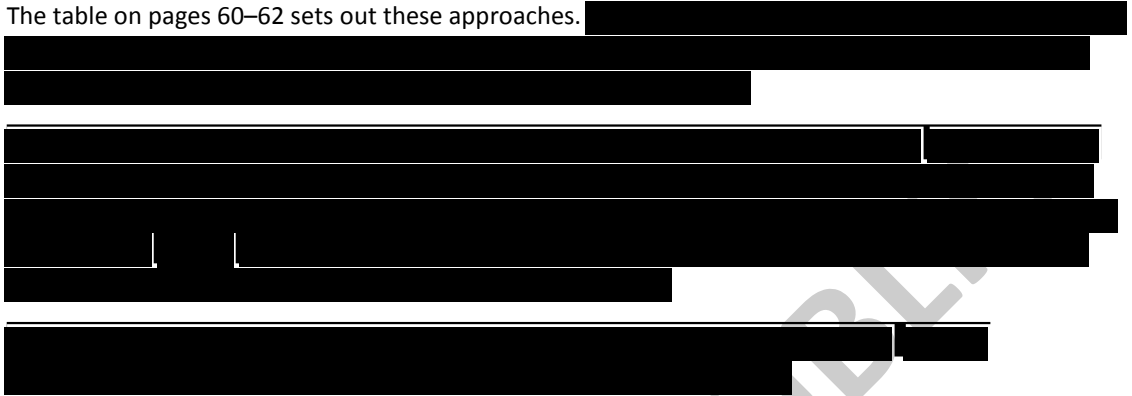
On 29 April 2015 the NSW Court of Criminal Appeal delivered a further judgment in the matter, dealing with some interlocutory rulings made in advance of the trial of Seller and McCarthy. The court there held that an officer of the ATO who had been present at the ACC examinations, and had conducted a financial analysis of the case, although without actual regard to evidence obtained through hearings, should be prevented from giving evidence at the trial. The court held that any risk of upsetting the balance between the State and the accused in a criminal trial was open to be remedied by discretionary orders prohibiting a witness who has had access to compulsorily acquired evidence from giving evidence in that trial. However the court went on to hold that the fact that a proposed witness for the prosecution was present during the examination of an accused or had access to the evidence may not, in all cases, alter the trial in a fundamental respect.

The law in respect of what use may be made of evidence derived from the compulsory examination of a suspect or an accused is, at present, attended by serious confusion. Clarification of these issues is important to allow for the proper use of the coercive powers given to agencies such as the CCC.

Legislative responses to date

The Commonwealth and two state jurisdictions (New South Wales and Victoria) have developed legislative responses to the Lee and X7 issues.

The table on pages 60–62 sets out these approaches.

A table with multiple rows and columns, all of which are completely redacted with black bars. The table is located on pages 60-62 of the document.

Law reform considerations

A table with multiple rows and columns, all of which are completely redacted with black bars. The table is located on pages 60-62 of the document.

[Redacted footnote content]

Table 6: Legislation relating to compulsory examination by a crime commission (or similar agency) and subsequent use of evidence

Issue	NSW	VIC	CTH
<p><i>Can the crime commission compel a person charged with an offence (relevant offence) to attend and give evidence, or produce a document or thing, that relates to the subject matter of the relevant offence</i></p>	<ul style="list-style-type: none"> Only if the NSW Crime Commission obtains leave from the Supreme Court: <i>Crime Commission Act 2012</i> (NSW), section 35A Supreme Court may grant leave (conditionally or unconditionally) if satisfied that the public interest outweighs any potential prejudicial effect on the person’s trial for the offence. 	<ul style="list-style-type: none"> Chief examiner can commence, or continue to conduct, an examination of a person even if court or tribunal proceedings (whether civil or criminal) that relate to the same subject matter of the examination are already on foot or are subsequently commenced. Under section 39A(1), a person’s self-incrimination privilege is expressly abrogated “... whether or not the person has or may be charged within an offence in respect of the subject-matter”. However, if the Chief Examiner is aware of the pending proceedings, s/he must take all reasonable steps to ensure the conduct of the examination does not prejudice the proceedings. 	<ul style="list-style-type: none"> Under the Law Enforcement Legislation Amendment (Powers) Bill 2015, the Australian Crime Commission will have power to compel evidence from a person who has been charged with an offence or where a charge is imminent relating to the subject matter of relevant offence.
<p><i>Who can be present while the person is giving evidence to crime commission</i></p>	<p>Under the <i>Crime Commission Act 2012</i> (NSW), section 21, examination must be held in private and the Commission may give directions as to who may be present.</p> <p>Under section 21A, if the person being examined is the subject of a current charge for a relevant offence:</p> <ul style="list-style-type: none"> the Commission must not give a direction under section 21 for a person to be present during the examination “... unless the Commission ... is of the opinion that the presence of the ... [other]person is 	<p>Under the <i>Major Crime (Investigative Powers) Act 2004</i>, section 35:</p> <ul style="list-style-type: none"> examinations must be held in private; and the Chief Examiner may give directions as to the persons who may be present 	<p>Under the <i>Australian Crime Commission Act 2002</i>, section 25A(3):</p> <ul style="list-style-type: none"> examinations must be held in private; and the Examiner may give directions as to the persons who may be present

Issue	NSW	VIC	CTH
	<p>reasonably necessary to assist the Commission”; and</p> <ul style="list-style-type: none"> if the other person is a member of an agency investigating the relevant offence—the Commission must not give a direction under section 21 permitting the other person to be present while the person is examined about the subject matter of the relevant offence. 		
<p><i>Can the crime commission give the person’s compelled evidence to another agency responsible for investigating or prosecuting the relevant offence</i></p>	<p>Under the <i>Crime Commission Act 2012</i> (NSW), section 45, the Crime Commission</p> <ul style="list-style-type: none"> may direct that evidence given before it must not be published; and must give such a direction “...if the failure to do so might prejudice...the fair trial of a person who has been or may be charged with an offence”; but the court may direct the Commission to make the evidence available to the court if the court “considers that it may desirable in the interests of justice that particular evidence [subject to a direction restricting publication] be made available to the person or the person’s legal practitioner and the prosecutor”. <p>However, subject to very limited exceptions set out in sections 45A and 45B, if a person charged with a relevant offence gives evidence relating to the subject matter of the relevant offence to the Commission under compulsion and objects to giving the evidence, section 45A provides the Commission must not allow any of the evidence</p>	<p>Under the <i>Major Crime (Investigative Powers) Act 2004</i> (Vic), section 43, the Chief Examiner:</p> <ul style="list-style-type: none"> may issue a direction restricting the “publication or communication” of evidence (restricted evidence) given during an examination; and must issue such a direction if reasonably satisfied that a failure to do so would reasonably be expected to prejudice the “fair trial of a person who has been or may be charged with an offence”. <p>However:</p> <ul style="list-style-type: none"> under section 43B, the Chief Commissioner may apply to a court for an order that restricted evidence be given to the DPP to prosecute a person for an offence (where the person is not yet charged) “... if the Chief Commissioner suspects on reasonable grounds that there are reasonable prospects for the conviction of a person for an offence if the evidence is made so available”. 	<p>If a person has been, or will imminently be, charged with a relevant offence, the person’s evidence relating to the relevant offence may only be disclosed to prosecutors with a court’s authorisation (proposed section 25C and 25E ACC Act).</p> <p>Court authorisation is also required for the disclosure to prosecutors of evidence derived from the person’s evidence relating to the relevant offence where the person had been charged or the charge was imminent at the time the examination took place (proposed section 25D and 25E ACC Act).</p> <p>However, court authorisation is not required for the disclosure of derivative evidence to the prosecutor, if the witness had not been charged with an offence or the charge was not imminent at the time the examination took place.</p>

Issue	NSW	VIC	CTH
	to be disclosed to any other person investigating or prosecuting the relevant offence.		
<i>Is the person's evidence admissible in criminal or civil proceedings</i>	<p>Under the <i>Crime Commission Act 2012</i> (NSW), section 35A:</p> <ul style="list-style-type: none"> the evidence is not inadmissible against other persons; the evidence is not admissible against the person in any proceeding, except proceedings under the <i>Crime Commission Act 2012</i> or proceeding relating to the falsity of the evidence 	<p>Under the <i>Major Crime (Investigative Powers) Act 2004</i> (Vic), section 39(3), a person's evidence is not admissible against the person in a criminal or penalty proceeding other than particular proceedings for an offence against the Act, confiscation proceedings, or proceedings relating to falsity of evidence given to the examiner.</p>	<p>The ACC Act, section 30(5) provides a direct use immunity that reflects the immunity in NSW and Victoria.</p>
<i>Is evidence (derivative evidence) derived from the person's evidence admissible in a criminal or civil proceeding</i>	<p>Under the <i>Crime Commission Act 2012</i> (NSW) section 39A:</p> <ul style="list-style-type: none"> derivative evidence is not generally inadmissible; but derivative evidence that is derived from evidence given by the person examined pursuant to leave granted by the Supreme Court under section 35A is only admissible against the person if it could have been obtained (or its significance understood) without the person's direct evidence 	<p>Under the <i>Major Crime (Investigative Powers) Act 2004</i> (Vic), section 39(4), section 39(3) does not prevent the admission in a criminal or penalty proceeding of evidence obtained as a direct or indirect consequence of the person's evidence given under examination.</p>	<p>There is no equivalent provision to NSW or Victoria stating that derivative evidence is not generally inadmissible in ACC Act.</p>

Reconsideration of the ongoing need for both specific and general referrals

Consideration should be given as to the ongoing need for delineation between specific and general referrals in the performance of the CCC's Crime function.

The Crime Reference Committee (CRC) is a statutory committee charged with responsibility for referring major crime to the CCC for investigation and authorising intelligence operations.²² The CRC may refer a particular incident of major crime, or major crime, to the CCC for investigation.²³ The current system provides referrals of particular incidents of major crime (referred to as 'specific referrals') and major crime identified by reference to the type of criminal activity or the persons suspected of being involved in it (referred to as 'general referrals'). Particular incidents of major crime which fall within the ambit of one of the general referrals may be commenced as particular investigations under that general referral.

Section 28 sets out the matters of which the CRC is required to be satisfied before granting either a specific²⁵ or a general²⁶ referral, and matters common to both²⁷. Once a general referral is approved, particular investigations under such a referral may be approved more quickly. The matter is assessed by a separate committee (the Crime and Intelligence Research and Review Committee) which makes a recommendation to the Senior Executive Officer (Crime), who then decides whether to authorise a particular investigation under that general referral, based on that recommendation. The process for approval of a particular investigation under a general referral is more streamlined, and allows for a more timely response to requests for investigation. The Crime Reference Committee is currently undertaking a review of the existing general referrals, and has consolidated several of them.²⁸

The current system of specific and general referrals could benefit from reconsideration.

ACC approach

As a point of comparison, the Australian Crime Commission has a slightly more refined system in relation to the criminal activity which it investigates. The ACC has a series of 'Determinations', which reflect the work priorities for the ACC. These priorities are determined by the ACC board. The current determinations reflect a broad range of criminal conduct, and are comparable to the CCC's general referrals. The ACC has no specific referrals.

²² CC Act s. 8

²³ s. 27

²⁵ s. 28(1)

²⁶ s. 28(2)

²⁷ s. 28(3)

²⁸ s. 30A

[REDACTED]

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Review of Chapters 3 and 4 of the CC Act to develop uniform provisions and eliminate duplication

Background

This area of reform has a significant history. The CCC's submission to the 2009 Three Year Review highlighted the difficulties created by the architecture of the investigative powers in the CM Act. In 2001, the merger of the CJC and the QCC was done with the express intention of preserving the functions of both commissions. In integrating the two agencies' legislative bases into the CM Act, the drafter adopted the approach of wherever possible, preserving the previously existing provisions for each body.

One result of the drafting style adopted is that Chapters 3 and 4 of the Act contain separate provisions for compulsory powers, hearings and privilege claims relating to crime and witness protection, misconduct (now corruption) and confiscation investigations. For example, different provisions apply in relation to:

- Notices to Produce and Notices to Discover: ss. 74, 74A, 75
- The respective heads of privilege which a witness may claim to avoid compliance with an obligation (for example, ss. 74, 74A, 75, 82, 190)
- Procedures on claim of privilege for documents produced: Division 3, Subdivision 1, 1A and 2
- General power to seize evidence: ss. 110, 110A and 111
- Refusal to answer questions at a hearing: ss. 190 and 192
- Deciding claims of privilege at a hearing: Division 4 Subdivision 1, 1A and 2
- Legal costs of appeal to court on privilege claim at hearing: ss. 205, 196(7).

A detailed submission on rationalising Chapter 3 and 4 provisions was provided to the Attorney-General on 23 July 2010. Despite the government's submission²⁹ to the 8th PCMC Three Year Review which indicated that the review of Chapters 3 and 4 was underway, as far as the CMC is aware, that review never commenced. The 8th PCMC recommended³⁰ that the Government give a "high priority" to completing the review, commenting that:

...the clear determination of what specific privileges are abrogated or unaffected by the provisions of the C&M Act has now dragged on for a number of years without any firm direction. As subsequent reviews have commenced, the scope of matters to be considered has grown; however no substantive results have been achieved. The Committee considers that the government should take immediate and decisive action on this matter ... to ensure that the provisions are clear in what privileges apply, and in what circumstances to allow the CMC to function effectively.

Privilege

The current definition of "privilege" in s. 12 of the Act interacts with various other provisions to create a result that has been described judicially as "clumsy" "obscure", "confusing" and "ambiguous".³¹ This has been raised by the Commission in various reviews of the Act by the PCMC and otherwise by government. Despite acceptance by government in its response to the 2009 review of the Act of the need to clarify this provision, such reform has not manifested. It is submitted that a consolidated and revised definition of privilege would be of benefit to the CCC and the public by clarifying the rights and privileges enjoyed by persons interacting with the CCC, and making clear those rights which are abrogated, and to what extent.

Priority areas for reform in Chapters 3 and 4

- Addressing use immunity, derivative use and protection of a person's right to a fair trial arising out of *Lee* (discussed above);
- Clarification (and, perhaps, consolidation) of the availability of claims of privilege in respect of crime, corruption and witness protection function hearings and investigations
- Surveillance device powers to be the same for crime and corruption as in PPRA and both apply outside Queensland (also for Assumed Ids and Controlled Ops)
- The overt search warrant powers and immediate search powers in Parts 2 and 3 of Chapter 3 need to be amended so they are comparable with the equivalent powers in Parts 1 and 2 of Chapter 7 of the PPRA. In particular, these parts should include a power modelled on section 154 of the PPRA (Order in search warrant about information necessary to access information stored electronically).
- The wording in section 154 (which was inserted into the PPRA nearly 10 years ago) will need some enhancements to reflect new developments in technology. The suggested enhancements are:
 - The power to require a person to provide passwords to "unlock" encrypted data should be available to CCC officers in 4 situations:
 - An officer applying for a search warrant under Part 2 should be able to ask for such a power to be included in the warrant
 - An officer exercising immediate search powers under Part 3 should be able to ask a person at the premises for passwords at the time property is being seized – and the post-search approval order should reflect this

²⁹ Submission No.19 by the Premier of Queensland, Anna Bligh MP to the 8th PCMC's Three Year Review

³⁰ Parliamentary Crime and Misconduct Committee, Report No. 86, May 2012: Three Year Review of the Crime and Misconduct Commission at p. 111

³¹ *Callanan v B* [2004] QCA 478 per McPherson JA at [12]-[15]

- An officer who has already seized property pursuant to a search warrant that did not include a power to require passwords should be able to apply for an order requiring passwords to be provided
- An officer who has seized property under Part 3 should be able to apply for an order requiring passwords to be provided.

(See, for example, s. 3LA of *Crimes Act 1914* (Cth) and s. 465AA of the *Crimes Act 1958* (Vic.)).

- The power to require a person to provide police with passwords to “unlock” encrypted data should be available to CCC officers exercising powers under both Parts 2 and 3. It should not be restricted to the situation where a search warrant has been obtained – see e.g. s. 3LA of *Crimes Act 1914* (Cth) and s. 465AA of the *Crimes Act 1958* (Vic.)
- To ensure the provision applies to cloud storage devices, the wording will need to refer to data *accessible from* a computer as well as data held in a computer – see e.g. the Commonwealth and Victorian provisions referred to above including the definitions of “data held in a computer” (s. 3C Cth, s. 247A Vic) and “data storage device” (s. 247A Vic).
- The power to require passwords to be provided should be able to be used against a range of people and not just the person suspected of committing the offence. For example, a CCC officer should be able to direct a system administrator for a computer network to provide relevant passwords – see e.g. the Commonwealth and Victorian provisions referred to above.

[REDACTED]

- New power to search persons generally as in ss. 29,30 of PPRA – e.g. Provide power to search persons where it is necessary to secure the safety of any person at a place where the CCC is carrying out its functions under the CC Act.

[REDACTED]

Challenges for policing criminal paedophilia due to categorisation of CEM files

The 2002 UK case of *Regina v Oliver* in the Court of Appeal established a scale by which indecent images of children could be categorised. The five point scale was developed by the UK’s sentencing advisory panel and adopted in 2002. The scale is formally known as the SAP scale but in an Australian law enforcement context is referred to as the “Oliver Scale”. The Oliver scale has come to be used as a means of categorising images to allow courts to sentence offenders without themselves having to review a sample of the evidence to assess its seriousness.

Reliance on the scale and classification of images within the scale has led to a shift in focus on the seriousness of images, rather than an assessment of an offender's risk to the community. It has also led to a focus for investigators in assessment and categorisation of images to the detriment of other areas of policing such matters, such as identification of victims.

Law reform considerations

It is noted that in the UK, since April 2014, indecent photographs of children have been reduced to three categories – Category A covers penetrative sexual activity and sexual activity with an animal or sadism, Category B covers non-penetrative sexual activity, and Category C covers other indecent images not falling within categories A or B.

[http://www.cps.gov.uk/legal/h to k/indecent photographs of children/](http://www.cps.gov.uk/legal/h%20to%20k/indecent%20photographs%20of%20children/)

It is submitted that strategies should be considered to reduce the workload of image categorisation to allow more appropriate prioritisation of policing work. It is recognised that categorising the severity of the images in question is a necessary task for the court to fix appropriate sentences, but a review of the categorisation system should still be considered.

Research plans under Section 52 of the CC Act

Section 52 of the CC Act requires the CCC to, as soon as practical after the end of each financial year, give the Minister, for the Minister's approval, a plan for the research it proposes to undertake in that year and the following two years (s. 52(2)). The CCC may ask the Minister to approve an amendment of an approved research plan to allow research for an emergent issue relevant to any of its functions (s. 52(4)). The Minister must first consult with the parliamentary committee before approving a research plan or amendment of an approved research plan.

In accordance with this requirement, the CCC's 2014–2016 Research Plan was submitted to the former Minister on 19 November 2014. The former Minister had not approved the plan prior to the election being called. Given emerging priorities and the passage of time since the plan was first drafted, the CCC revised the plan and submitted this plan to the current Minister on 20 April 2015. The CCC has not received a response at this time. As a consequence the CCC research function has not been able to substantively progress research projects for nearly 12 months.

The result of this legislative requirements means that the CCC research unit experiences unnecessary delays and cannot be as responsive as it needs to be to support the crime function.

The CCC 2015–16 Research Plan includes organised crime related projects that will examine:

- Criminal careers of organised crime offenders
- Factors supporting the continuation of organised criminal activity from prison
- Internet-based criminal paedophile networks.

The plan also identifies the following emerging crime issues, which have relevance to organised crime in Queensland:

- methylamphetamine market
- new and emerging crime groups.

Law reform considerations

Removal of the requirement that the minister approve the CCC Research plan.

Proceeds of crime

Single confiscation agency

There are three separate but significant criminal confiscation schemes for which responsibility rests with three separate agencies. They are:

- The civil confiscation scheme contained within Chapter 2 of the CPCA which is administered by the CCC
- The serious drug offender confiscation scheme within Chapter 2A of the CPCA, a conviction based scheme which is administered by the CCC
- The conviction based confiscation scheme contained within Chapter 3 of the CPCA which is administered by the ODPP
- The scheme enabling the confiscation of superannuation benefits from public servants convicted of corruption offences contained within the *Public Officers Superannuation Benefits Recovery Act 1988* which is administered by the Minister (through Crown Law).

Apart from the CCC neither of the other two responsible agencies have any investigative capacity. Since recovery action under the *Public Officers Superannuation Benefits Recovery Act 1988* is infrequent, the lack of investigative capacity is most felt by ODPP in relation to confiscation matters falling under Chapter 3 of the Act. The inability to fully investigate claims made in exclusion applications or to quantify or prove the derivation of a benefit leads to sub-optimal outcomes.

Effective proceeds of crime recovery, under either the conviction based or civil confiscation schemes, requires a skill set encompassing police investigative skills, financial investigation skills, legal skills and property administration skills.

Under the civil confiscation scheme these skills are applied by the respective key agencies, QPS, CCC, ODPP and Public Trustee. The conviction based scheme is limited by the lack of dedicated financial investigation skills (which are provided by CCC under the civil confiscation and SDOCO schemes) and the difficulty in obtaining police investigative capacity years after the underlying investigation has concluded.

In a practical sense the property administration activity stands apart from the investigation and litigation activities which are integrally linked.

It is submitted that the CCC is the only agency which has the investigative powers (contained within the *Crime and Corruption Act 2001* and the CPCA as well as ordinary police powers) and the necessary skills and expertise to achieve optimal results under all proceeds of crime recovery schemes.

As matters suitable for recovery action under the *Public Officers Superannuation Benefits Recovery Act 1988* will almost invariably arise as a result of investigations undertaken by the CCC, it is submitted that there are also synergies to be gained by having CCC also responsible for the recovery action under that Act.

The relationship between the CCC and the ODPP Confiscations Unit would be better facilitated and efficiencies gained with the solicitor on the record being in house at the CCC. The Queensland confiscation regime is the only jurisdiction whereby the agency responsible for the administration of the scheme(s) and the solicitor on the record are in different agencies.

A model which contemplates the solicitor on the record role being in house at the CCC should ensure the provision of independent objective legal advice to the POC and the maintenance of legal professional privilege. There are two comparable confiscation jurisdictions in Australia where the

solicitors for the confiscation function are in-house, being the New South Wales Crime Commission (NSWCC) and the Australian Federal Police (AFP).

The NSWCC has their confiscation solicitors housed within their confiscations team. The lawyers in this team report directly to the Director, Financial Investigations who is the strategic head of the confiscations team. The Queensland civil confiscation legislation is modelled on, and is very similar to, the New South Wales *Criminal Asset Recovery Act 1990*. However, the CCC is of the view this model does not provide sufficient separation between the team responsible for conducting the confiscation investigations and the independent legal advice required for confiscation proceedings.

The AFP model, on the other hand, has a distinct separation of the confiscation litigators from the confiscation investigation team. The Manager Proceeds of Crime Litigation reports to the Deputy Commissioner, Closed Operations Support while the Manager Criminal Assets reports to the Deputy Commissioner, Operations. The Proceeds of Crime Litigators are physically located separately from the Criminal Asset Confiscation Taskforce investigators, although they are in close proximity.

The CCC would require internal “Chinese walls” to be created to ensure independent, impartial legal advice continues to be provided to the CCC Proceeds of Crime Team in respect of confiscation proceedings. The confiscation legal officers would need to be physically located separate from the Proceeds of Crime Team. This model, in effect, would see the current ODPP Confiscations Unit establishment and budget transferred to the CCC. The CCC does recognise there will be a need for a small core of expertise to remain in the ODPP for the purpose of being the conduit to the ODPP prosecutors on conviction based confiscation matters. This capability may be able to be met by a senior clerk(s).

Law reform considerations

The Review of the *Crime and Misconduct Act 2001* and Related Matters conducted by The Honourable Ian Callinan AC and Professor Nicholas Aroney in March 2013 contemplates the administration of the non conviction and conviction based confiscation schemes in Queensland being administered by the CCC. This model is capsulated in recommendation 7 of the final report. To date this recommendation has not been implemented and was to be encompassed the in the next review of the CPCA. The next review of the CPCA is yet to be determined. This Commission of Inquiry may wish to consider resolving this matter as part of its scope of work.

Money laundering

Section 250 of the CPCA contains the money laundering offences. Pursuant to section 251(2) the Attorney-General’s written consent must be obtained before a proceeding is started by complaint under the *Justices Act 1886*. Section 251(3) states if a proceeding is not started by complaint under the *Justices Act 1886*, the Attorney-General’s written consent must be obtained before the proceedings progresses to a hearing and decision. The need of the Attorney-General’s consent is unique to Queensland.

In practice, the investigation of predicate offences, such as drug offences, are pursued rather than the money laundering offences. However, by investigating and ultimately prosecuting the predicate offences the money laundering activity is disrupted. Money laundering investigations tend to be complex and resource-intensive also lending weight to the alternative avenue of investigating and prosecuting predicate offences rather than money laundering.

The effect of the money laundering offence provisions pursuant to the CPCA is that in practice a full criminal brief in support of the money laundering offences is prepared and provided to the Attorney-General to enable consent to be obtained. This is a considerable amount of work and resources with no guarantee that consent will be granted.

The Financial Action Taskforce (FATF) released its Mutual Evaluation Report on Australia's Anti-Money Laundering and Counter-Terrorist Financing Measures on 21 April 2015 (www.fatf-gafi.org/topics/mutualevaluations). The evaluation assesses Australia's money laundering investigation and prosecution effectiveness as moderate and notes (at both the Commonwealth and State/Territory level) "*the focus remains on predicate offences, recovery of the proceeds of crime and disruption of criminal activity rather than the pursuit of convictions for money laundering officers or disruption of money laundering net works*" (Page 14).

Law reform considerations

The CCC seeks the removal of the requirement for the Attorney-General's consent before money laundering proceedings commence. It is anticipated that this would make progressing money laundering offences easier and may assist to address FATF's concerns.

Victim compensation

At present the Queensland legislation does not extend the operation of the CPCA to restraint of property for the purposes of meeting either victim compensation or restitution. The Act does permit confiscation action (civil – Schedule 2 Part 1 or conviction based – section 99) to be taken in circumstances where restitution is likely to be ordered upon conviction e.g. fraud offences, however, under the civil confiscation and SDOCO schemes the proceeds of forfeited property are paid to the consolidated fund (section 214(5)) and there is no mechanism under the Act to permit recovery by or on behalf of another party.

Because the initiation of confiscation proceedings in matters involving fraud offences effectively prevents a complainant from gaining restitution, as a matter of practice confiscation action is rarely taken in these cases. Underlying this practice is also the notion that the resources of the State should not be applied for the benefit of individuals who are able to take their own action or who may be the beneficiary of a restitution order.

In August 2008, the CCC was informed that the topic of making the confiscations legislation available to seize property of offenders likely to be subject of victim compensation orders was raised by a community reference group during external consultation as part of the review of the victims of crime legislation. At that time there was no intention to incorporate such a proposal into the victims of crime review but CCC understands that the proposal was to be subject of further consideration at a later date.

A review of the *Victims of Crime Assistance Act 2009* was commenced in November 2014. The CCC is unaware whether the topic of making the confiscation legislation available to seize property of offender likely to be subject of victim compensation orders forms part of this review. To date, there has been no discussion with CCC on this topic. The CCC notes that any such proposal has significant resource implications.

Law reform considerations

The CCC understands various State government departments maintain "fidelity funds". These funds are used to pay victims who have suffered a loss due to contraventions of specific governing legislation. For example Office of Fair Trading maintains a fidelity fund for victims resulting from contraventions of the *Fair Trading Act 1989* and the Department of Natural Resources and Mines maintains a similar fund for contraventions of the *Land Title Act 1994*.

The CCC recommends the Commission of Inquiry consider the concept whereby monies and property forfeited resulting from fraud offences, where there are identified victims, be paid to a victim of crime fund rather than consolidated revenue. This would enable victims to apply to the fund for restitution

resulting from the fraudulent activity. A number of factors would need to be taken into account as follows:

- Any victims of crime fund would need to be managed by an agency separate to the CCC as the administrator of the confiscation schemes
- Any such arrangement will dramatically increase the workload on the POC as fraud matters are rarely undertaken currently
- Due to the cost of civil litigation the arrangement would need to be limited to offences serious fraud (>\$100,000)
- It may be viewed that State's finite resources are being utilised for the private benefit of victims – that is, that State money is being used for the recovery of money on behalf of victims and not for the benefit of the State (which is currently the case). The State would bear the costs which currently are borne by victims when they institute civil proceedings in their own right.

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Conclusion

Organised crime in Queensland is not as significant as organised crime in New South Wales and Victoria. Against a background of long term projected demographic growth in Queensland however, it is in this State's strong interests to preserve and or improve on this position. In order to do so it is important that we conceive of organised crime as not just a law enforcement issue. As with any market based activity, it is driven by both supply and demand factors and there are opportunities to exploit broader demand reduction and harm minimisation strategies through "joined up" government responses. In order to inform appropriate responses however the government must be able to access up to date and comprehensive strategic intelligence on organised crime in Queensland and have sufficient information to develop proportionate, tailored responses to priority issues. For this reason the CCC respectfully recommends consideration of a Queensland organised crime strategic framework.

Similarly law enforcement responses must leverage off the collaboration and the capabilities of all law enforcement agencies with a presence in Queensland and the resources and intelligence sources that are nationally available to law enforcement. There is a existing co-ordination framework for organised crime that supports this. There are however opportunities to consider how to best leverage investment in law enforcement technologies and capability development, particularly those capabilities that are most likely to be effective against organised crime networks into the future. The best available strategic intelligence on organised crime in Queensland also ensures that cross agency priorities and efforts are directed at the areas and groups creating the greatest harm.

The CCC strives to ensure that its operational priorities and direction are intelligence driven and that the CCC in turn uses its finite resources to impact on priority areas where we can uniquely contribute. We can uniquely contribute through our intelligence understanding, our use of our coercive powers, our research and proceeds of crime expertise, and through the application of our multi-disciplinary team investigative model - which brings together all the necessary skills and expertise to address high risk crime priorities or groups. The CCC is also very conscious that it must be flexible, innovative and highly responsive to changes in the organised crime environment. By having visibility of both organised crime and corruption in Queensland the CCC is also uniquely placed to monitor the relationship between the two, and to respond to emerging issues or trends in this regard.

The CCC thanks the Commission of Inquiry for the opportunity to make this submission and recommends to the Commission of Inquiry consideration of the areas of policy development and law reform that the CCC considers may improve responses to organised crime in Queensland.

Appendix 1: Paedophilia case studies

Stephen Anthony Black (Brisbane City)

On Wednesday, 16 February 2011 detectives from the Cerberus Team were conducting online investigations utilising covert investigative software. Whilst posing as a male child sex offender the detectives identified the user [REDACTED] as being online and sharing child exploitation material. Over the following hour, a number of child exploitation files were successfully downloaded from this person. [REDACTED]

[REDACTED]. Database inquiries confirmed that this [REDACTED] belonged to the State Library of Queensland, South Brisbane. This was confirmed as a [REDACTED] used for wireless (free Wi-Fi) connectivity within the State Library complex. To confirm the identity of the offender and preserve evidence, detectives travelled to the State Library at South Brisbane. Detectives approached a male person, who closed his laptop to hide his activities.

Police took possession of the laptop computer and accessed the screen revealing the male was using P2P software and the account name on the program was [REDACTED]. The male person was identified as Stephen Anthony Black [REDACTED] of [REDACTED], Spring Hill. He admitted that he had been released from prison for child sex offences in October 2010. He stated that he was a reportable child sex offender and admitted to detectives that he utilised the free Wi-Fi located at the library, and also at the Brisbane Magistrates Court, as an attempt to avoid detection by law enforcement. He admitted that his sexual preference was 12 to 13 year old female children. Further analysis of Black's computer provided more evidence of networked offending, which has substantiated preferring of a aggravated offence "networking" offending charge under section 474.24A of the *Commonwealth Criminal Code 1995* (CCC) as well as a number of further charges relating to the access and transmission of child exploitation material (CEM). The aggravated networking offence was relatively new (commenced 2010) and was the first to be preferred in Australia.

The following chart provides a list of potential victims / offenders identified internationally from the analysis of Black's computer as a result of the covert software obtained from [REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Africa		1	1
Canada	1		1
China	1		1
Europe	5		5
Philippines	1		1
South Africa	1		1
South America	1		1
United Kingdom		3	3
United States	13	3	16
Australia	6	1	7

Black			6
Total			43

Information on these persons of interest has been disseminated to the relevant local authorities for their attention and investigation.

Further forensic evidence revealed that Black had been posing as a 14 year old child and grooming other victims online. An Australian girl was identified, and Western Australian Police detectives were tasked to obtain a statement. In this statement, the complainant child stated she was 12 years old and admitted to sending naked photos of herself to a person she thought was a 14 year old boy as a result of his grooming. Black was charged with the following offences:

- 1 x Utilise a carriage service to cause child pornography to be transmitted to self, s. 474.19, *Commonwealth Criminal Code 1995*
- 1 x Using a carriage service to access child pornography s. 474.19(1)(A)(I)&(B) *Commonwealth Criminal Code 1995*
- 4 x Possessing Child Exploitation Material, s. 228D *Criminal Code 1889*
- 1 x Distributing Child Exploitation Material, s. 228C *Criminal Code 1889*
- 28 x Transmitting child pornography using a carriage service s. 474.19(1)(A)(III) *Commonwealth Criminal Code 1995*
- 1 x Offence involving conduct on 3 or more occasions and 2 or more people (Aggravated networked offending) S. 474.24A *Commonwealth Criminal Code 1995*.

Black was found guilty and sentenced to 5 years imprisonment and is eligible for parole after serving 2.5 years. Black's parole request has been denied and he is still currently in custody.

Timothy Clifford Schultz (Browns Plains)

During an examination of the P2P covert software applications, detectives from the CMC's Cerberus Criminal Paedophilia Team discovered the user name [REDACTED] offering files for sharing by way of password. On 24 November 2011 detectives first observed the files in the computer of [REDACTED]. On this occasion shared files consistent with being CEM were observed. On 2 December 2011 and 4 December 2011, [REDACTED] offered for sharing files believed to contain CEM. Subscriber inquiries were requested and results indicated that the [REDACTED] address was subscribed to by Mr Timothy Schultz [REDACTED].

On 23 February 2012, a search warrant was executed and Timothy Clifford Schultz was found present. Schultz readily made admissions to having the user name [REDACTED] and stated that the computer would contain CEM. He made further admissions that he had accessed and shared CEM since the age of 14. He stated that as a young boy he was sexually abused, and at 14 he started searching for males of his own age group. As he grew older, the files he sought and shared were of younger and younger children. He stated that he had up to 50 networked users and that he was actively sharing CEM within his closed contact list of "friends".

Following the execution of a search warrant and certain disclosures made by Schultz, Cerberus staff conducted intelligence checks into the identification the victim child. Detectives later interviewed the child victim, aged 13 years at the time of alleged offence. This complainant provided details of social engagement with Schultz, both via the internet and other electronic media, before arranging to meet personally at his parents address. During the meeting both Schultz and the victim child engaged in oral sex. The complainant stated that Schultz also had anal intercourse with him. On 22 March 2012 detectives arrested Schultz following a complaint of Sodomy and Indecent treatment of a child under the age of 16 years.

Schultz was later convicted of the following charges;

- 2 x Possessing CEM, s. 228D Criminal Code 1889
- 1 x Utilise Carriage Service to access CEM, s. 474.19(1)(a)(i), *Commonwealth Criminal Code 1995*
- 3 x Utilise Carriage Service to make CEM available (474.19(1)(a)(i), *Commonwealth Criminal Code 1995*
- 1 x Indecent Treatment of a Child under 16 (extra-familial), s. 210 1(a) Criminal Code,
1 x Unlawful Sodomy a person under 18 years (extra-familial), s. 208 1(a) Criminal Code
- 1 x Indecent Treatment of a Child under 16 (extra-familial), s. 210 1(c) Criminal Code
- 121 x Utilise Carriage Service to Transmit child pornography (474.19(1)(a)(iii), *Commonwealth Criminal Code 1995*
- 2 x Offence involving conduct on 3 or more occasions involving two or more people ("Networking"), 474.24A, *Commonwealth Criminal Code 1995*.

Schultz was sentenced to six years imprisonment with an eligibility date for parole not before serving 2.5 years. During her sentencing remarks, Supreme Court Justice Atkinson stated that "Society owes a great debt to investigators who involve themselves in this kind of investigation, particularly, as I have observed some of the extremely distressing material that they must come across every day."

David John Cox (Gracemere)

On 12 October 2011 and again on 4 November 2011 a [REDACTED] covert internet investigation was undertaken using covert law enforcement investigative software. On those dates a file sharing [REDACTED] (user) was identified as being in possession of known CEM files. [REDACTED] As a result, detectives observed approximately 1200 files (images and movies), of which 200 were known [REDACTED] or CEM files. [REDACTED] inquiries were requested and results indicated that the [REDACTED] was subscribed to by Mr David Cox during the period of covert investigations conducted on 12 October 2011 and 4 November 2011. A search warrant was obtained on 28 November 2011 and executed on 29 November 2011 at the Gracemere address.

Cox had previously been subject to a search warrant execution by members of Task Force Argos, State Crime Command and the Rockhampton Child Protection Investigation Unit (CPIU) on 20 January 2011, during which approximately six million image and movie files were located. Cox was arrested and charged on that occasion. Subsequent categorising of those files located approximately 1.2 million files CEM. Given that Cerberus detectives were targeting Cox with a view to executing a search warrant at his address, discussions with the arresting officer from the previous occasion led investigators to believe that Cox was very technically capable with a wide knowledge of encryption methods, hardware and software. In an effort to minimise any risk of evidence loss, it was decided to intercept Cox early in the morning while he was on his way to work, and therefore, away from his house. At 6.30am on 29 November 2011 detectives from the CMC Cerberus Team, Rockhampton CPIU and CMC Forensic Computing Unit intercepted Cox in [REDACTED] and conveyed him back to his residence. A search warrant was executed at his address where police identified that Cox was the sole occupier of the residence. Initial forensic searching did not identify any active Wi-Fi device within the residence.

The P2P system was checked on-site via computer tablet device and showed that the suspect's [REDACTED] address had actively downloaded CEM up until 7.00pm the night before, 28 November 2011. The system also indicated an associated [REDACTED] address for the suspect's usage, which was communicated to the forensic officers. This information led to the discovery of the suspect having used a "virtual network" to access file sharing sites and downloaded CEM to hidden computer space. The material was found to be both password protected and encrypted. The suspect provided his password as [REDACTED] but it was not possible to check the veracity of this information without first powering down the computer. On advice from the FCU staff, powering down the system would potentially lose all of the evidence on the computer. A decision was made to take a full image of the computer data, which was found to contain

three individual volumes of CEM. The total size of data in the volumes was 800 gigabytes, 600 gigabytes and 200 gigabytes. It was estimated that it would take approximately two days to image this amount of data. For this purpose a crime scene warrant was obtained to secure the house, and rotational shifts were arranged between Rockhampton staff and two CMC staff while the imaging took place. Cox initially denied possessing or downloading CEM. He was later interviewed at length in relation to this matter, and stated:

He had downloaded CEM frequently since his last arrest. He had categorised this CEM into separate file containers using a virtual machine system, and that the system was both encrypted and password protected. He used [REDACTED] to obtain CEM images. He had a preference for young male images and, in particular, images depicting children in diapers. Cox was arrested and charged with three offences:

- 1 x Possessing CEM, s. 228D, *Criminal Code 1899*
- 2 x Utilize Carriage Service to access child pornography, s. 474.19(1)(a)(i), *Commonwealth Criminal Code 1995*.

Cox pleaded guilty and was sentenced to five years imprisonment with no recommendations made for parole.

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Appendix 2: CCC intelligence collection priorities

[Redacted content]

References

- Australian Federal Police National Media Team 2011, *Media release: 184 suspects arrested in international child abuse investigation*, Joint Global Media Release, 17 March 2011, AFP, Canberra, viewed 17 March 2011, <<http://www.afp.gov.au/media-centre/news/afp/2011/march/184-suspects-arrested-in-international-child-abuse-investigation.aspx>>.
- BBC News 2001, "Wickedness of Wonderland", *BBC News*, 13 February 2001, p. 1, viewed 25 February 2011, <http://news.bbc.co.uk/2/hi/uk_news/1167879.stm>.
- Bourke, ML & Hernandez, AE 2009, "The 'butner study' redux: a report of the incidence of hands-on child victimization by child pornography offenders", *Journal of Family Violence*, vol. 24, no. 3, pp. 183–91.
- CCC — see Crime and Corruption Commission.
- CMC — see Crime and Misconduct Commission.
- Crime and Misconduct Commission 2011, *Gathering intelligence: case studies*, CMC, Brisbane, viewed 8 April 2011, <<http://www.cmc.qld.gov.au/asp/index.asp?pgid=10757&cid=5358&id=270>>.
- Federal Bureau of Investigation 2005, *Travelers' advisory: beware of online child predators*, FBI, Washington, DC, viewed 10 May 2011, <http://www.fbi.gov/news/stories/2005/december/travelers_advisory121205>.
- Hurley, R, Prusty, S, Soroush, H, Walls, RJ, Albrecht, J, Cecchet, E, Levine, BN, Liberatore, M & Lynn, B 2012, *Measurement and analysis of child pornography trafficking on Gnutella and eMule*, University of Massachusetts Amherst, Amherst, MA, viewed 21 May 2015, <<https://web.cs.umass.edu/publication/docs/2012/UM-CS-2012-016.pdf>>.
- Jayawardena, KP & Broadhurst, R 2007, "Online child sex solicitation: exploring the feasibility of a research 'sting'", *International Journal of Cyber Criminology*, vol. 1, no. 2, pp. 228–48.
- Jayawardena, KP 2011, *A criminological analysis: using real-time monitoring to gather data on online predators*, Masters thesis, Queensland University of Technology, Brisbane.
- Krone, T 2004, "A typology of online child pornography offending", *Trends and Issues in Crime and Criminal Justice*, vol. 279, pp. 1–6.
- McKenna 2008, "Safe at last: porn squad rescues girl from life of torture", *The Australian*, 20 June 2008, pp. 1–3(Factiva).
- Queensland Police Service 2008, *Task Force Argos snapping at the heels of child pornographers*, QPS, Brisbane.
- Sheldon, K & Howitt, D 2007, *Sex offenders and the internet*, John Wiley & Sons Ltd, West Sussex, England.
- United Nations Office on Drugs and Crime 2010, "Cybercrime", in Division for Policy Analysis and Public Affairs (ed.), *The globalization of crime: a transnational organized crime threat assessment* (pp. 211–8), UN Publications, New York, viewed 18 February 2010, <<http://www.unodc.org/documents/data-and-analysis/tocta/10.Cybercrime.pdf>>.



Crime and Corruption Commission
QUEENSLAND

Crime and Corruption Commission
GPO Box 3123, Brisbane QLD 4001

Level 2, North Tower Green Square
515 St Pauls Terrace,
Fortitude Valley QLD 4006

Phone: 07 3360 6060
(toll-free outside Brisbane: 1800 061 611)

Fax: 07 3360 6333
Email: mailbox@ccc.qld.gov.au

www.ccc.qld.gov.au

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