

The Senate

Legal and Constitutional Affairs
References Committee

Ability of Australian law enforcement
authorities to eliminate gun-related violence in
the community

April 2015

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List of abbreviations

ACBPS	Australian Customs and Border Protection Service
ACC	Australian Crime Commission
AFP	Australian Federal Police
AGD	Attorney-General's Department
AIC	Australian Institute of Criminology
APMC	Australasian Police Ministers' Council
ARS	Armament Research Services
COAG	Council of Australian Governments
FWPWG	Firearms and Weapons Policy Working Group
LIV	Law Institute of Victoria
NARMP	National Armed Robbery Monitoring Program
NFA	National Firearms Agreement
NFF	National Farmers' Federation
NFI	National Firearms Interface
NFID	National Firearms Identification Database
NFLRS	National Firearm Licensing and Registration System
NFMP	National Firearms Monitoring Program
NFTD	National Firearm Trace Database
NFTMP	National Firearm Theft Monitoring Program
NHMP	National Homicide Monitoring Program
ABIN	Australian Ballistic Information Network
NPRS	National Police Reference System
WIPO	World Intellectual Property Organization

Recommendations

Recommendation 1

7.16 The committee recommends the Commonwealth government provide funding to allow programs, such as the National Firearms Monitoring Program and the National Firearm Theft Monitoring Program, and reports, such as those in the Firearm Theft in Australia series, to continue on an ongoing basis.

Recommendation 2

7.17 The committee further recommends the Australian Institute of Criminology conduct within three years a review of current data collection and reporting arrangements, with a particular focus on:

- the need for more accurate data on firearm thefts, the recovery of stolen firearms and seizures of illegally imported firearms;
- the quality and comparability of data provided to Commonwealth agencies by state and territory police; and
- greater inter-agency co-operation with regards to data sharing.

Recommendation 3

7.25 The committee recommends that the National Firearms Agreement be updated to implement nationally consistent regulation in the following areas:

- firearms, firearm parts and firearm accessories;
- ammunition; and
- the storage of firearms.

Recommendation 4

7.28 The committee recommends that the Commonwealth government, together with state and territory governments, establish national standards for the security of membership data held by gun clubs.

Recommendation 5

7.33 The committee recommends that an ongoing, Australia-wide gun amnesty is implemented, with consideration given to ways in which this can be done without limiting the ability of police to pursue investigative leads for serious firearm-related crimes.

Recommendation 6

7.39 The committee recommends that all jurisdictions update their firearm data holdings and ensure the data is transferred to the National Firearms Interface.

Recommendation 7

7.44 The committee recommends that Australian governments investigate the requirement for uniform regulations in all jurisdictions covering the manufacture of 3D printed firearms and firearm parts.

Recommendation 8

7.48 The committee recommends that Australian governments continue to monitor the risks posed by 3D manufacturing in relation to the manufacture of firearms and consider further regulatory measures if the need arises.

Recommendation 9

7.51 The committee recommends that Australian governments consider committing further funding and resourcing to assist in implementing the preceding recommendations.

Chapter 1

Introduction and Background

Referral of the inquiry

1.1 On 19 June 2014, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee for inquiry and report by 2 October 2014:

The ability of Australian law enforcement authorities to eliminate gun-related violence in the community, with reference to:

(a) the estimated number, distribution and lethality of illegal guns, including both outlawed and stolen guns, in Australia;

(b) the operation and consequences of the illicit firearms trade, including both outlawed and stolen guns within Australia;

(c) the adequacy of current laws and resourcing to enable law enforcement authorities to respond to technological advances in gun technology, including firearms made from parts which have been imported separately or covertly to avoid detection, and firearms made with the use of 3D printers;

(d) the extent to which the number and types of guns stolen each year in Australia increase the risk posed to the safety of police and the community, including the proportion of gun-related crime involving legal firearms which are illegally held;

(e) the effect banning semi-automatic handguns would have on the number of illegally held firearms in Australia;

(f) stricter storage requirements and the use of electronic alarm systems for guns stored in homes;

(g) the extent to which there exist anomalies in federal, state and territory laws regarding the ownership, sale, storage and transit across state boundaries of legal firearms, and how these laws relate to one another; and

(h) any related matters.¹

1.2 On 2 September 2014, the Senate extended the committee's reporting date to 2 December 2014.² On 24 November 2014, the Senate granted a further extension of time for reporting until 26 March 2015.³

Conduct of the inquiry

1.3 In accordance with usual practice, the committee advertised the inquiry on its website and wrote to a number of organisations and individual stakeholders inviting

1 *Journals of the Senate*, 19 June 2014, pp 920–921.

2 *Journals of the Senate*, 2 September 2014, p. 1390.

3 *Journals of the Senate*, 24 November 2014, p. 1827.

submissions by 15 August 2014. Details of the inquiry were made available on the committee's website at www.aph.gov.au/senate_legalcon

1.4 The committee received 427 submissions, which are listed at Appendix 1. Public hearings were held in Sydney, Melbourne and Canberra on 13, 14 and 31 October 2014. A list of witnesses who appeared before the committee at the hearings is at Appendix 2.

Site visit

1.5 On 17 February 2015 the committee visited the Australian Customs and Border Protections Detector Dog Program Facility and Objective 3D's manufacturing facility, both based in Victoria. The committee thanks both of these organisations for assisting the committee with its inquiry.

Acknowledgment

1.6 The committee thanks all those who made submissions and gave evidence at its public hearings.

Note on references

1.7 References to the committee *Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and the official *Hansard* transcript.

Structure of the report

1.8 This report is comprised of seven chapters.

1.9 Chapter 1 provides an overview of the history of firearm regulation in Australia and a summary of current regulatory regimes.

1.10 Chapter 2 examines the composition of the illicit firearms market in Australia, and the various pathways by which firearms are diverted from the licit to the illicit market.

1.11 Chapter 3 considers the impact illicit firearms and firearm-related crime has on the Australian community.

1.12 Chapter 4 evaluates the current regulatory framework. In particular, it discusses issues relating to the regulation of the legal firearms market, including the need to regulate ammunition, firearm parts and accessories; the adequacy of the current storage requirements for firearms; the effectiveness of firearm amnesties; and the security of firearm ownership data.

1.13 Chapter 5 examines the effectiveness of existing registration and licensing arrangements for firearms.

1.14 Chapter 6 discusses the emergence of 3D manufacturing technology and regulatory concerns surrounding the development of 3D printed firearms.

1.15 Chapter 7 outlines the committee's views and recommendations.

Clarification of the purpose of this inquiry

1.16 In response to this inquiry, the committee received over 400 submissions, many of which were concerned about the impact the inquiry might have on the ownership and use of firearms.

1.17 It is important to clarify from the outset that the main focus of this inquiry was on illicit firearms in Australia. While some of the terms of reference refer to regulation of registered firearms that are legally held, this is in the context of ensuring that these are not diverted to the illicit market. The committee appreciates that the majority of firearm owners comply with the relevant legislation and acknowledges the work of the various firearms organisations in promoting the safe use and storage of firearms. The committee also recognises the number of Australians who participate in the sport of shooting.

1.18 The committee would also like to clarify the terminology used throughout this inquiry. As noted by the Attorney-General's Department (AGD) in its submission, firearms and firearm-related articles are not in themselves either legal or illegal:

...regardless of the type of firearm or firearm-related article, there will always be a situation in which it is able to be lawfully possessed in Australia. For example, although certain firearms (such as fully automatic firearms) are generally unable to be possessed or used by civilians, they are able to be possessed by law enforcement, the military and private companies engaged in activities such as research and development.

It is more accurate to state that a person's possession or use of a particular firearm or firearm-related article is legal or illegal. Generally, illegal possession or use would involve either possession without a licence, without a licence that authorises possession of that particular firearm type or possession or use in contravention of licence conditions.⁴

1.19 In using the term 'illicit firearms', the committee is referring to those firearms that 'were illegally imported into or illegally manufactured in Australia, diverted from the licit market or moved from the grey market'.⁵

Background and overview of firearm regulation in Australia

Pre-1996 situation

1.20 Prior to the incident at Port Arthur on 28 April 1996, in which 35 people were killed and 23 wounded by a gunman using a range of semi-automatic weapons, gun laws in Australia were less restrictive than current laws.

1.21 In its submission, the Attorney-General's Department (AGD) discussed the situation pre-1996, noting that a number of inconsistencies existed between the various jurisdictions with regards to the regulation of firearms.⁶

4 Attorney-General's Department (AGD), *Submission 42*, p. 4.

5 Australian Institute of Criminology (AIC), *Submission 76*, p. 4.

6 AGD, *Submission 42*, p. 3.

1.22 AGD stated that:

One of the most significant consequences of the lack of a uniform approach to gun control in Australia was the opportunity for firearms to be diverted to the illicit market. This was facilitated to an extent by loopholes in legislation and regulation, lack of oversight, and low penalties that were applied to firearm offences.⁷

1.23 On 9 August 1987, a mass shooting took place on Hoddle Street, Clifton Hill which resulted in the deaths of seven people, and serious injury to 19 others. Less than five months later, another mass shooting took place in Melbourne at the Queen Street post office, which resulted in nine fatalities and five people being injured. As a result of these incidents, the government formed the National Committee on Violence (NCV). In its final report, released in 1990, the NCV included a recommendation that national firearm laws be implemented.⁸ This recommendation was not acted upon until the establishment of the 1996 National Firearms Agreement.

The 1996 National Firearms Agreement

1.24 After the events at Port Arthur, the Australasian Police Ministers' Council (APMC) adopted the National Agreement on Firearms (NFA), which consisted of 10 resolutions which formed a nationwide plan for the regulation of firearms. The NFA contained the following changes:

- a ban on automatic and semi-automatic long-arms other than in exceptional circumstances;
- nationwide registration of all firearms (expanding the existing regulations requiring handguns to be registered to include long-arms as well);
- established categories of firearm types to be used in the licensing of firearms;
- a requirement that applicants for a firearms license demonstrate a 'genuine reason for owning, possessing or using a firearm' (for some licence categories applicants must also demonstrate a genuine need);
- the introduction of basic licence requirements: in addition to the demonstration of 'genuine reason', a licence applicant should be aged 18 years or over, be a fit and proper person, be able to prove identity (have 100 points of original identification) and undertake an adequate safety test;
- a requirement that first time licence applicants complete a safety training course;
- the introduction of grounds for licence refusal or cancellation and seizure of firearms;
- a uniform standard for the security and storage of firearms;
- introduction of firearm permits and a minimum 28-day waiting period; and

7 AGD, *Submission 42*, p. 3.

8 AGD, *Submission 42*, Attachment A.

- a requirement that firearms sales be conducted only by or through licensed firearm dealers.⁹

1.25 These reforms were implemented by the states and territories, though some inconsistencies still remained.¹⁰

1.26 The NFA also contained a resolution establishing a 12 month national amnesty period and compensation program, along with a public information campaign.¹¹ The federal government passed the *National Firearms Program Implementation Act 1996* and the *Medicare Levy Amendment Act 1996*, which established the national firearms buyback program funded by a temporary increase in the Medicare levy.

1.27 Prior to the buyback, there were approximately 3.25 million guns in Australia.¹² The gun buyback scheme ran from 1 October 1996 to 30 September 1997 and resulted in the surrender of approximately 640,000 now-prohibited firearms.¹³ The effectiveness of the buyback scheme has remained a subject of debate amongst commentators.¹⁴

Further agreements

1.28 In 2002, the APMC developed two new agreements: the National Handgun Agreement 2002 (the Handgun Agreement) and the National Firearms Trafficking Policy Agreement 2002 (the Trafficking Agreement).¹⁵

1.29 The Trafficking Agreement was agreed to by APMC at its meeting in July 2002 and was aimed at addressing the illegal firearms trade. As noted by AGD in its submission, the agreement 'committed jurisdictions to putting in place additional controls to address the illegal firearms trade, including the introduction of nationally consistent rules for the legal manufacture of firearms and tighter recording and

9 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, pp 7–10, <http://www.aic.gov.au/publications/current%20series/rpp/100-120/rpp116.html> (accessed 2 October 2014).

10 AGD, *Submission 42*, p. 5; S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012.

11 AGD, *Submission 42*, p. 4.

12 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007, http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/0708/FirearmsAustralia (accessed 2 October 2014).

13 Australian National Audit Office (ANAO), *The Gun Buy-Back Scheme*, December 1997, pp 6–7, http://www.anao.gov.au/uploads/documents/1997-98_audit_report_25.pdf (accessed 2 October 2014).

14 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007.

15 AGD, *Submission 42*, Attachments C and D.

reporting provisions for dealer transactions involving firearms and major firearms parts'.¹⁶

1.30 As a result of a shooting incident causing the death of two students at Monash University in October 2002, the APMC agreed on a series of 28 resolutions aimed at 'restricting the use and availability of handguns through such measures as restricting the possession of handguns based on calibre, barrel length and magazine capacity'.¹⁷ These were adopted by the Council of Australian Governments (COAG) in December 2002 and formed the Handgun Agreement.

1.31 The agreed restrictions were implemented legislatively by the states and territories:

Each state and territory agreed to amend its firearms laws by 1 July 2003 to prevent the purchase, possession and use of prohibited handguns used for sports shooting and also those that are held as part of historical collections. Where legislation was not already in place, the states and territories also agreed to introduce substantial penalties for the illegal possession of a firearm.¹⁸

1.32 The federal government amended the Customs (Prohibited Imports) Regulations 1956 to reflect the new restrictions and introduced a buyback program for handguns that did not comply with these restrictions. The program resulted in 70,000 handguns being surrendered.¹⁹

Recent reforms

1.33 In 2012, the states and territories reached an agreement with the federal government with regards to further reforms. These were aimed at targeting the illicit firearms market and included:

- tougher penalties—including a maximum penalty of life imprisonment for aggravated firearm trafficking;
- national roll-out of the Australian Ballistics Identification Network;
- establishing a National Firearms Interface;
- expanding the Australian Crime Commission's Firearm Tracing Capability;
- establishing a firearm intelligence and targeting team within Customs and Border Protection;
- establishing measures to identify and target vulnerabilities in the international airstream;

16 AGD, *Submission 42*, p. 4.

17 AGD, *Submission 42*, p. 4.

18 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007.

19 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007.

- improving police responses to firearm crime;
- establishing a national campaign on unlicensed firearms; and
- developing an annual illicit firearm intelligence assessment.²⁰

1.34 In order to implement these changes, the federal government passed the Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012.²¹

1.35 In 2014, the government introduced the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014, which seeks to 'introduce international firearms trafficking offences and mandatory minimum sentences and extend existing cross-border disposal or acquisition firearms offences'.²² On 15 February 2015 this Bill was passed with amendments.

Current situation regarding firearm regulation

1.36 The regulation of firearms in Australia is primarily the responsibility of the states and territories, with the federal government's role contained to the import and export of firearms.

Federal government

1.37 As noted by AGD, 'the Commonwealth's main role in relation to the regulation of firearms and firearm-related articles is through the control on imports [and] exports and the use of the trade and commerce power in the Constitution in relation to interstate movement'.²³

1.38 Section 51(i) of the Constitution, which deals with overseas and interstate trade and commerce, has been relied on by the Commonwealth to prohibit the importation of certain firearms into Australia. Regulation 4F and Schedule 6 of the Customs (Prohibited Imports) Regulations 1956 'control the importation of firearms, firearm accessories (silencers, certain types of stocks and devices designed or capable of converting a firearm to semi or fully automatic), firearm parts, firearm magazines, ammunition, components of ammunition and imitation firearms'.²⁴

1.39 With regard to the importation of firearms, an importer may be required to get permission from the Australian Customs and Border Protection Service, their state or

20 Australian Crime Commission (ACC), *Illicit Firearms fact sheet*, 2013, <https://www.crimecommission.gov.au/sites/default/files/ILLICIT%20FIREARMS%20JULY%202013.pdf> (accessed 2 October 2014).

21 See the committee report for further information: Senate Legal and Constitutional Affairs Legislation Committee, *Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012*, March 2013.

22 See the committee report for further information: Senate Legal and Constitutional Affairs Legislation Committee, *Crimes Legislation Amendment (Psychoactive Substances and Other Measures)*, September 2014.

23 AGD, *Submission 42*, p. 7.

24 AGD, *Submission 42*, Attachment E. Further information with regards to import restrictions is set out in AGD's submission at Attachment E.

territory firearms registry or AGD.²⁵ This depends on what type of firearm they are applying to import. AGD argued in its submission that the current rules regarding importation:

...results in situations where the Commonwealth's role in the regulation of the importation of firearms and firearm-related articles is of limited or no value, creates anomalies and results in more red-tape for legitimate importers.²⁶

States and territories

1.40 The states and territories have retained control over the regulation of the sale, purchase, possession and storage of firearms (including imitation firearms). The following relevant legislative instruments currently apply:

- New South Wales: *Firearms Act 1996*, Firearms Regulation 2006, *Weapons Prohibition Act 1998*, Weapons Prohibition Regulation 2009;
- Victoria: *Firearms Act 1996*, Firearms Regulations 2008, *Control of Weapons Act 1990*, Control of Weapons Regulations 2011;
- Queensland: *Weapons Act 1990*, Weapons Regulations 1996, Weapons Categories Regulations 1997;
- Western Australia: *Firearms Act 1973*, Firearms Regulations 1974;
- South Australia: *Firearms Act 1977*, Firearms Regulations 2008;
- Tasmania: *Firearms Act 1996*, Firearms Regulations 2006;
- Northern Territory: *Firearms Act*, Firearms Act Regulations; and
- Australian Capital Territory: *Firearms Act 1996*, Firearms Regulation 2008, *Prohibited Weapons Act 1996*, Prohibited Weapons Regulation 1997.²⁷

1.41 There have been a number of recent reforms to state and territory laws.

1.42 In New South Wales, legislation was enacted in June 2012 to place further restrictions on the sale and purchase of ammunition. In December 2012, the New South Wales government announced that it had established a committee to provide advice on proposed new gun control legislation that would tighten restrictions in some areas.

1.43 In South Australia, the state Attorney-General announced a gun amnesty campaign in June 2012, which ran from 1 August to 31 October 2012. It was reported that 2783 weapons were surrendered to authorities during the three-month period.

25 AGD, *Submission 42*, p. 7.

26 AGD, *Submission 42*, p. 7.

27 The Law Library of Congress, *Firearms-Control Legislation and Policy: Australia*, 16 September 2014, <http://www.loc.gov/law/help/firearms-control/australia.php> (accessed 2 October 2014).

1.44 In Queensland, the police minister established an advisory panel in August 2012 to examine gun laws and licensing with the aim of reducing red tape for licensed firearms owners, generating a strong negative response from the Queensland Police Union.²⁸ The Queensland government also introduced amending legislation in November 2012 to introduce new mandatory minimum penalties for weapons offences 'in an effort to address the unlawful use of firearms'. At the same time, the government announced a gun amnesty for people to either hand in or register their firearms. The bill was passed in December 2012.²⁹

Overseas comparisons

1.45 Australian laws regarding the regulation of firearms are 'stricter than that of a number of comparable countries':

... in contrast to the position in the United States, there is no legal right to gun ownership. Owning and using a firearm is limited in Australia to people who have a genuine reason and self-protection does not constitute a genuine reason to possess, own or use a firearm. Secondly, the Australian system requires both the licensing of individual shooters and the registration of each firearm. In contrast, countries such as New Zealand and Canada broadly speaking only require shooters to obtain a license, which enables them to freely purchase firearms appropriate to that licence.³⁰

1.46 However, the majority of studies examining the NFA's impact on gun violence in Australia have concluded that the reforms 'have been responsible for substantial reductions in the Australian firearm death rate and have also put an end to mass shooting'.³¹

1.47 In examining Australia's firearm reforms, Ms Lauren Hirsh argued that cumulatively these studies provide strong evidence that Australia's firearm reforms have been effective:

The most comprehensive study into the effects of the reforms, conducted by Leigh and Neill in 2010, found a 65% decline in the firearm homicide rate and a 59% decline in the firearm suicide rate in the decade following the implementation of the NFA, with no parallel increase in rates of non-firearm related homicides or suicides. These authors also demonstrated a strong causal relationship between the NFA and these declines. Their research showed that the NFA was responsible for a 36% decline in the firearm homicide rate and a 74% decline in the firearm suicide rate.

28 The Law Library of Congress, *Firearms-Control Legislation and Policy: Australia*, 16 September 2014.

29 The Law Library of Congress, *Firearms-Control Legislation and Policy: Australia*, 16 September 2014.

30 J Curtis, *Australian gun laws*, Parliamentary Library, 21 December 2012, http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/2164439/upload_binary/2164439.pdf;fileType=application%2Fpdf (accessed 2 October 2014).

31 L Hirsh, 'Brothers in Arms Control: Introducing Australian-Style Gun Control in the United States', *Macquarie Law Journal*, 2013, vol. 12, pp 89-91.

Current data reveals that the Australian firearm death rate has today been reduced to 1/100 000, which is less than half of the 1996 rate and one tenth of the current US rate. Likewise, the Australian firearm homicide rate, which was already one fifteenth of the US rate prior to Port Arthur, has been reduced to one twenty-seventh of that rate today.³²

32 L Hirsh, 'Brothers in Arms Control: Introducing Australian-Style Gun Control in the United States', *Macquarie Law Journal*, 2013, vol. 12, p. 90.

Chapter 2

Illicit firearms in Australia: quantity and source

2.1 This chapter considers the illicit firearms market in Australia, its composition and the relative contribution from different methods of diverting firearms into the illicit market.

What are illicit firearms?

2.2 The illicit firearms market in Australia comprises grey market and black market firearms. The Australian Institute of Criminology (AIC) explained:

The licit market comprises all firearms that are subject to registration and held by a person with the approved authority to do so. The grey market consists of all long-arms that were not registered, or surrendered as required during the gun buybacks, following the National Firearms Agreement (1996). Grey market firearms are not owned, used or conveyed for criminal purposes but may end up in the illicit market. Illicit market firearms are those which were illegally imported into or illegally manufactured in Australia, diverted from the licit market or moved from the grey market.¹

2.3 This definition of illicit firearms is well accepted. The use of the term 'grey market', however, caused debate amongst submitters to the inquiry. The Australian Crime Commission (ACC) disagreed with the explanation provided by the AIC and argued that grey market firearms formed part of the illicit market without needing to be diverted for an illicit purpose:

There appears to be some inconsistency in evidence that has been presented to the committee, particularly in relation to the definition of the grey market and methods of diversion. The illicit firearm market is primarily made up of firearms that have been diverted from licit markets through various means. The grey market is comprised only of long-arm firearms which should have been either registered or surrendered in firearm buybacks following the 1996 National Firearms Agreement but were not. Handguns are not included in the grey market as they required registration prior to the 1996 agreement. The black market includes all firearms, both long-arms and handguns, illicitly obtained by individuals and criminal entities. While the use of these terms and related definitions may be debated, both the grey and black market are part of the illicit firearm market. The ACC's ongoing firearm trace activities, which we would like to elaborate on further in camera, continue to indicate that the majority of illicit firearms are derived from Australia's grey market. Theft, failure to reconcile the interstate movement of firearms, and importation of undeclared firearms and firearm parts are all key components of the illicit market.²

1 Australian Institute of Criminology (AIC), *Submission 76*, p. 4.

2 Mr Paul Jevtovic, National Manager, Strategic Intelligence and Strategy, Australian Crime Commission (ACC), *Committee Hansard*, 31 October 2014, p. 34.

2.4 Detective Chief Superintendent Finch of the New South Wales Police Force stated that the terminology was misleading:

[It] is a term that gives people comfort, and it should not. It is a benign term. People who possess firearms—and they may be firearms that were not handed back under the 1996 provisions—may well be committing criminal offences and, in fact, serious criminal offences. I think the term 'grey market' gives people comfort that it is not such a bad thing. The problem with that is that when firearms are stolen from those people it may not ever be reported. That is a problem in itself. [Grey market] is a term that was perhaps coined by the [Australian Crime Commission]. I understand the reason for it, but I do not agree with its use. I obviously understand the difference between that and the black market, but it is something I think we should be constantly vigilant about. We remind people strongly that it is an offence—and a serious criminal offence, at that—to have possession of firearms that are unregistered and so on.³

2.5 The Firearm Traders Association of Victoria argued that the grey market was mainly comprised of firearms owned by people who had disagreed with the 1996 reforms and was not a source of illicit firearms:

It became a very emotive issue, and those people who did not have registration and could get away with it said they are going to get away with it because they believed it was an unjust piece of legislation. We believe it has demonised us. We are normal, law-abiding people. I would use the words 'normally law-abiding' because they did not abide by that one. There is no evidence by anybody, including the people who are self serving with their statistics, to prove that grey market guns are actually any threat to society.⁴

2.6 By contrast, the Firearm Safety and Training Council stated:

In respect of the grey firearms, it is our firm belief within the firearms industry, which I represent, that those people who have chosen not to have their firearms bought under the regulatory regime should be dealt with harshly. There is no benefit whatsoever in the grey firearms.⁵

2.7 Regardless of whether they fall within the definition of the illicit market, grey market firearms pose a significant risk to the community by virtue of remaining undetected.

Size of the illicit firearms market

2.8 The evidence provided to this inquiry indicated that it is exceedingly difficult, if not impossible, to ascertain the number of firearms that comprise the grey and illicit

3 Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police Force, *Committee Hansard*, 13 October 2014, pp 41–42.

4 Mr Robert Schwarz, Firearms Traders Association of Victoria, *Committee Hansard*, 14 October 2014, pp 34–35.

5 Mr Gary Bryant, General Manager, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 6.

markets. In its *Firearm trafficking and serious and organised crime gangs* report, the AIC stated that 'it is not possible...to estimate the size of either the grey or illicit market'.⁶

2.9 The ACC, as part of its *2012 National Illicit Firearm Assessment*, has provided the only accurate estimate:

Whilst the exact size of the illicit firearm market is unknown, our 2012 assessment conservatively estimated the market contained around 260,000 firearms comprised of more than 250,000 long-arms and around 10,000 handguns.⁷

2.10 This estimate included both grey and black market firearms and was derived from 'analysis of importation numbers, seizures, firearms data from industry, in particular, and historical legislation and other relevant data'.⁸ While the actual data used to determine these figures was classified, the ACC stated that the next national assessment, to be finalised in 2015, will 'be accompanied with appropriate unclassified and publicly available materials'.⁹

2.11 In preparing the *2012 National Illicit Firearm Assessment*, the ACC 'identified significant national issues relating to the quality and accuracy of data'.¹⁰ This was a view shared by other witnesses,¹¹ who argued that data provided by the states and territories to the ACC contained inconsistencies and that the ACC's role was limited to analysing the data provided as opposed to collecting its own.¹²

2.12 The quality of information shared by the Commonwealth and states and territories was also identified as an issue. The Joint Commonwealth-New South Wales Review of the events that took place during the Martin Place siege in 2014 referred to a number of flaws in national firearm databases:

While indeterminate results are clearly inadequate for time-sensitive policing, they are unsurprising given weaknesses in Australia's national system for maintaining and sharing firearms information between jurisdictions. In this case, the NSW specific firearm database showed the relevant, accurate information but there was poor interoperability between the state and national databases giving a result that required further checks,

6 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, p. 23, <http://www.aic.gov.au/publications/current%20series/rpp/100-120/rpp116.html> (accessed 2 October 2014).

7 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

8 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

9 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, pp 33–34.

10 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 33.

11 Mr Luca Scribani Rossi, President, National Firearm Dealers Association Inc., *Committee Hansard*, 14 October 2014, p. 28; Mr Greg Chan, General Manager, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 39.

12 Mr Chan, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 39.

if being viewed by a police force outside NSW. The forthcoming introduction of a [National Firearms Interface] will significantly improve this situation by creating a single national firearms repository.¹³

2.13 The report of the joint review identified the grey market as a major concern and also highlighted the inability to track firearms over time as a problem.¹⁴ These issues are discussed further later in this chapter.

Methods of diversion

2.14 There are three ways in which firearms enter the illicit market: they are diverted from the licit market or moved from the grey market, often by theft, or they are illegally imported into or illegally manufactured in Australia.

2.15 The extent to which theft and illegal importation contribute to the pool of illicit firearms in Australia proved to be one of the most contentious points of this inquiry, with witnesses divided over whether the issue was one of theft from licensed individuals and firearms dealers or porous borders.

Theft of firearms

2.16 Various representatives of the firearms industry argued that, based on statistics provided by government agencies and state and territory police, the overall number of firearms stolen was quite small.¹⁵

2.17 The Sporting Shooters' Association of Australia submitted that 'stolen firearms are not the main source of supply for the illegal gun trade' and argued that data on firearms thefts was unreliable:

In South Australia, for example, the figure submitted for legal handguns was inverted, leading the AIC to believe that there were 41,300 instead of 14,300 owned handguns in that jurisdiction. Western Australia at one stage provided no information on firearms or firearms theft, while Victoria inadvertently recorded firearm parts as actual stolen firearms. Even the AIC's senior research analyst, Dr Samantha Bricknell, has stated that the number of illegal firearms in the community is impossible to estimate. As we have said in our written submission, the origin of illegal handguns, according to the AIC, has an 'unknown' rate of 70 per cent. Handguns in particular are the least likely to be stolen or ever used in a subsequent crime. In the state of Victoria, only six handguns were stolen last year.

13 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth–New South Wales Review*, February 2015, p. 48, <http://www.dpmc.gov.au/pmc/publication/martin-place-siege-joint-commonwealth-new-south-wales-review> (accessed 23 February 2015).

14 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth–New South Wales Review*, February 2015, pp 48–49.

15 For example: Mr Bryant, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 5; Field & Game Australia Inc., *Submission 81*, p. 2; Shooters Union Australia, *Submission 101*, p. 4; Dr Jim Lemon, *Submission 215*, p. 4; and Mr Geoffrey Jones, President, Sporting Shooters' Association of Australia, *Committee Hansard*, 31 October 2014, p. 33.

Illegal long-arm ownership is more likely to have come from the grey market, where rifles and shotguns are not registered.¹⁶

2.18 Shooting Australia could neither dispel nor substantiate whether theft of firearms from licensed owners was a significant source of illicit firearms but acknowledged that sporting shooters 'are very conscious of the fact that our sporting equipment is a firearm and therefore something that we need to keep secure as far as any theft is concerned'.¹⁷

2.19 Other submitters and witnesses argued that firearm theft plays an important role in the diversion of firearms from the licit market.¹⁸ Dr Terry Goldsworthy, Assistant Professor of Criminology at Bond University, noted that the 'issue of stolen illegal guns is still reasonably concerning to most Australians':

The rate of gun theft in Australia continues to go up by about six per cent per year. We have fairly strong rule of law in Australia, we have fairly rigorous border protection and services. On the basis of that I would think that, if I were a criminal looking to source a weapon that is probably the route I would take.¹⁹

2.20 The AIC stated that there was an average six per cent increase in the number of firearms reported stolen in the five years from 2004–05 to 2008–09²⁰ and confirmed that theft was a significant source of handguns for illicit purposes:

We found that of non-restricted handguns theft contributed 50 per cent of handguns to the overall illicit pool that had been seized and around 30-odd per cent to the restricted handguns. So theft did represent a significant contributor to the illicit handgun market based on the data that was available at the time.²¹

2.21 More specifically, statistics provided by the AIC show that theft or loss was the second most likely source of restricted handguns in Australia, with 31 per cent diverted to the illicit market in this way.²² The AIC also provided a summary of gun

16 Mr Jones, Sporting Shooters' Association of Australia, *Committee Hansard*, 31 October 2014, p. 33.

17 Mrs Catherine Fettell, President, Shooting Australia, *Committee Hansard*, 31 October 2014, p. 13.

18 For example: Mr Roland Browne, Vice-President, Gun Control Australia, *Committee Hansard*, 14 October 2014, p. 1; Dr Terry Goldsworthy, Assistant Professor, Criminology, Faculty of Society and Design, Bond University, *Committee Hansard*, 14 October 2014, p. 23; and Mr Chan, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 41.

19 Dr Goldsworthy, Bond University, *Committee Hansard*, 14 October 2014, p. 23.

20 AIC, *Submission 76*, p. 18.

21 Dr Samantha Bricknell, Research manager (Violence and Exploitation), AIC, *Committee Hansard*, 31 October 2014, p. 46.

22 AIC, *Submission 76*, p. 18.

thefts by state which demonstrated that the number of firearms stolen each year has increased and remained above 1500 per year since 2006–07:²³

	1994–2000 ^a	2004–05	2005–06	2006–07	2007–08	2008–09	2013–14
NSW	1,048	371	401	432	410	592	na
Vic	538	302	211	276	332	302	525
Qld	750	329	302	320	352	319	585
WA	602	207	191	232	297	na	410
SA	823	250	198	204	193	211	246
Tas	306	83	114	52	107	99	212
ACT	36	8	9	na	9	22	8
NT	92	20	19	10	12	25	na
Australia	4,195	1,470	1,445	1,526 ^b	1,712 ^c	1,570	

2.22 The AFP advised that its holdings reveal that 'genuine theft from licensed owners' is a main source of firearms trafficked within Australia and of those firearms obtained by theft, many are stolen from licensed owners, dealers and security, sometimes 'by aggravated circumstances'.²⁴ The ACC concurred:

Theft remains a primary method for diverting firearms to the illicit market. An average of 1,545 firearms per annum was reported stolen to Australian state and territory police during the period 2004–05 to 2008–09.²⁵

2.23 The ACC described how easily firearm theft can be executed, stating '[t]he fact of the matter is that if firearms are not stored properly, yes—they will be readily available for theft'.²⁶ This statement was supported by statistics from the AIC that demonstrated:

The main location for firearm theft between 2005–06 and 2008–09 was a private residence, either the house or the garage/shed (76%, n=1,956). Ten percent of incidents involved theft from vehicles (n=246) and eight percent involved business premises (n=217).

Almost a fifth of thefts from private residences and business premises were aided by the premises not being secured at the time of theft (eg unlocked door or window). Vehicles were particularly vulnerable with over a third (38%) unlocked at the time of the theft.

...

Stolen firearms represent a ready source of firearms for the illicit firearm market.²⁷

23 AIC, *Submission 76*, p. 18.

24 Australian Federal Police (AFP), *Submission 182*, p. 9.

25 ACC, *Submission 75*, p. 4.

26 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 37.

27 AIC, *Submission 76*, p. 10.

2.24 The AIC continued:

Firearms were stolen from an approved firearm safe or other secure receptacle in 58 percent (n=1,493) of reported firearm incidents in 2005–09 (see Figure 6), although not all these receptacles were determined to be secure at the time of the theft (ie unlocked, easily breached or the key was located by the offender). Firearms had been left in vehicles in just under 10 percent (n=236) of incidents and in 11 percent (n=269) of incidents firearms were described as unsecured or in the open.

Firearms not stored appropriately at the time of the theft comprised almost a fifth (18%) of all reported stolen firearms during 2005–09 (Bricknell 2010).²⁸

2.25 Victoria Police noted that while the number of stolen firearms in Victoria had decreased from 800 in the 2011–12 period to 500 in the last period,²⁹ 'the more weapons that are available to the wrong hands from the grey market or the black market the more the potential for them to facilitate crimes and/or injure or kill people'.³⁰

Geographic patterns of firearm theft

2.26 In addition to discussing the location (for example, private residence or licensed dealer) from which firearms are stolen, a number of state police discussed geographic patterns of firearm theft.

2.27 For example, Victoria Police informed the committee it had recently seen an increase in firearm thefts in rural areas:

There had been a significant increase in the burglaries of registered firearms owners' homes or farms in the western district of Victoria over the preceding 12 months. There has been concerted operations conducted in relation to trying to find the perpetrators of those offences. There was a significant spike across remote-rural locations of the thefts of those firearms which corresponded with an escalation in firearm-related violence in our north-west metro region. Victoria is divided into four policing regions—north-west, east, western and southern metro. There was found to be quite a big spike in firearm-related violence which corresponded with the thefts and burglaries on those premises, of which some of those firearms were used in north-west metro area.³¹

28 AIC, *Submission 76*, p. 12.

29 Detective Superintendent Peter De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 53.

30 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 56.

31 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 54.

2.28 NSW Police suggested that firearm thefts in rural areas could be attributed to a number of factors including attitudes toward firearms, storage and geographic isolation:

In some areas of Australia, of course, the attitude to gun ownership and security of guns is different from the attitude of people in metropolitan Sydney, for example. I understand, having lived and worked in rural areas in New South Wales, the reasons for that. That does not mean, however, that the storage requirements should be any less in those areas because, at times, you will see hobby farmers who have safe storage areas in sheds away from the main dwelling. They may not be resident on the premises for weeks or months, and they will then return and find that their firearms have been stolen. We would receive a report, but it might be weeks or months later. That is a problem. The location of the safe storage area away from main dwelling houses is a problem. Often they are in storage sheds stored with angle grinders and other implements that can open the storage areas. We see that regularly.³²

Illegal importation of firearms

2.29 The other significant source of illicit firearms in Australia is illegal importation. Like theft, the committee heard contested evidence about the extent to which illegal importation contributes to the illicit firearms market in Australia.

2.30 The Firearm Safety and Training Council argued that illegal importation of firearms into Australia was a more significant source of illicit firearms than theft:

...on the established data that has been presented, there are very few firearms that have been stolen and subsequently used in illegal acts or established as coming from a pathway from a registered firearm owner, through theft, into a recorded crime. We then had to rely on press reports, including on such things as the post office in Sydney that was being used for illegal importation of firearms—from Germany, as I recall. They were, in fact, semiautomatic handguns. We are also aware of the fact that there have been press reports of particular organisations—and I am not singling out particular bureaucracies here—including Customs officers who have been involved in, and I believe charged with, illegal importation on occasion.³³

2.31 The NSW Police Force noted that the 'the illegal importation of firearms, especially modern handguns and assault rifles, is a key driver of gun crime in NSW'.³⁴ Detective Chief Superintendent Finch, Director of the Organised Crime Directorate informed the committee that there has been a 'big influx in illegal importation in NSW', though it is impossible to quantify:

32 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

33 Mr Bryant, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 5.

34 NSW Government Justice Cluster, *Submission 391*, p. 2.

To steal someone else's words, we do not know what we do not know. The reality is that there are obviously guns being illegally imported regularly. We detect some. There has been a slight change in the way importations are reported. Prior to last year, the Australian Customs and Border Protection Service and the New South Wales Police had primacy in terms of the legal importations. Last year, a unilateral decision was taken that the AFP would take control of investigations of illegal imports. That is in line with their charter and their primacy in relation to narcotics. We work very closely with the Australian Federal Police.³⁵

2.32 In particular, NSW Police referred to the use of "shot-gunning", where firearms are broken into parts and brought into the country illegally by post:

In the case of firearms, to some extent they do it because they are able to break the firearm down, and if certain parcels are X-rayed it might not show up. If, for example, there is a barrel from a semiautomatic, it might show up as a metal tube, but that does not make it readily identifiable as a firearm part if it has been misdescribed. So they are broken up, and sent—en masse, at times—and then reassembled... They only have to be successful with one importation, obviously, to make a significant profit.³⁶

2.33 NSW Police gave an example, citing its recent operation Strike Force Maxworthy, which resulted in the detection of 12 Glock pistols that had been sent in pieces to Australia via international mail.³⁷ The NSW Police Force gave further evidence to the committee about the impact the internet has had in facilitating the illegal importation of firearms, with some overseas retailers even advertising that they can assist in overcoming customs regulations.³⁸

2.34 It was NSW Police's view that this practice will continue to pose a threat. A lack of detection cannot be linked to the number of firearms that are imported illegally:

...because of the volume of air freight and parcel post they may not be detected. Modern firearms are very easily disassembled. There is a large amount of material other than metal in them. So at times they can be misdescribed, as was the case in Strike Force Maxworthy, and they may never be X-rayed. Certainly I think illegal importation is an area that needs to be looked at closely. To the credit of the Australian Customs and Border Protection Service, they have markedly increased their response. The

35 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 42.

36 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, pp 47–48.

37 NSW Government Justice Cluster, *Submission 391*, p. 3.

38 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 46.

firearm squad have an analyst from Customs embedded with them. They work very closely with Customs and the AFP, for that matter.³⁹

2.35 Victoria Police also raised the issue of illegal importation, noting that internet-facilitated firearm trafficking is an emerging trend.⁴⁰ In explaining its impact to the committee, Detective Superintendent De Santo commented that it has opened the door to individuals who previously would not have had the connections or resources to import firearms:

Currently they are imported into Australia via online and through parcel post. I am talking about the one-off purchasers or two-off purchasers, possibly in the dark net side of the internet. They are imported into Australia and may be able to bypass screening, or may not be detected in screening, and then they go out to the recipients who have ordered them online.⁴¹

2.36 He noted that 'there is a whole varying element of individuals out there who try to buy certain things', as opposed to just being limited to serious and organised crime groups.⁴²

2.37 Victoria Police also discussed the traditional method used by organised crime groups of shipping large numbers of illegal imports on the assumption that not all containers would be x-rayed by Customs and the need for better resourcing and intelligence.⁴³ In particular, Detective Superintendent De Santo discussed the emergence of firearms manufactured to avoid metal detectors:

They are probably not as sophisticated as what you may see depicted in some of the movies, but they are relatively well manufactured, not manufactured in backyards. Those are the next ones I am going to go to, where we have also seized firearms. Again, they are single shot, within the confines of a mobile phone or within the confines of a belt buckle, a fashion accessory worn around the waist. Insofar as avoiding detection, the components are sometimes not picked up on X-ray, and the parts are disassembled for easy transportation. It would be quite easy within some of our airlines. Components can be separated, placed in cargo hold luggage and go through a lesser degree of screening than hand luggage. That is the

39 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 42.

40 Victoria Police, *Submission 389*, p. 3.

41 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 57.

42 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

43 Detective Superintendent 4 De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

way they are transported across border lines, other than being concealed in cars or about the person.⁴⁴

2.38 Both the AIC and the ACC were questioned about the impact of illegal importation in facilitating the illicit firearm trade. The ACC stated that 'firearms and firearm parts illegally imported into Australia comprise a small proportion of all firearms diverted into the black market' and, based on data from the NFTMP, illegal importation only made up one per cent of total diversions.⁴⁵ Figures from the ACC's *National Illicit Firearm Assessment* released in 2012 'revealed there are tens of thousands of illegal firearms' in Australia and that only three of 237 handguns seized by police had originated overseas.⁴⁶ The assessment:

...identified that the Australian illicit firearms market is predominantly comprised of firearms diverted from licit domestic sources. Firearms tracing found that less than one per cent of firearms traced were illegally imported, however, the risk of illicit importation was likely to continue to increase.⁴⁷

2.39 The AIC expressed similar views:

In terms of illegal importation, we can only go on the analysis that we did of the firearm trace database. It certainly demonstrated that from that data illegal importation was a fairly small contributor to handguns and to long-arms as well. I appreciate that there are different views about that, that the New South Wales police do believe that illegal importation is playing a pretty predominant role in terms of handguns coming into the country. Other jurisdictions and other entities within the Commonwealth have differing views. Obviously, in the last couple of years we have had some significant importation issues with handguns coming into New South Wales.⁴⁸

2.40 The Australian Customs and Border Protection Service (ACBPS) acknowledged the ACC's findings in relation to the contribution of illegal importation to the illicit firearms market but assured the committee it was not complacent:

We are conscious of evidence previously given and the report by the Australian Crime Commission with respect to the view that the vast majority of firearms in the Australian illicit market are diverted from the

44 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 56.

45 ACC, *Submission 75*, p. 4.

46 'Black market supplying illegal guns, according to Home Affairs Minister Jason Clare', *Daily Telegraph*, 14 May 2012, available: <http://www.dailytelegraph.com.au/black-market-supplying-illegal-guns-according-to-home-affairs-minister-jason-clare/story-e6freuy9-1226354243081> (accessed 21 March 2015).

47 Australian Customs and Border Protection Service (ACBPS), *2012–2013 Annual Report*, available: <http://www.customs.gov.au/aboutus/annualreports/2013/p3d.html> (accessed 21 March 2015).

48 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

domestic licit market...However, we are conscious within Australian Customs and Border Protection that we are vulnerable to illicit importations of firearms, particularly in relation to whole firearms and firearms parts, and that that risk has the potential to increase as criminal entities seek weapons. But we are very vigilant to that issue.⁴⁹

2.41 The ACBPS also confirmed that it is impossible to quantify the number of firearms that enter the country undetected. Instead, this information is derived from the organisation's detection data as well as intelligence information:

We are talking about an illicit market. So in relation to how many times it happens, the answer is: we do not know what we do not know. However, we do have a tracing mechanism now through the Australian Crime Commission and if guns were being imported into the illicit market using criminality and seized, we would be aware of those and be able to do that work in relation to a post-detection analysis. Operation Maxworthy relates to that particular seizure. Even with the work that we do with New South Wales we are making seizures at the border, so we are not complacent about it, but what we have not got is examples where those sorts of large importations are occurring. We do a lot of work with international partners. We do a lot of work with the firearms manufacturers. I think if those were happening on a regular basis, they would be a lot more visible in the environment, and we do not have an intelligence picture to suggest that that is the case.⁵⁰

2.42 With regards to intelligence, Mrs Karen Harfield, National Director of Intelligence, explained that detecting firearms was about understanding the various risk factors, which include factors such as high-risk destination or departure countries or type of items.⁵¹ She also discussed situations where the ACBPS has worked with overseas partners in sharing intelligence, which helps in targeting onshore arrivals:

In the channels, say, for passengers—and we do have finds on passengers—with air cargo and sea cargo we are supplied with information that gives us an opportunity to do analytical work while that individual or that cargo is in transit. That leads us to targeting in a particular way. Then, once onshore, we have got those detection capabilities such as the X-ray machines. We have chemical detection capabilities and, obviously, the people part of that is a really important aspect—in particular, in international mail because we do not have electronic data prior to mail arriving. Those are the types of work that we do. We clearly have an ability where partners might have intelligence through a number of their sources that would impact on what we might do and how we might intervene at the border. We are also able to provide intelligence offshore so, where we can impact offshore and reduce and mitigate risk, we will do so. For example, if we are looking at a

49 Mrs Karen Harfield, National Director Intelligence, ACBPS, *Committee Hansard*, 31 October 2014, p. 61.

50 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 62.

51 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 66.

particular network of criminality, we might provide information offshore so that actual importation never departs.⁵²

2.43 The committee heard that during 2013-14, the ACBPS detected 1737 firearms and firearm parts (49 handguns, 21 rifles, 10 shotguns, 525 parts and accessories and 1132 magazines).⁵³ The ACPBS also noted that serious criminal penalties exist with respect to illegal importation, with a penalty on conviction up to \$425 000 or 10 years imprisonment, or both.⁵⁴

2.44 The ACBPS discussed the practicalities of conducting screening at its international mail gateways:

It is a factory environment. There are massive volumes and a continual requirement around the conveyor belt system that they have there. On a practical day-to-day basis the intelligence piece provides support to the managers and the staff around detection methodologies and the types of concealments that we see on a regular basis. We have done training around recognition of firearms parts and what anomalies might look like within some of the detection technologies that we employ. We have a sort of layered approach to the use of detector dogs in particular circumstances, depending on the types of items we are looking at. There is that sort of broad level agreement on what risk looks like and therefore on how we deploy people physically in the environment. The main gateways are Sydney and Melbourne, and the predominant number of staff and detections are there.⁵⁵

Site visit: National Detector Dog Program Facility

2.45 In order to gain a better understanding of the role detector dogs play in locating firearms, the committee undertook a site visit to the National Detector Dog Program Facility located in Bulla, Victoria.

2.46 Originally focused on the detection of narcotics, the Detector Dog Program was expanded in 2003 'to include firearms and component parts, ammunition, explosives and chemical precursors'.⁵⁶ While visiting the facility, the committee observed dogs in the early stages of training learning to search pallets of goods to detect explosives (Figures 2.1 and 2.2). Customs officers explained that these exercises are used to teach the dogs the correct searching technique.

52 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 66.

53 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 64.

54 ACBPS, *Submission 61*, p. 3.

55 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 67.

56 ACBPS, *Detector dog program*, July 2006, http://www.customs.gov.au/webdata/resources/files/FS_detectDogProg040819.pdf (accessed 18 February 2015).

Figure 2.1: Customs' officer and dog searching pallet for explosives as part of a training exercise



2.47 The committee also observed younger dogs honing their natural instincts for searching through exercises conducted with their trainers:

Training is based on channelling each dog's inherent hunt and play drive. Dogs are conditioned to detect specific target odours and are rewarded by playing a vigorous game of tug-of-war with a rolled up towel. Training is based on positive reinforcement and strives to produce a dog that is self-driven and able to make independent decisions.⁵⁷

2.48 Detector dog teams are trained to find goods hidden in luggage, parcels, mail, cargo containers, vessels, vehicles, aircraft and on people:

Customs focuses on the training of various methodologies, including multi-purpose response dogs. These dogs are capable of searching both people and cargo and can work in Customs search areas. A multi-purpose response dog is trained to give a passive or "sit" response to people carrying or concealing items or a pawing or scratching response to cargo or areas where items might be hidden. This dual capability allows Customs to more effectively deploy detector dogs.⁵⁸

2.49 In 2012-13, detector dogs 'contributed to the detection of 2272 illegal imports and exports totaling 92.8kgs'.⁵⁹

57 ACBPS, *Training detector dog teams*, <http://www.customs.gov.au/site/page4305.asp> (accessed 18 February 2015).

58 ACBPS, *Detector dog program*, July 2006.

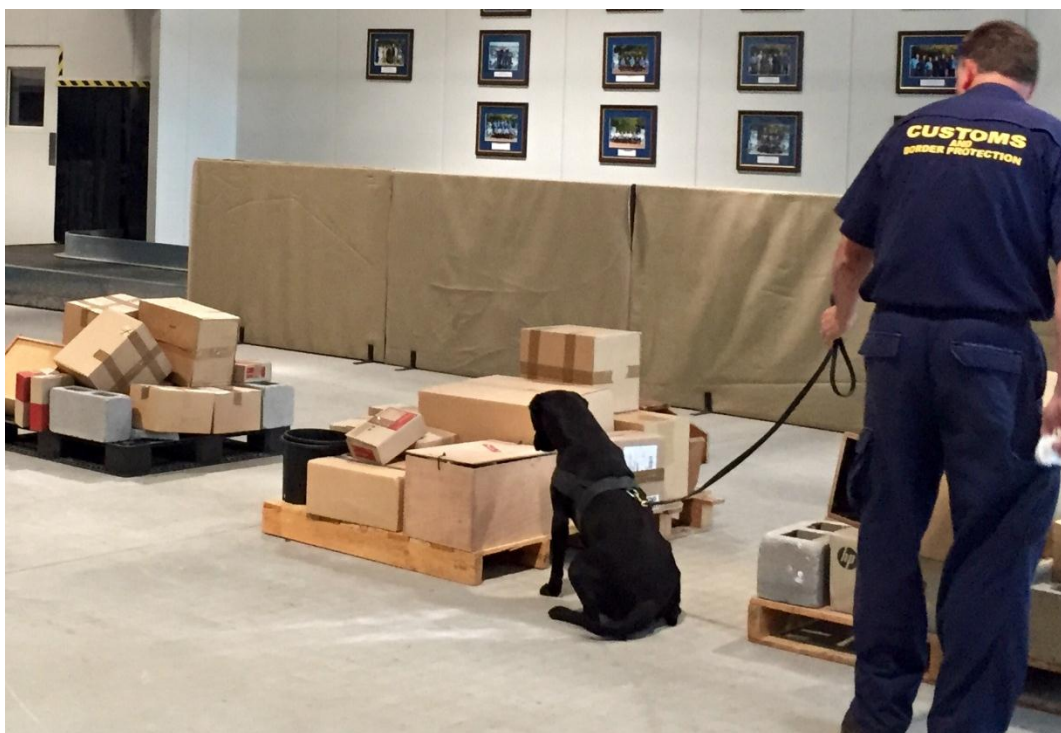
59 Senator the Hon Michaelia Cash, 'Minister Cash commends ACBPS Detector Dog Program', Media release, 29 November 2013.

2.50 Due to the difficulties finding dogs capable of completing the Program, Customs developed its own breeding program in the early 1990s which has been responsible for the birth of over 2500 Labrador Retrievers. The majority of these dogs have gone on to work as detector dogs, though not all as Customs dogs:

Many other agencies also use dogs bred by Customs, including the Australian Defence Force, the Australian Federal Police, the Australian Quarantine and Inspection Service and State and Territory police. Customs-bred dogs have been deployed in a variety of fields, including arson detection, food detection and/or explosives and firearms detection.⁶⁰

2.51 The committee was interested to learn that dogs are trained to detect narcotics, firearms, currency or explosives. In the past, dogs had been trained to detect both firearms and explosives. However, a positive response from a dog (see Figure 2.2) for a firearm results in a very different course of action (a more thorough inspection of an article) to that taken for an explosive (evacuating the area). For this reason, Customs no longer trains dogs to detect both—dogs now specialise in one or the other.

Figure 2.2: Detector dog alerting handler to the presence of explosives in the package as part of a training exercise



2.52 The committee would like to thank the customs officers at the National Detector Dog Program Facility for their time and the knowledge they imparted and commends them on the important role they play in protecting the community.

60 ACBPS, *Detector dog program*, July 2006.

Figure 2.3: Committee members with Mr Glenn Scutts and Mr Smyl Fischer at the ACBPS Detector Dog Program facility



Manufacture of illicit firearms

2.53 With the exception of the potential for firearms to be manufactured through the use of 3D printing technology (discussed in chapter 6), the committee heard little evidence about the illegal manufacturing of firearms in Australia and the extent to which this might contribute to the illicit firearms market.

Identifying the source of illicit firearms

2.54 The main resource for identifying the source of illicit firearms in Australia relied upon by submitters and witnesses appeared to be research prepared by the AIC. The two main research projects undertaken by the AIC were the National Firearms Monitoring Program (NFMP) and the National Firearm Theft Monitoring Program (NFTMP). Both of these programs were established in response to particular firearm issues and had funding for a set period of time.⁶¹ Consequently, the majority of data focuses on the period from 2004-05 to 2008-09.

2.55 In 2012, the AIC also published a report into *Firearm trafficking and serious and organised crime gangs*, which included analysis of data from the National

61 Mr Doug Smith, Chief Executive Officer, CrimTrac, *Committee Hansard*, 31 October 2014, p. 32.

Firearm Trace Database (NFTD).⁶² The NFTD is based on traces conducted by the ACC between 2002 and 2012:

On behalf of Australian law enforcement agencies, the ACC conducts serial number tracing of both registered and unregistered firearms through the Firearm Trace Program. It provides insights into the points of diversion at which firearms enter the illicit market and the types of firearms used and seized as well as highlighting the changes in the illicit firearms market. Firearm trace data and sales information may also assist in the identification and initiation of investigations.⁶³

2.56 The ACC provided the committee with detailed information on the various processes involved in conducting a firearm trace, which include:

- Confirming that the information supplied is sufficient for tracing purposes;
- Checking the firearm factory frame/receiver serial number against the ACC Firearm Transaction Database (FTD), which currently stores some 1.5 million records of historical firearm transactions and the CrimTrac Agency National Firearm Licensing and Registration System (NFLRS), which consists of records submitted by states/territories. If no record of the firearm is identified on the NFLRS then searches are made for the same make and model firearms that have similar serial number structure – this provides an important avenue for potential identification of these firearms; and
- Contacting foreign law enforcement agencies where the firearm has been manufactured overseas and cannot be identified as recorded either in the FTD or NFLRS. In the case of US manufactured firearms the ACC can submit a firearm trace request to the USA Department of Justice. The ACC signed a memorandum of understanding with the Bureau of Alcohol, Tobacco, Firearms and Explosives in 2007 for the sharing of firearm related information, which also supports the United Nations Program of Action on Small Arms and Light Weapons for the tracing of illicit firearms.⁶⁴

2.57 The data obtained from the NFTD indicates that the majority of illicit firearms are diverted from the grey market.⁶⁵ The ACC noted that 'theft, failure to reconcile the interstate movement of firearms, and the importation of undeclared firearms and firearm parts are all key components of the illicit market' and that the means of diversion varied depending on the type of firearm.⁶⁶

62 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012.

63 ACC, *Submission 75*, p. 5.

64 ACC, *Answers to a questions taken on notice*, received 17 November 2014.

65 ACC, *Submission 75*, p. 4.

66 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

2.58 For illicit long-arms (shotguns and rifles) the grey market is the main source (92 per cent of restricted and 86 per cent of non-restricted long-arms)⁶⁷ with theft from licensed individuals and dealers the next most common source (4 per cent of restricted long-arms and 10 per cent of non-restricted long-arms).⁶⁸ The AIC noted that other methods of supply include illicit domestic manufacture, false deactivation, failure to notify of interstate transfer and illegal import, though these accounted for very few of the long-arms recorded in the NFTD.⁶⁹

2.59 According to the AIC, the primary sources of illicit restricted handguns are false deactivation (39 per cent) and theft or loss (31 per cent).⁷⁰ Non-restricted handguns are most commonly diverted to the illicit firearms by theft or loss: 50 per cent of all non-restricted handguns are stolen from legal owners.⁷¹ The ACC cited historical deactivation and technical loopholes, theft from licensed individuals and dealers, failure to reconcile the interstate movement of a firearm and importation of undeclared firearms and firearm parts as the main methods of diverting handguns into the illicit market.⁷² The ACC gave further evidence that the theft of handguns was quite small and that while it estimates there are 10,000 handguns on the illicit market 7500 of these are deactivated firearms.⁷³

2.60 While the NFTMP demonstrated that the majority of firearms lost or stolen constituted long-arms, with handguns only comprising 7 per cent of thefts between 2005-06 to 2008-09,⁷⁴ data from the NFTD found that a significantly high proportion of handguns were seized from serious and organised crime groups (SOCG).⁷⁵

2.61 According to the AIC, 40 per cent of firearms seized from SOCG were rifles and 39 per cent were handguns.⁷⁶ The AIC remarked that 'SOCG and non-SOCG seizures contrasted in the prevalence of handguns, with a significantly greater proportion of handguns found in association with SOCG'.⁷⁷

2.62 The AIC's *Firearm Theft in Australia* reports were also cited during the course of the inquiry, for example by the ACC. However, as highlighted by the Firearm Safety and Training Council, this series of reports is not currently produced by the AIC with the *Firearm Theft in Australia 2008–09* report 'the last of a series of

67 AIC, *Submission 76*, p. 6.

68 AIC, *Submission 76*, p. 6.

69 AIC, *Submission 76*, p. 6.

70 AIC, *Submission 76*, p. 7.

71 AIC, *Submission 76*, p. 8.

72 ACC, *Submission 75*, p. 4.

73 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

74 AIC, *Submission 76*, p. 10.

75 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

76 AIC, *Submission 76*, p. 4.

77 AIC, *Submission 76*, p. 4.

such reports funded by the Australian Government under the *Proceeds of Crime Act 2002*.⁷⁸ The Firearm Safety and Training Council argued that unless funding is provided to the AIC for the production of the *Firearm Theft in Australia* reports, this 'valuable source of reliable information' will cease.⁷⁹

2.63 Other submitters to the inquiry were critical of data provided by the AIC, particularly in regard to its findings regarding the sources of illicit firearms. Some of this conjecture appears to arise from the complexity of the AIC's datasets (both the NFTMP and the NFTD) and the definitions used for different types of firearms. The AIC attempted to clarify:

Firstly, the grey market is only long-arms, so we cannot talk about handguns in that respect. Definitely a lot of them would have been imported legally into Australia before the firearm reforms and then entered the grey market with reforms that came in either because the owner chose not to register the firearm or because they were not aware of the reforms.

I think there is a sort of conflation between some of the figures and a misunderstanding of how they work together. Again, based on the firearm trace database, it indicated that the theft was an important conduit to the illicit firearm market. That somewhat straddles the firearm theft monitoring program data that we have which showed that handguns contributed about seven per cent of all stolen firearms that were reported each year. I would like to add that there has been a lot of focus on, 'It's only seven per cent of firearms that are reported stolen are handguns.' It is proportionate with the number of registered handguns in the country, as we have found with rifles and shotguns as well. Just because we are finding that only a small proportion of handguns are being reported stolen I do not think there is necessarily a problem to show that it is an important conduit through to the illicit market. I do not think those figures are necessarily at odds with each other.⁸⁰

2.64 In terms of the completeness of data, the AIC noted that there was 'a high unknown response rate' (that is, untraceable firearms) with regards to the NFTD, predominantly with regards to long-arms.⁸¹ The ACC stated that there are a number of reasons for this 'which include defaced serial numbers, the firearm having no record of being registered in Australia or overseas, or the trace analysis not being finalised pending further information from industry sources'.⁸²

2.65 Questions were also raised regarding the completeness of the NTMP statistics, with some jurisdictions not providing data for certain years or providing incomplete datasets. Yet, overall, the AIC seemed pleased by the level of co-operation provided by the state and territory police forces:

78 Firearm Safety and Training Council, *Submission 73*, p. 3.

79 Firearm Safety and Training Council, *Submission 73*, p. 3.

80 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 49.

81 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

82 ACC, *Submission 75*, p. 5.

We have received excellent data, particularly from a number of jurisdictions. I would like to highlight Queensland in particular. Their data is excellent and has always been excellent in terms of the firearm theft monitoring program. It is very thorough. I must say the database that was developed for this monitoring program is extremely thorough. The data, for the most part, that we collected over that period of time has been complete and has allowed the analysis that we have done. But, as said, the majority of reported incidents that are included in the monitoring program are from private owners. Dealer stock, I think, represented less than 10 per cent. Then we have had the occasional theft from security organisations, and I think one or two from police. But for the most part it is from private owners.⁸³

2.66 The AIC itself advised that the study was based around reported firearm theft and therefore owners of unregistered or illegal firearms, or those who had failed to comply with the relevant storage requirements, were less likely to have reported their firearm stolen.⁸⁴

Need for more comprehensive data

2.67 A number of organisations called for stronger reporting requirements and more reliable data. For example, the Honourable Mr David Hawker shared his views regarding the dangers of inaccurate data:

One of the problems that you have, and will always have, with anything illegal is that your data is never going to be complete—in fact, it is going to be very incomplete—which means that it is wide open to interpretation and possibly exaggeration by vested interests. That in itself is something that has to be elicited through all the discussions. In the meantime, the bodies that could do more and have done more in the past, like the Institute of Criminology, have probably been discouraged from doing some of the work that they used to do.⁸⁵

2.68 The National Farmers' Federation (NFF) spoke about the importance for registered firearm owners of being able to protect their firearms from the criminal element and the need for more qualitative data:

I think one of the things that this inquiry really needs to get to is the data that is out there and available. There are statistics on guns, illegal gun use and gun theft, but there is not much qualitative data [about] what actually happens—how a gun actually falls into the wrong hands. Particularly when you are talking about regional areas and the farming community, if there is a concern around the current laws not already having their required effect because, for example, there is some issue with the use of gun safes or whatnot, that is something I think needs to be given some attention. There

83 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 49.

84 AIC, *Submission 76*, p. 9.

85 The Honourable David Hawker, *Committee Hansard*, 14 October 2014, p. 61.

are good laws are in place but, if gun thefts are happening...we need to understand why and how.⁸⁶

2.69 Mr Howard Brown, from the Victims of Crime Assistance League, stated that more data was certainly required to determine how firearms enter the illicit market:

...there has clearly been a great deal of discussion about the number of weapons that have been stolen from premises and used in the commission of crimes. There is such paucity of detail on that. According to the New South Wales Police submission, four per cent of handguns that were stolen were used in the commission of crimes. Is there a problem there or not? Clearly, four per cent is actually quite a small figure. If you go to the Victorian police, they have their own way of gathering data, so we do not know if we have a problem with the security of weapons or a problem elsewhere. Look at the last 2½ years in Sydney specifically. We have, unfortunately, become the drive-by capital of the world. We have had an enormous number of drive-bys and yet we know through the Integrated Ballistics Investigation System that the New South Wales Police use that a number of those weapons have been used on multiple occasions by different perpetrators, so you cannot say that that was caused by incorrect storage. But we still have the problem, and the person who has their house shot up does not really care whether the gun was stolen or brought into the country illegally. We need to determine what the cause of the problem is, because you cannot fix it unless you know what the problem is.⁸⁷

86 Ms Sarah McKinnon, Manager, Workplace Relations and Legal Affairs, National Farmers' Federation (NFF), *Committee Hansard*, 13 October 2014, p. 18.

87 Mr Howard Brown OAM, Vice-President, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, pp 10–11.

Chapter 3

Impact of illicit firearms on the community

3.1 The impact of illicit firearms on the community through their use, in particular in violent crime, is a key issue arising from the illicit firearms market in Australia. The use of illicit firearms in the commission of offences and the impact on the Australian community is considered in this chapter.

3.2 The Victims of Crime Assistance League highlighted that victims of gun-related crime suffer enormously and often in a way largely un-acknowledged by the wider community:

There is always a concentration in the media on those more salacious incidents such as death and murder. Where we do not have a great concentration, but still have a problem, is on robbery with a weapon. I have dealt recently with a young woman who was a service station attendant where some toerag came in with a sawn-off shotgun. Because there were time delays, he decided that he needed to wait until that time delay was open so that he could access the safe. So he placed the shotgun in her mouth, gaffer taped it to her and said, 'Okay, darling, we will sit here until the safe opens.' The trauma that that woman sustained in that assault was unbelievable. We spent hundreds of hours counselling this poor woman and getting her back to a point where she could live a seminormal life. But it was a robbery of a service station. It made five lines in the local press and a small block in *The Sydney Morning Herald*. No-one gave a damn about it—because she survived.¹

3.3 Gun Control Australia (GCA) remarked that the total availability of firearms in the community is directly related to gun violence:

GCA is of the view it is a reasonable conclusion that the more guns there are in the hands of the community generally, the greater the number of incidents of gun violence...The relationship between the prevalence of guns in the hands of the community and gun violence was first identified by Professor Richard Harding in his seminal work on firearms in Australia, published in 1981. Professor Harding was for many years a director of the Australian Institute of Criminology and one of Australia's most respected criminologists. To Professor Harding, firearm violence was, effectively, a product of gun availability.²

3.4 Evidence from the Australian Crime Commission (ACC) indicated that these risks to the community increase when firearms are unaccounted for:

1 Mr Howard Brown OAM, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, p. 13.

2 Gun Control Australia (GCA), *Answers to questions taken on notice*, received 10 November 2014, p. 2.

The imperishable nature of firearms ensures that those already available within the illicit market remain a serious threat...The durability of firearms ensures that those diverted to the illicit market can remain in circulation and are available for use by criminals for many decades. The oldest firearm traced by the ACC was a functioning revolver manufactured in 1888.³

3.5 NSW Police acknowledged the threat posed to the community by stolen firearms⁴ and discussed the large pool of unaccounted firearms in the community:

There is no doubt that there is a large number of firearms out there. Whether those firearms then go into the black market is another question altogether, and, as I said, it is only at the time that police recover those firearms that we are able to establish their origin. We may not be able to establish their origin if they are from the grey market, simply because people do not report their theft for fear of facing some sort of criminal sanction themselves.⁵

3.6 The Australian Institute of Criminology (AIC) discussed the low recovery rate with respect to stolen firearms, with 12-14 per cent of incidents resulting in the firearm being recovered in a 12-18 month period after the report of the theft.⁶ The low rate of recovery of stolen firearms only serves to maintain this pool of unaccounted firearms available for illicit uses. The use of these illicit firearms in gun-related and organised crime is explored in the following sections.

Firearm-related crime

3.7 Illicit firearms are used in a range of serious and aggravated crimes, such as homicide, armed robberies and sexual assault. Their use is therefore a serious concern for the community and law enforcement authorities alike.

3.8 While statistics do not measure the huge personal impact gun-related crime has on a victim, they do provide a useful means of assessing the impact of illicit firearms on the community by measuring the types of crime committed with a firearm and the frequency of these.

3.9 Data from the National Homicide Monitoring Program (NHMP) shows that the majority of firearm homicides in Australia between 1989-90 and 2009-10 were committed by an unlicensed offender (79-93 per cent of offenders), the majority of offenders used a firearm that was not registered (83-97 per cent) and there was a

3 Australian Crime Commission (ACC), *Submission 75*, p. 3.

4 Detective Chief Superintendent Ken Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 41.

5 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 47.

6 Australian Institute of Criminology (AIC), *Submission 76*, p. 10.

15 per cent decrease in the number of firearm homicides over the 25 year period (76 in 1989-90 to 31 in 2009-10).⁷

3.10 This reduction in firearm-related homicides is juxtaposed with their use in armed robberies which increased between 2005 and 2010. The AIC informed the committee that sixteen per cent of armed robberies committed in Australia between 2004 and 2010 involved a firearm, from a low of 13 per cent in 2005 (758 incidents) to a high of 18 per cent in 2010 (825 incidents).⁸ Data from the National Armed Robbery Monitoring Program (NARMP) found that in 2009-10, handguns were used in nine per cent (1162 incidents) of armed robberies in Australia and shotguns were used in three per cent (340 incidents).⁹

3.11 The NARMP also provided data on the types of armed robberies that predominantly involve the use of a firearm:

Firearms are used in the robbery of organisations more often than in attacks against individual victims. In 2009–10, only eight percent of individual victims robbed in the street were threatened with a firearm, while around one-third of those victimised in banks (35%) and in licensed premises (33%) were subject to firearm robbery (Borzycki & Fuller 2014).

An examination of 627 armed robbery narratives collated as part of the NARMP showed an association between the targeting of secure businesses, planning and the use of a firearm (as opposed to another weapon; see Fuller forthcoming). Additional data from the NARMP also demonstrates that firearms were more likely to be used in high-yield armed robberies between 2004 and 2010 (ie where the property stolen was greater than \$10,000; see, for example, Smith & Louis 2010) and when secure businesses were targeted (Borzycki & Fuller 2014). For example, organisations with substantial cash holdings and therefore with more security, such as banks and licensed premises, were robbed by offenders armed with firearms at much higher rates (68% and 44% respectively) compared with robberies at less secure sites (15%).¹⁰

3.12 The NSW Justice Cluster found that the use of handguns is particularly prevalent in public place shootings in NSW: 90 per cent of such shootings involve handguns.¹¹ Similarly, NSW Police advised that:

...semiautomatic handguns are the weapon of choice, for people on the streets of Sydney particularly. There is no doubt about that. Our ballistics people have instructed me that at this stage, 90 per cent of gun crime generally in New South Wales can be attributed to semiautomatic

7 AIC, *Submission 76*, pp 10–11.

8 AIC, *Submission 76*, p. 11.

9 AIC, *Submission 76*, p. 11.

10 AIC, *Submission 76*, p. 11.

11 NSW Justice Cluster, *Submission 391*, p. 4.

handguns; absolutely...Not every crime scene results in a trace to a particular firearm. It can come up to a particular type of firearm, but it may not specify the exact weapon used...In terms of it being a registered firearm, I do not have the exact figures but it appears to be not a lot; the majority is as a result of illegally obtained, semiautomatic handguns.¹²

3.13 In response to questions taken on notice, NSW Police told the committee that 16.2 per cent of assaults, 44.2 per cent of robberies and 33.3 per cent of sexual offences involving the use of a weapon in 2014 (up to 29 November) involved the use of a firearm.¹³

3.14 Western Australia Police informed the committee that '[f]rom 01-November-2009 to 31-October-2-14, 36.4% of selected verified incidents that involved a firearm involved a handgun' for offences including offences against the person, antisocial behaviour, criminal intent or conspiracy, harassment, offences against animals and deception.¹⁴

3.15 In Victoria in 2013–14, there was a total of 688 offences where a firearm was used, threatened or displayed including:

- 16 homicides;
- 8 rapes;
- 101 robberies;
- 356 assaults;
- 29 abductions or kidnappings; and
- 56 aggravated burglaries.¹⁵

3.16 Of the total offences involving the use of a firearm in Victoria in 2013–14, 39.5 per cent involved the use of a handgun.¹⁶

3.17 Data provided by Queensland Police for offences committed with the use of a firearm over the period 2009–10 to 2013–14 showed a high rate of handgun use in homicides (33 per cent), assaults (34–44 per cent), robbery (50–67 per cent) and other offences against the person (23–42 per cent).¹⁷

12 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 41.

13 NSW Police, *Answers to questions taken on notice*, received 11 December 2014.

14 Western Australian Police, *Answers to questions taken on notice*, received 12 December 2014.

15 Victoria Police, *Answers to questions taken on notice*, received 10 December 2014.

16 Victoria Police, *Answers to questions taken on notice*, received 10 December 2014.

17 Queensland Police, *Answers to questions taken on notice*, received 8 December 2014.

3.18 Data on the use of stolen firearms in crime is derived from the National Firearms Theft Monitoring Program (NFTMP):

Data provided by state and territory police indicated that firearms from a very small percentage of theft incidents (less than 5%) reported in the four year period 2005-06 to 2008-09 were subsequently used to commit a criminal offence or found in the possession of a person charged with a non-firearm related criminal offence. These data refer to firearms used in crime in the 12 month period in which the firearm was reported stolen and hence is likely an understatement of the true percentage.¹⁸

3.19 The following table sets out the use of stolen firearms in crime in Australia from 2004-05 to 2008-09.¹⁹

Offence type	Number of theft incidents
Violent crime and related offences	n
Armed robbery	6
Murder/suicide	3
'Home invasion'	2
Attempted murder	1
Manslaughter	1
Domestic violence	1
Burglary with assault	1
'Ram raid'	1
Other offences	
Modification to firearm	2
Illegal discharge of a weapon	2
Firearm trafficking	1
Dangerous conduct with a firearm	2
Illegal firearm sale	1
Receiving stolen property	1
Unlawful possession	1
Drug offences not further defined	4
Firearm offences not further defined	3
Not further defined	2

3.20 The ACC also provided the committee with data on the use of stolen firearms then used in later criminal activity.²⁰ As part of its trace program, it has conducted traces on 434 stolen firearms (long-arms and handguns) seized after use in a crime, or with persons who were not licensed to have them in their possession.²¹

18 AIC, *Answer to a question taken on notice*, received 13 November 2014.

19 AIC, *Answer to a question taken on notice*, received 13 November 2014.

20 ACC, *Answer to a question taken on notice*, received 17 November 2014.

21 ACC, *Answer to a question taken on notice*, received 17 November 2014.

Table 1 - Criminal activity circumstances for traced firearms reported as stolen.

Circumstances	Number	Percentage
Larceny	1	0.2
Parole Breach	1	0.2
Road Rage	1	0.2
Suspicious suicide	1	0.2
Vehicle Theft	1	0.2
Assault	2	0.4
Drive By Shooting	2	0.4
Extortion	3	0.7
Suicide	4	0.9
Conduct endangering life	5	1.1
Domestic Dispute	5	1.1
Homicide attempt	5	1.1
Homicide	10	2.2
Theft aggravated	14	3.1
Armed Robbery	16	3.6
Burglary	17	3.8
Firearm Trafficking	26	5.8

3.21 Firearms not only pose a significant threat to the community but also to law enforcement authorities. Victoria Police explained that it mostly does not know in advance where illicit firearms might be found and that illicit firearms are largely detected through the investigation of other offences.²² The Australian Federal Police (AFP) held a similar view about the inability to know when and where an illicit firearm might be encountered. The AFP told the committee that, as an operational safety matter, its officers must consider the risk that there is an undisclosed firearm at an incident:

Clearly, having stolen guns out in the community means that we are unaware when we are responding and that the community is unaware of the threat that may present itself, more generally. Where we have information in relation to ownership of firearms, then, as a normal operating practice within policing, we actually get information. So, if we were attending a domestic disturbance, perhaps, then just as a matter of routine we will actually get information as we are attending to that location as to whether there are any firearms. We can determine who is known to live at that address and if there are any firearms associated with that. Stolen firearms are outside of that regime and will be unknown to us. And then, of course, there is the fact that they are stolen and there is the potential that they have been diverted to the criminal enterprises for their own ends and to protect themselves and to enable them to undertake their enterprises. That presents a threat to us because, of course, they are demonstrating an interest in using a firearm in order to undertake their activities.²³

22 Detective Superintendent Peter De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 60.

23 Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 72.

Organised crime

3.22 A number of witnesses spoke about the links between firearms and organised crime. The ACC noted that 'firearms will continue to be sought, acquired and used by criminals, including those involved in organised crime, as an enabler used to protect interests and commit acts of violence'.²⁴ The ACC indicated that no single group dominates the sale and supply of firearms to the illicit market but stated that 'firearms and organised crime are inextricably linked'.²⁵ The ACC referred to three ways in which such groups use firearms:

- conflicts and territorial disputes over the management and protection of drug turf and appropriation of 'protection' money;
- the promotion of criminal image, reputation and status to support their dominion; and
- personal factors such as revenge, interpersonal or family based conflicts.²⁶

3.23 Dr Samantha Bricknell of the AIC explained the appeal of handguns in particular for serious and organised crime groups:

...it is the view of law enforcement that handguns are the weapon of choice amongst the criminal fraternity. That might be for a range of reasons. Some interesting analysis that was done in the UK interviewing offenders who had been convicted of firearm offences, and some of them were gang members, showed handguns not only served a defensive role but also an offensive and a symbolic function. There is this gun firearm culture that has emanated within the UK and is probably occurring within Australia, where handguns not only have the power to harm and to maim but also have that symbolic function of to threaten and intimidate the person on the receiving end of that threat. That is the view amongst law enforcement. They are also concealable, they are easy to carry around, that sort of thing, and they can pack a punch when needed to.²⁷

3.24 NSW Police noted that while there are a number of semiautomatic handguns on the market and in the hands of criminal groups, it would appear that currently criminals are 'jealously guarding their weapons'.²⁸ They also noted that such weapons are often seen as status symbols.²⁹

24 ACC, *Submission 75*, p. 2.

25 ACC, *Submission 75*, p. 2.

26 ACC, *Submission 75*, p. 2.

27 Dr Samantha Bricknell, Research Manager (Violence and Exploitation), AIC, *Committee Hansard*, 31 October 2014, p. 45.

28 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 45.

29 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 45.

Hotspot mapping

3.25 Some submitters recommended the use of "hotspot" mapping, where analysts use retrospective data to identify areas with high levels of crime. The Victims of Crime Assistance League recommended the use of hotspot mapping:

...one of the interesting things you pull from the BOCSAR [Bureau of Crime Statistics and Research] figures is certain local government areas like Bankstown, Blacktown and Campbelltown have somewhere in the vicinity of 300 and 400 offences involving firearms each year. Some eight years ago the New South Wales police embarked upon a system where they were trying to reduce the incidence of personal violence in the suburbs. They started a hot spot mapping program where they were seeing concentrations of various forms of crime. Having mapped that, they then went to those particular areas to determine what was the best way to resolve it. In some of those cases the result was they put in street lighting and automatically took away the environment that allowed some of these toerags to engage themselves in assaults. Hot spot mapping has some great potential. It is something, though, that would have to be tied in with well-generated statistics because, unfortunately, you cannot bundle all types of firearm crimes into the same category.³⁰

3.26 The concept of hotspot mapping and its use to identify areas with high levels of firearm theft and burglary was endorsed by the Firearm Training and Safety Council:

Again, one gets the feeling that the problems are localised. If that is correct, then in fact it should be of assistance to law enforcements on the one hand to focus their resources in those particular geographical areas. Also...if in fact theft from lawful storage is a particular problem in an area, we should know about it and then those people in that area—rather than being subject to draconian and ridiculous increases in storage levels of requirement—perhaps can harden up their particular storage regimes to the effect that it will be harder and less attractive to people to perform these thefts.³¹

3.27 The National Farmers' Federation also supported the idea, particularly in the context of raising public awareness with regards to the safe storage of firearms in areas where theft of firearms is prevalent.³²

3.28 The AIC discussed some of the limitations involved with hotspot mapping, though did not discount its benefits when utilised at a state and territory level:

30 Mr Brown OAM, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, p. 12.

31 Mr Gary Bryant, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 7.

32 Ms McKinnon, NFF, *Committee Hansard*, 13 October 2014, p. 18.

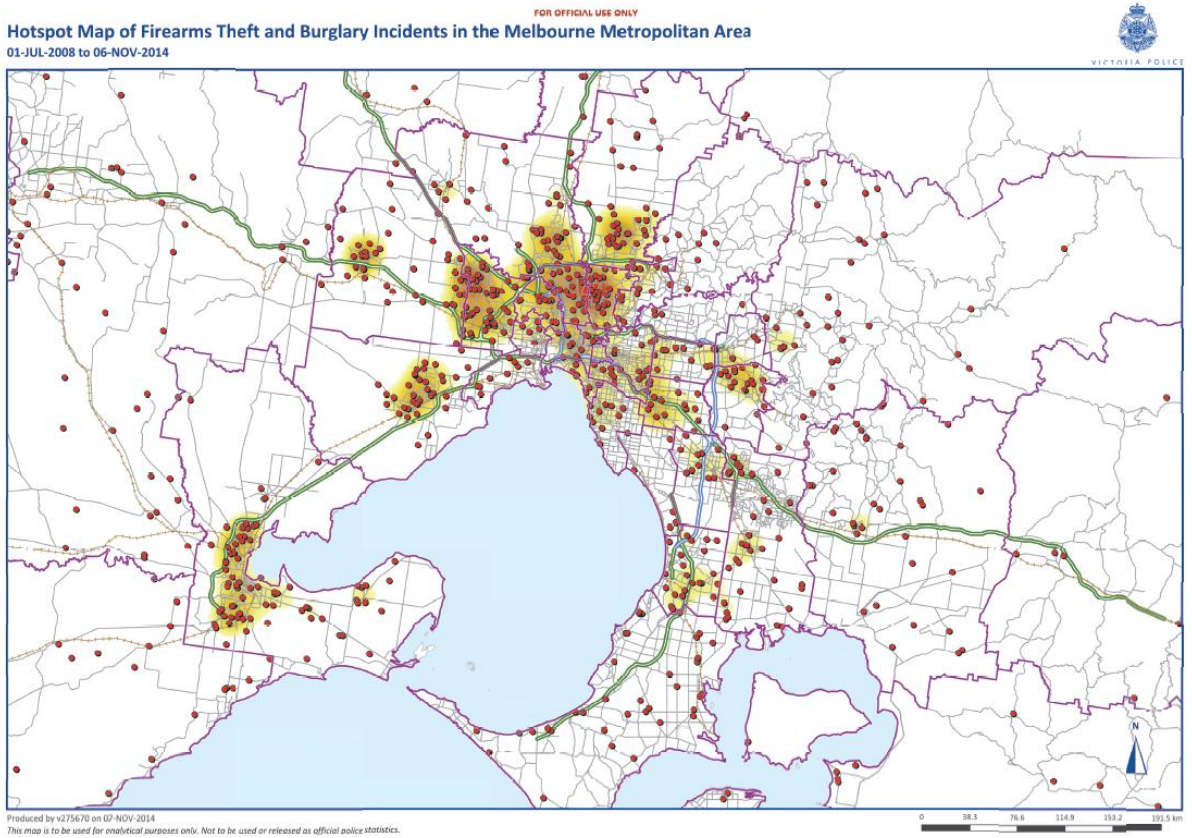
I understand that that is an issue that has been picked up by some jurisdictions. I believe New South Wales may have done some hot-spot mapping of where firearms are being used. In terms of its use it depends on the concentration of those incidents. A hot spot is only of any use where you have a concentration of incidents in time and space. If those hot-spot maps show that instances are sparsely populated or spread out over time, while that may be interesting from a statistical perspective, it really has limited utility in terms of what can then be done with a hot-spot map of that kind. Really, by undertaking a hot-spot analysis you are making the link between an incident and the location and time essentially. So the question then becomes: what do you do in those kinds of locations where those instances have occurred? I am not sure the extent to which that particular kind of analysis is particularly useful for understanding illicit firearms other than to identify there may be broad areas where incidents are more likely to happen. But the next question is: what do you then do? We do not have that kind of data. As far as I am aware, there are no data sources available to be able to undertake national hot-spotting of that kind. I think it is really probably only useful anyway at the jurisdictional level.³³

3.29 Victoria Police provided the committee with a number of hotspot maps, such as that at Figure 3.1, to demonstrate how it has used the technique to identify areas where there are high rates of particular crimes, including the theft and burglary of firearms.³⁴

33 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 45.

34 Victoria Police, *Answers to questions taken on notice*, received 10 December 2014.

Figure 3.1: Hotspot map showing incidents of firearms theft and burglary



Chapter 4

Regulation of firearms

4.1 An overview of Australia's current regulatory framework was set out in chapter 1. This chapter examines issues relating to the regulation of legal firearms, including the need to regulate firearm parts, accessories and ammunition; the adequacy of the current storage requirements for firearms; the effectiveness of firearm amnesties; and the security of data with regards to firearm ownership.

4.2 The overarching theme with respect to all of these issues is whether there is a need for greater consistency between the various jurisdictions and in particular, an expansion of the Commonwealth's role in regulating firearms.

National consistency

4.3 As discussed in chapter 1, traditionally the Commonwealth played a minor role in the regulation of firearms. After 1996 this changed and a more consistent approach was taken with the development of the National Firearms Agreement (NFA).

4.4 As a result of this agreement, the Commonwealth is responsible for matters relating to import and export, while the states and territories retain control over all matters relating to the manufacture, possession, licensing and use of firearms.¹

Challenges arising out of shared state–Commonwealth responsibility for firearms

4.5 A number of submitters referred to difficulties encountered given the differences in legislation across the various jurisdictions. In particular, firearm owners discussed confusion about interstate trade of firearms. The challenges associated with incomplete and incomparable data from different states and territories were also raised (see chapter 2).

4.6 Shooting Australia summarised these difficulties thus:

Shooting Australia and its Member Bodies are extremely well acquainted with the difficulties and unnecessary frustrations experienced by law abiding licensed shooters due to the anomalies in federal, state and territory laws regarding the ownership, sale, storage and transit across state boundaries of legal firearms.²

4.7 Mr Britton, from the NSW Firearms Dealers Association Inc, stated that as a firearm dealer he has to be across nine sets of legislation when dealing interstate:

All the firearms that I bring in, and that all the others bring in, are under permit. We have to get a permit from the state of New South Wales. The type of permit depends on the firearm type—whether it is a long-arm gun or a handgun. Other permits come under the [Attorney-General]. They are different permits again—for category D weapons, predominantly feral pest

1 Attorney-General's Department (AGD), *Submission 42*, p. 2.

2 Shooting Australia, *Submission 60*, p. 5.

destruction, semiautomatic weapons. In New South Wales it is taking 28 days to get a permit. Commercially, that is a long time. In Victoria it is between 24 and 48 hours. An issue for us in New South Wales is that I am dealing predominantly with European based businesses who are not, with great respect to them, the sharpest tools in the shed as far as getting their ducks in a row is concerned. They often have wrong serial numbers, which means I have to get the permit reissued. The red tape when the firearms come into Australia is massive. If we have to go for a secondary import permit—if something is wrong on the permit—it is a new application. From an import perspective, it would be great to have one all-encompassing body that looked after state and federal issues, but then they would be judge, jury and executioner.³

4.8 The NSW Police Force noted that the confusion over interstate trade has led to issues with dealers not recording sales correctly:

...we embarked on a recent audit of a prominent Sydney gun dealership—a shop as opposed to a private sale. I can report that, at the conclusion of the audit of the gun shop, there were errors found in their record-keeping for some 44 firearms. I think they were able to rectify those anomalies within a 24-hour period, indicating that some of those guns had in fact been sold interstate.⁴

4.9 Victoria Police gave evidence that a more nationally consistent approach would assist in preventing the illegal importation of firearms:

This is where I would suggest it comes back to a national approach and uniformity across all of the states in relation to regulation. That would cover situations such as the internet or online trade of illicit firearms. Currently they are imported into Australia via online and through parcel post. I am talking about the one-off purchasers or two-off purchasers, possibly in the dark net side of the internet. They are imported into Australia and may be able to bypass screening, or may not be detected in screening, and then they go out to the recipients who have ordered them online.⁵

4.10 The Law Institute of Victoria (LIV) stated that jurisdictional inconsistencies 'cause significant confusion among both individuals and law enforcement agencies, particularly for those who often travel across different jurisdictions'.⁶ The LIV also stated that 'such confusion would undermine the efforts to regulate firearms and thus eliminate gun-related violence on a national scale'.⁷

3 Mr Paul Britton, Vice President, NSW Firearms Dealers Association Inc., *Committee Hansard*, 13 October 2014, p. 25.

4 Detective Acting Superintendent Jason Herbert, Commander, State Crime Command, Firearms and Organised Crime Squad, NSW Police, *Committee Hansard*, 13 October 2014, p. 50.

5 Detective Superintendent Peter De Santo APM, Commander, State Anti-Gangs Division, Victoria Police, *Committee Hansard*, 13 October 2014, p. 57.

6 Law Institute of Victoria (LIV), *Submission 124*, p. 2.

7 LIV, *Submission 124*, p. 2.

4.11 In 2008, the Australian Institute of Criminology (AIC) conducted a review of both federal and state and territory legislation in order to evaluate the progress that had been made in implementing the reforms specified under the various firearm agreements (see chapter 1).⁸ Overall, the AIC found there was general compliance but that 'opportunities to divert firearms were inadvertently facilitated by legislative loopholes or oversights and/or a general lack of deterrence based on the offences prescribed and the maximum penalties attached'.⁹

4.12 As part of its 2012 report concerning firearm trafficking, the AIC re-examined the various legislative schemes. The AIC found that while significant progress had been made, a number of inconsistencies still existed.¹⁰ In particular, stronger provisions with regard to dealerships and the registration and manufacture of firearms were identified as key areas requiring change.¹¹ The AIC noted the dangers of gaps in the law and the need for better solutions with respect to firearm dealers:

For example, it has been suggested by stakeholders consulted for this project that dealers who are involved in the illegal diversion of firearms will continue to test the legislation to identify avenues for exploitation (Project stakeholders personal communication 4 May 2011; 28 November 2011). These avenues may not be detected by law enforcement agencies until after the fact, such as occurred with the Queensland 'deactivation' and New South Wales 'firearm receiver' loopholes described previously.

...Resolutions specified in the National Firearm Trafficking Policy Agreement (2002) aimed to deter dealer involvement in the illicit market by prohibiting certain persons being employed in dealerships, requiring the provision of close associate information, enabling better scrutiny of firearm dealings (through mandatory recording and provision of transaction records) and making it an offence to wilfully record a false or misleading entry in records on firearm and firearm part transactions. Strengthening provisions around false entries, such as recording false disposal or sales notices, false interstate transfer or failure to record receipt of goods, may deter (some) dealers from making wilful false entries to conceal the diversion of firearms. The maximum penalty for this offence, usually a relatively minimal fine, may not produce the adequate deterrence to offset the temptation to falsify records.¹²

8 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology (AIC), Research and Public Policy Series no. 116, June 2012, p. 11, <http://www.aic.gov.au/publications/current%20series/rpp/100-120/rpp116.html> (accessed 2 October 2014).

9 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 21.

10 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 21.

11 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 21.

12 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, pp 21–22.

4.13 The AIC also identified that:

State and territory firearms laws are not completely consistent in the legal definition of a firearm or what constitutes a major firearm component or part (and hence requires registration)...[and although the] registration of all firearm parts has not been judged a feasible option (eg the registration of components would require considerable resources and technical expertise to implement properly)...uniform regulation of major parts (including spare receivers and frames) would prevent diversion opportunities as witnessed in New South Wales with non-registrable receivers. The vulnerability of firearm parts to the illicit trade additionally recommends the uniform adoption of an offence to illegally manufacture parts, not just complete firearms, which is presently only an offence in South Australia.¹³

The need for reform

4.14 Given the proposals from the various state and territory police forces it seems there are both a need and some appetite for reform.

4.15 The Attorney-General's Department (AGD) gave evidence that the NFA had been effective in removing a number of inconsistencies that had previously existed:

The department believes that, broadly, the National Firearms Agreement has brought significant consistency—particularly in the key areas, such as possession, use, storage and what weapons are and are not prohibited. So, in that sense, we really do have a consistent agreement. The inconsistencies that we refer to tend to be around the edges; they tend to be around quite minor issues, such as whether a state or territory prints a licensee's address on the licence. That is a requirement of the NFA, but a lot of states do not do that.

You might understand why some states do not do that, because if that licence is then lost that would indicate where someone might have a firearm. Some states and territories have moved away from doing that. So there are minor inconsistencies around the edges. But as we said in our opening statement, we really believe that, broadly, the NFA sets up a good, robust framework for consistent legislation and regulation around firearms.¹⁴

4.16 Overall, AGD did not support the idea of the Commonwealth having greater responsibility for firearm regulation:

Although there are sometimes calls for the Commonwealth to take over the entire regulation of firearms and firearm-related articles to remove all differences, experience has shown that state and territory governments are the most appropriate level of government to manage the regulation of firearm and firearm-related articles. This provides the states and territories

13 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 22.

14 Mr Andrew Warnes, Director, Firearms Section, AGD, *Committee Hansard*, 31 October 2014, p. 53.

with flexibility to ensure that their laws and regulations are most appropriate for the local circumstances.¹⁵

4.17 However, AGD did suggest some areas where national consistency could be improved, such as the accountability of deactivation standards and agreed firearm descriptors.¹⁶ AGD also recommended that the technical elements of the NFA be updated, which would include:

- regulation of magazines, firearm parts and accessories;
- principles for dealing with interstate transactions, particularly dealers operating in more than one state or territory;
- the classification of new technology with regards to:
 - ballistic performance
 - rate of fire
 - appearance
- more explicit guidance on the NFA's genuine reasons for owning, possessing or using a firearm; and
- technological changes with respect to the issuing of licences and permits to acquire.¹⁷

4.18 The LIV suggested three possible avenues for reform: the adoption of a uniform firearms code, the National Electricity Law model (a lead jurisdiction may enact a statute which is then adopted as law by the implementing Acts of other jurisdictions) or to simply update the technical elements of the NFA.¹⁸ The AFP noted that since the NFA was established in 1996 'there have been quite significant advancements in firearms technologies'.¹⁹

4.19 Submitters also discussed the influence of the Firearms and Weapons Policy Working Group (FWPWG) in helping to identify gaps in firearm legislation and make recommendations. The AFP noted that the measures in the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014 relating to the extension of existing cross-border disposal or acquisition firearms offences were a result of a gap identified by the FWPWG.²⁰

4.20 The AFP referred to the ongoing measures of the FWPWG in its submission:

15 AGD, *Submission 42*, p. 5.

16 AGD, *Submission 42*, p. 5.

17 AGD, *Submission 42*, p. 5.

18 Mr Albert Yu, Co-chair, Young Lawyers Section, Law Reform Committee, LIV, *Committee Hansard*, 14 October 2014, pp 10–11.

19 Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 71.

20 Assistant Commissioner Slater, AFP, *Committee Hansard*, 31 October 2014, p. 57.

- ensuring the AFP Firearm Deactivation Standard is adopted across all jurisdictions;
- developing a national minimum standard of recorded information for destroyed firearms;
- considering the benefits and costs of categorising firearm dealers;
- considering the introduction of aggravated offence provisions for certain firearm offences; and
- considering the benefits and costs of requiring dealers to record sales of ammunition.²¹

Registration of firearm parts, accessories, ammunition and imitations

Firearm parts and accessories

4.21 As discussed above, even after the introduction of the various intergovernmental agreements, inconsistencies remain in state and territory firearm laws, in some instances leading to loopholes in the legislation.²² One of these areas is the registration of firearm parts.

4.22 In its submission, the AIC referred to a situation where handguns were able to be diverted to the illicit market part by part due to inconsistencies regarding registration:

Prior to the implementation of the *Firearms Amendment (Trafficking) Act 2001 No 24* (NSW), a technical error in the definition of a handgun in New South Wales legislation enabled the diversion of many handguns to the illicit market (Project stakeholder personal communication 24 September 2010). The *Firearms Act 1996* (NSW) as originally enacted, required firearm barrels, but not frames or receivers, to be registered under Part 3 (Registration of Firearms) of the Act. The exemption of frames and receivers meant handguns without barrels could be sold without having to observe regulations on firearm disposal and frames/receivers could be purchased without need to register them. This opened up opportunities to convert or build up new handguns using non-registrable parts purchased in New South Wales with parts purchased elsewhere (Project stakeholder personal communication 24 September 2010). Among the amendments prescribed in the *Firearms Amendment (Trafficking) Act 2001 No 24* (NSW) was the stipulation that registration now 'applies to every firearm frame and firearm receiver in the same way as it applies to a firearm' (s 93(1)).²³

4.23 While the registration of firearm parts was not required under the NFA, scenarios such as the one discussed above demonstrate the need for careful monitoring

21 AFP, *Submission 182*, pp 3-4.

22 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, pp 21–22.

23 AIC, *Submission 76*, p. 18.

of at least all major firearm parts (for example frames and receivers). The AIC opined that registration of firearm parts in all jurisdictions 'would enable police to more easily trace ownership history and the movement of firearms constructed illegally from firearm parts'.²⁴

4.24 Currently Queensland, South Australia, Northern Territory, New South Wales and Victoria have introduced registration requirements for some firearm parts, though this varies across the different jurisdictions.²⁵

Ammunition

4.25 Some submitters, such as the NSW Police Force, also raised the idea of registering the purchase and sale of ammunition. Currently, New South Wales is the only state to introduce legislation that places restrictions on the sale and purchase of ammunition.²⁶ The NSW Police Force provided evidence regarding the success of these reforms:

I spoke to an inspector from the homicide squad this morning and one of the things he is seeing in a current investigation is that criminals have firearms but they are lacking ammunition. We think that is a good thing, obviously. One of the problems is that when you look at restricting ammunition for handguns and not for long arms, some of the ammunition is compatible. We say the restriction on the sale of ammunition is a good thing. It is not without some problems in terms of the administration of it for the dealer, but it has the effect sometimes, even in terms of counter-terrorist operations, that whilst you may not pick up the sale of ammunition at point of sale, certainly there is an ability to trace that sale back if people are providing details to the dealer. Of course that does not take into consideration people who reload their own ammunition, which is a completely separate issue.²⁷

Imitation firearms

4.26 A number of submitters and witnesses discussed the use of imitation weapons as an important issue and highlighted the inconsistent treatment of these across the states and territories.

4.27 The NSW Firearms Dealers Association Inc. identified imitation weapons as a 'massive issue' for that state.²⁸

24 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 21.

25 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 21.

26 See the *Firearms Amendment (Ammunition Control) Act 2012*.

27 Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police, *Committee Hansard*, 13 October 2014, p. 51.

28 Mr Britton, NSW Firearms Dealers Association Inc., *Committee Hansard*, 13 October 2014, p. 29.

4.28 Victoria Police raised inconsistencies in the treatment of imitation firearms, stating that 'Victoria is the only state that classifies imitation firearms as a prohibited weapon'.²⁹

4.29 The AFP suggested that imitation firearms are also prohibited in the ACT and explained the need for imitation firearms to be subject to regulation:

...they are very good quality, they are readily mistaken for normal firearms. There are some that function in a way that there are concerns that they could actually be converted to functioning firearms.³⁰

Safe storage

4.30 The safe storage of firearms was a matter of concern to numerous submitters. Generally, submitters were supportive of safe storage requirements. Mr Bill Paterson, Chairman of Field and Game Australia, commented that the principal reason for introducing storage requirements was safety:

Prior to the storage requirements, guns were readily accessible. When I was a boy, my father kept his shotgun in a cardboard box on a shelf in our unlocked garage next to a kerosene tin which held the cartridges. It is difficult to believe now, but that was the common situation. Now guns must be stored so that they cannot be freely accessed by unlicensed persons. By all the evidence available, not only has safe storage been achieved but also secure storage.³¹

Need for nationally consistent storage requirements

4.31 Currently, each state and territory has its own requirements for firearm storage. The LIV referred to some of these in its submission:

For example, in Victoria different storage requirements apply to different categories of firearms. For instance, category A and B long-arms must be stored in a receptacle which is constructed of hardwood and steel. On the other hand, category C and D long-arms and general category handguns must be stored in a steel safe. In Western Australia, on the other hand, the storage requirements do not differ between the categories of firearms—that is, all firearms in Western Australia must be stored in a cabinet or container constructed of steel.³²

4.32 A number of submitters discussed whether a nationally consistent approach should be taken. The National Farmers' Federation, while generally supportive of the

29 Victoria Police, *Submission 389*, p. 5.

30 Assistant Commissioner Slater, AFP, *Committee Hansard*, 31 October 2014, pp 74–75.

31 Mr William Paterson, Chairman, Field and Game Australia, *Committee Hansard*, 13 October 2014, p. 45.

32 Mr Yu, LIV, *Committee Hansard*, 14 October 2014, p. 10.

idea of national consistency, submitted that it was important to understand why the inconsistencies existed.³³

4.33 The Tasmanian Farmers & Graziers Association argued that the current inconsistencies lead to unsafe practices:

We have a ridiculous situation currently where a captive bolt in Victoria and New South Wales is completely legal but in Tasmania it is deemed to be a pistol which is a category E and those found in possession of a captive bolt without the appropriate licence would be charged with a firearm offence. The other issue in relation to storage and simplification of that is—again speaking purely from a Tasmanian perspective—that we find here in Tasmania gun safes being put on sale which do not meet the approved requirements of the legislation. Yet the local police force and other authorities allow these sales to take place. Unfortunately, those who are not completely familiar with the legislation purchase what are advertised as gun safes, put them in their homes and put their guns in them, only to have an inspection take place at some future point and be told they are in breach of the firearms regulations and in some cases potentially being charged. There needs to be a national consistency in only allowing approved gun safes, those which meet the legislative requirements, to be on sale. Anything else should be withdrawn from sale immediately.³⁴

4.34 NSW Police told the committee that in NSW:

...you are able to store firearms in receptacles of a wooden material. It just does not seem to me to make any sense to be able to do that. So I think that, yes, whether it be nationally consistent standards, or legislation that is mirrored in every state, in terms of safe storage, the state borders have something to do with it.³⁵

4.35 NSW Police argued that as a public safety matter, all areas should be concerned with safe storage:

...whether it be nationally consistent standards, or legislation that is mirrored in every state, in terms of safe storage, the state borders have something to do with it. It is a parochial issue in some areas. In some areas of Australia, of course, the attitude to gun ownership and security of guns is different from the attitude of people in metropolitan Sydney, for example. I understand, having lived and worked in rural areas in New South Wales, the reasons for that. That does not mean, however, that the storage requirements should be any less in those areas because, at times, you will see hobby farmers who have safe storage areas in sheds away from the main dwelling. They may not be resident on the premises for weeks or months,

33 Ms Sarah McKinnon, Manager, Workplace Relations and Legal Affairs, National Farmers' Federation (NFF), *Committee Hansard*, 13 October 2014, p. 20.

34 Mr Peter Skillern, Policy Manager, Tasmanian Farmers and Graziers Association, *Committee Hansard*, 13 October 2014, p. 20.

35 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

and they will then return and find that their firearms have been stolen. We would receive a report, but it might be weeks or months later. That is a problem. The location of the safe storage area away from main dwelling houses is a problem. Often they are in storage sheds stored with angle grinders and other implements that can open the storage areas. We see that regularly.³⁶

Compliance with storage requirements

4.36 Organisations based in regional and rural areas expressed concern over the possibility of stricter requirements being imposed on firearm owners. For example, the Tasmanian Farmers & Graziers Association noted:

...there has been talk about electronic alarms. Again, I can only comment on the Tasmanian context but, within that context—irrespective of whether they are alarms for gun safes, private property or other types of property in a Tasmanian regional sense—it is quite demonstrable that they have not worked. We have numerous instances where police have not arrived for upwards of an hour or an hour and a half by which time the perpetrators have long gone. Even in some of the larger regional towns, due to budgetary constraints and the obvious reduction in police on the beat and particularly over the evening periods and the weekends, sometimes there has not been a response full stop. That is indicative of being a small state and of the current budgetary constraints that the state government finds itself under. So such a solution would really not produce the outcomes that some people are looking for.³⁷

4.37 The NFF argued that the current requirements were onerous enough and the focus should be on encouraging compliance:

I do not have the current cost of gun safes and farm registration, but what I do know is that it is quite difficult to access firearms because of the robust regulatory framework that is already in place. Not only do you have to go through that registration process; there is also then the requirement to procure safes and to make sure that the ammunition and firearms are in separately lockable containers and are secured. So there are set-up costs with access to firearms and then ongoing maintenance, which is well regulated and checked frequently by the authorities. For any farm business, that is a cost. Most farm businesses in Australia are small businesses. Many of them operate in a low cash flow environment. Particularly when things are tighter, any additional cost has an impact on the ability of the farm business to keep going. So any additional cost is a serious concern to us and our members, and that is why we are always interested in alternative solutions.³⁸

36 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

37 Mr Skillern, Tasmanian Farmers and Graziers Association, *Committee Hansard*, 13 October 2014, p. 17.

38 Ms McKinnon, NFF, *Committee Hansard*, 13 October 2014, p. 13.

4.38 As noted in paragraph 2.27, firearms on farms are often stored away from the main dwelling, in sheds for example, or on properties which are not occupied by the owners full time. NSW Police argued that the storage of firearms in this way, and often together with tools such as angle grinders that can be used to breach a gun safe, increases the opportunity for them to be stolen.³⁹

4.39 Beretta Australia indicated that compliance should be enforced and argued that those firearm owners who did not comply with safe storage requirements should be prosecuted:

We are not saying that we are above the law; we are not saying we are any different from anybody else. As Luca said, we break the law every day—and in saying 'we', I do not necessarily mean the people in this room—by speeding or whatever, and we expect to be punished for it. As firearms owners, why would we not expect to be punished if we broke the law? The fact is: do not reinvent the wheel. If you are worried about firearms theft, enforce the law that is already there. Get some people out there and inspect people's homes, inspect their storage facilities and ensure they are complying with what the police are suggesting is the minimum requirement.⁴⁰

4.40 The AIC agreed that 'a critical factor in the prevention of firearm theft is owner compliance with prescribed firearm storage standards'.⁴¹ As part of its National Firearm Theft Monitoring Program (NFTMP) it looked at issues of storage compliance:

Storage compliance was determined by the data providers. We had a data variable for them to indicate whether the police at the time determined whether they were storage compliant. That again was a range of things. They could have stored their firearm in a cupboard. There were a lot of instances of storing their firearms in cupboards, and what have you—ostensibly locked but in cupboards. Again, they were considered non-storage compliant if the key was within easy access and if the key could be easily found. In some instances—very rare instances—the firearms were left under the beds, in wall cavities and those sorts of things. So that is when there was non-storage compliance. We did find a real issue with vehicles, in particular. I think there might be some confusion, or what have you, about how firearms should be secured when they are being transported in vehicles. We found particularly poor storage compliance when firearms are being transported in vehicles.⁴²

39 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

40 Ms McKinnon, NFF, *Committee Hansard*, 13 October 2014, p. 42.

41 AIC, *Submission 76*, p. 11.

42 Dr Samantha Bricknell, Research Manager (Violence and Exploitation), AIC, *Committee Hansard*, 31 October 2014, p. 47.

Deactivation of firearms

4.41 Another area that is subject to inconsistencies between jurisdictions is deactivation. In its submission, the AIC explained:

A deactivated (or inoperable) firearm is one which has been rendered incapable of discharging shot, bullets or other projectiles by means of an explosive charge or compressed gas and cannot be returned to its original firing condition (without modifying the appearance of the firearm) (see Customs (Prohibited Imports) Regulations 1956 – Reg 4F).⁴³

4.42 As a result of inconsistencies between jurisdictions regarding the legislative definition of a firearm, some states do not require deactivated firearms to be registered. In NSW, ACT, Victoria, Tasmania and the Northern Territory the legislative definition of firearm is broad enough to include deactivated or inoperable firearms.⁴⁴ Deactivated firearms are considered to remain 'accountable' which means 'that a firearms registration status is not invalidated if it is deactivated and record of the firearm is retained with the relevant firearm register'.⁴⁵

4.43 However, some states have failed to update their legislation:

Deactivated firearms, however, do not fall within the legislative definition of a firearm in South Australia and Western Australia. Deactivated Category H firearms in Queensland are still considered a firearm but not deactivated long-arms. A firearm in these two former states, and a long-arm in Queensland, loses its accountability status on being certified as deactivated.⁴⁶

4.44 Once no longer accountable, deactivated firearms no longer form part of the legal firearm market and may in some circumstances end up being diverted to the illicit market. The AIC identified two ways in which this can occur: through the transfer of the serial number from deactivated firearm to another, operable firearm, with the purpose of concealing the identity of the latter firearm; and through the reactivation of (deliberately) poorly deactivated firearms.⁴⁷ The latter method was found to have been applied to a number of handguns entering the illicit market in Queensland:

A deactivation loophole in Queensland legislation inadvertently led to the deactivation of reportedly thousands of handguns by Queensland-based dealers, and based on firearm seizure data, the transfer of some of these handguns into the national illicit pool (Project stakeholder personal communication, 24 September 2010). Prior to amendments to the *Weapons Act 1990* (Qld) and *Weapons Regulation 1996* (Qld), a handgun if rendered inoperable lost any requirement to remain registered in Queensland.

43 AIC, *Submission 76*, p. 17.

44 AIC, *Submission 76*, p. 17.

45 AIC, *Submission 76*, p. 17.

46 AIC, *Submission 76*, p. 17.

47 AIC, *Submission 76*, p. 17.

Compounding this vulnerability was the lack of inspection of the firearm once the deactivation process had taken place and many thousands of poorly deactivated handguns were reactivated by firearm enthusiasts and criminals, and made their way into the illicit market (Project stakeholder personal communication, 24 September 2010).⁴⁸

4.45 The ACC estimates that 7,500 handguns entered the black market via this method.⁴⁹ While Queensland has amended its legislation to make it an offence 'to reverse the inoperability of a firearm that has been proscribed under the Act to be rendered inoperable', it still does not class deactivated long-arms as firearms.⁵⁰

4.46 The ACC gave evidence that while there are still jurisdictions where such loopholes exist, those jurisdictions are currently in the process of closing these off and 'in the next 12 months to two years, there will be no jurisdiction in Australia where these previous loopholes could exist'.⁵¹ The ACC also emphasised that due to the long life of firearms 'historical diversion methods are still major players in how illicit firearms came into the market, and we should never disregard that'.⁵²

Standard of deactivation

4.47 Another issue raised during the inquiry was the method used to deactivate a firearm. It is now the case that 'state and territory firearm laws... stipulate deactivation standards that generally align with each other and those prescribed in the Australian Federal Police Firearm Deactivation Standards'.⁵³ The AFP noted, however, that this is merely a standard as opposed to a requirement:

We all operate under it, but it is not a specific requirement in terms of 'you all cut a receiver in a particular way' or what have you; it is just the standard to which the firearm must be deactivated. What we are pursuing at the moment is the adoption of a national standard so that all jurisdictions actually deactivate the same way. The AFP standard is being used as a model because it expresses very specifically how that would occur. That is being pursued through the firearms and weapons policy working group.⁵⁴

Security of data in relation to firearm owners

4.48 Data from the AIC's National Firearm Theft Monitoring Program (NFTMP) showed that over the five years between 1 July 2004 and 30 June 2009, around three-quarters of firearm thefts were from private residential premises, with a mix of

48 AIC, *Submission 76*, p. 17.

49 Mr Paul Jevtovic, National Manager, Strategic Intelligence and Strategy, Australian Crime Commission (ACC), *Committee Hansard*, 31 October 2014, pp 34–35.

50 AIC, *Submission 76*, p. 17.

51 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 36.

52 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 37.

53 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, p. 20.

54 Assistant Commissioner Slater, AFP, *Committee Hansard*, 31 October 2014, p. 71.

targeted and opportunistic incidents recorded.⁵⁵ Given the high incidence of thefts from private residential premises, the scarcity of data about firearms was raised as a concern during the course of the inquiry. In particular, submitters and witnesses discussed the accessibility and unlawful use of firearm registries.

Firearm registries

4.49 The Tasmanian Farmers & Graziers Association questioned the security of the various state and territory firearm registries:

Anecdotally, there is significant evidence to suggest that many of the firearm thefts in Tasmania are targeted—that is, they are targeted for the firearms, because often nothing else is taken. So you have to ask how this intelligence is being gathered by criminals in the first place. It is not difficult to see, when individuals are dealing with their firearms—whether it be submitting a form and requesting a new firearm or even when their firearm licence falls due or when they purchase ammunition—they sign registers which other members of the public have access to. These registers have their names and their addresses. The full details are on there for any subsequent person who signs that register, if they are awake, to take note of who the individual is, where they live and often, depending on what sort of register they are signing, what type of firearms they have. We could simply put a stop to many of these thefts by tightening up the security around these sorts of issues.⁵⁶

4.50 The Shooters Union NSW alleged that the NSW firearms database has been accessed unlawfully at times.⁵⁷ Detective Chief Superintendent Finch, from the NSW Police, rejected this assertion:

That area has been traversed many times. In fact, the Firearms Registry has conducted a number of investigations in relation to that. There is simply no evidence that there has been any breach of security or improper release of information in terms of their records and, certainly, I am unaware of any evidence to suggest that operational police have done similar. In fact, regarding the article that commenced that, I spoke to the journalist who wrote it. It was an adlibbed story and his editor seemed to think it was a good idea to run with it—and that was the information I had at the time.⁵⁸

4.51 The NSW Police gave evidence that while targeted theft was more common in rural communities it was not necessarily linked to organised crime:

Our analysis and our practice has shown recently, particularly, that, when thefts occur, very often the thefts are undertaken by people from within the

55 AIC, *Submission 76*, p. 10.

56 Mr Skillern, Tasmanian Farmers and Graziers Association, *Committee Hansard*, 13 October 2014, p. 19.

57 Mr Peter Whelan, President and Treasurer, Shooters Union NSW Inc, *Committee Hansard*, 13 October 2014, p. 32.

58 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 40.

same communities. We certainly look at and analyse whether there is any more sinister intent—that is, whether groups such as outlaw motor cycles groups have been involved in the thefts or whether they have commissioned those thefts. Again, whilst it would be naive to suggest that has never happened, at this stage there is no conclusive evidence to say that they are involved on any scale.⁵⁹

Shooting clubs and organisations

4.52 Shooting clubs and organisations hold data on their members, including personal information and the types of firearms owned by a member. This data, if accessed by criminal elements, could place members at risk of firearm theft.

4.53 Shooting Australia emphasised the care taken by firearm bodies to protect their information:

Shooting Australia at our level, as I mentioned, has five member bodies. We do not have the details of the 38-odd thousand individuals. The member bodies have that information in different ways. It comes to them from state and club levels. There is a complete understanding by all involved of the need for security of that information and to guard it closely. At the national and state levels, I would suggest that those organisations do not have the details of the numbers and types of firearms but rather have simply who the members are. The details are with the state registries, as Mr Bannister mentioned, and potentially with the clubs that have performed the role of endorsing the particular members' applications et cetera.⁶⁰

4.54 The Shooters Union NSW described the security it uses to protect members' personal information, but simultaneously highlighted weaknesses in its security approach by virtue of the dedicated computer being connected to the internet and membership information being emailed to the firearms registry:

CHAIR: Coming back to security of information, quite a few of the submissions that we received talked about the security of data relating to gun ownership, and I imagine that that is a concern that you all would have. One of the submissions referred to a significant breach in South Australia, where the data about who were members of a gun club was released publicly. This person likened it to a shopping list for criminals who wanted to go out and find where they could get some guns and where there were guns in the community. Mr Whelan, what does your club do to guarantee the security of your membership?

Mr Whelan: Even I do not have access to the membership list. Our secretary, a guy called Daniel Gregg, has it on a dedicated computer that is not linked or connected to anything except when he has to download that and report to the firearms registry. That is done on a spreadsheet annually to

59 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, pp 42–43.

60 Mrs Catherine Fettell, President, Shooting Australia, *Committee Hansard*, 31 October 2014, p. 20.

review who has kept their membership valid and who has kept their required number of shoots.

CHAIR: So that computer is not connected to the internet at all?

Mr Whelan: No, it is only used to email data to the firearms registry.⁶¹

4.55 Mr Trevor Kenny outlined a specific example in which the South Australian Revolver and Pistol Association Inc. (an "umbrella organisation" with no individual members)⁶² came into possession of information contained in a database of pistol shooters comprising the personal information of individuals and the types of firearms in their possession. Mr Kenny explained:

The South Australian Revolver and Pistol Association Inc. secretary...has been the custodian of the database of pistol shooters for many years. Contained in that database is, not only the personal information of the individuals, but also the types of firearms that are in their possession. S.A.R.P.A. is the parent body of most Pistol Clubs here in South Australia and purports to be the body representing the individual clubs. It argues that club members are NOT members of S.A.R.P.A and one must ask, what they are doing with this information in the first place? Obviously the individual clubs and the Firearms Branch of the South Australian Police are appropriately in possession of such delicate information.⁶³

4.56 The Sporting Shooters' Association of Australia Inc. gave evidence that it would welcome legislation aimed at protecting the security of data:

Interestingly enough, we would actually probably enjoy some additional support in being able to protect our data. There was a case within our own organisation in Western Australia only a few short years ago where an individual took our state association to court to gain access to the membership list and won the case. We resisted it; we lost the case; we could not protect our own data legally.⁶⁴

4.57 The National Farmers' Federation questioned the need for further measures and instead suggested that existing privacy laws should be sufficient:

Much of the information that has been described as accessible is personal information, which is already covered by privacy legislation, and so it is relevant to consider how that law could be applied in this space, where it is not currently being used.⁶⁵

61 Mr Whelan, Shooters Union NSW, *Committee Hansard*, 13 October 2014, p. 38.

62 Crawford Legal, *Response to Submission 144*, p. 2.

63 Mr Trevor Kenny, *Submission 144*, p. 1.

64 Mr Graham Park, President, Shooters Union of Australia, *Committee Hansard*, 31 October 2014, p. 19.

65 Ms McKinnon, NFF, *Committee Hansard*, 13 October 2014, p. 22.

Effectiveness of amnesties

4.58 As discussed in chapter 1, amnesties have been an effective way in which to reduce the size of the illicit firearms market, especially with regards to grey firearms. The Firearms Training and Safety Council submitted that the introduction of a nation-wide amnesty would be an effective way of decreasing the number of grey firearms:

In that respect, we have been calling for a permanent amnesty so that people do not fear that they will be charged in any way, or have their existing firearms licences affected in any way, if in fact they bring forth a grey firearm. Bring forward the firearm, have it taken under the system and have it destroyed if necessary—it does not matter—but institute a permanent amnesty that will give effect to that particular action.⁶⁶

4.59 The NSW Firearm Dealers Association Inc. was supportive of this proposal:

We would like to see a rolling amnesty so that someone can bring a firearm into us and we can then call the police, give them the serial number: 'Is this reported stolen? Has it been used in the commission of a crime?' Yes. We take their details and then take the firearm to a police station for further investigation. If that is not the case, then we will duly register the firearm. In some instances, we have had customers call us and say: 'My father has died. We found a firearm in the garage. Can you do anything with this?' No, I can't help you. And they are like, 'Well, I don't know if the firearm is loaded. I don't know if it is safe to touch.' We say: 'We can't do it. Call the police.' They call the police. The police say, 'We're too busy.' They direct us to go and look at the firearm and bring it back to our office. So it is a very mismatched issue we have got, where the act says we can but the police directive says we cannot.⁶⁷

4.60 The NSW Police discussed some of the problems that arise for law enforcement regarding firearm amnesties:

Amnesties are problematic. Some states continue to run them. One of the problems is that if people hand in firearms under an amnesty and that firearm is then traced to some sort of serious crime, where does that leave us? The volume of firearms that are handed in during an amnesty can also be problematic in terms of tracing. The New South Wales Police Firearms Registry traces all handguns that are handed in to police, as well as all high-risk firearms—that is, the more powerful semiautomatic military-grade weaponry. But to trace every firearm that is handed in is an impossibility at this stage, simply due to resourcing. So, whilst the idea behind an amnesty is very good, I think the practical issues are very difficult to surmount.⁶⁸

66 Mr Gary Bryant, General Manager, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 6.

67 Mr Britton, NSW Firearms Dealers Association Inc., *Committee Hansard*, 13 October 2014, p. 23.

68 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 47.

4.61 Currently Tasmania is the only state to have a permanent firearm amnesty in effect. While people could originally hand in firearms to firearm dealers as well as the Tasmanian Police, this was changed in 2014 to restrict the forfeiture of firearms to the Tasmanian Police.⁶⁹ Firearm dealers seemed to be critical of this change, noting that it discourages people from surrendering their firearms and would mean that more firearms would remain unregistered.⁷⁰ By contrast, Gun Control Australia described the reforms to Tasmania's gun amnesty laws positively, stating '[a]nything that takes guns out of the black or grey market is a good thing'.⁷¹

69 T Nightingale, 'Tasmanian gun dealers cool on amnesty changes', *ABC News*, 13 February 2014, available: <http://www.abc.net.au/news/2014-02-12/tasmanian-gun-dealers-cool-on-amnesty-changes/5256262> (accessed 22 March 2015).

70 T Nightingale, 'Tasmanian gun dealers cool on amnesty changes', *ABC News*, 13 February 2014.

71 T Nightingale, 'Tasmanian gun dealers cool on amnesty changes', *ABC News*, 13 February 2014.

Chapter 5

Effectiveness of registering and licensing firearms

5.1 One of the main changes that occurred as a result of the National Firearms Agreement (NFA) was the introduction of compulsory registration and licensing of firearms (see chapter 1). All states and territories in Australia committed to introducing firearms registration schemes and requiring individuals to apply for a licence before they could possess and use firearms.¹

5.2 The ongoing need for and effectiveness of registration and licensing were raised by some submitters.

Need for registration and licensing of firearms

5.3 Some submitters to this inquiry questioned the need for registration and licensing. For example, the Shooters' Union of Australia Inc. questioned the need for registering firearms:

Our position is that causing the individual registration of long-arms post 1996 in the majority of Australia, which did not exist before, created the state based registries, which have cost most of the money since, in ongoing costs, and have caused most of the regulatory burden on a lot of shooters. They are very inaccurate. Removing those would take away the onus on the owner of the firearm. Therefore, if someone was already a licensed and approved shooter, then whichever firearm they had which was a legal type of firearm would be legal again, and it would eliminate or minimise a lot of the grey market, because the simple reality is that a lot of people, post 1996, did not turn firearms in to the compensated confiscation program known as the buyback. One of the things you are talking about in this hearing in is the numbers that are out there which are unknown. The numbers are unknown because people did that as an act, in most cases, not of criminal intent but of civil disobedience.²

5.4 Other submitters supported the requirement that firearms be registered and licensed, arguing that it did not impose an unreasonable burden on firearm owners:

As a private citizen and as a firearms owner, I think it is a public safety issue. It is not a popular view amongst the shooting fraternity, but firearms hold a unique position in our consciousness. They may well be no deadlier than a knife and they may well not be the weapon of choice for thieves and gangs, but they loom large in our consciousness. I have no objection as a gun owner to having my firearms registered by an appropriate authority.

1 For further information see: S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, pp 6–22, <http://www.aic.gov.au/publications/current%20series/rpp/100-120/rpp116.html> (accessed 2 October 2014).

2 Mr Graham Park, President, Shooters Union of Australia, *Committee Hansard*, 31 October 2014, p. 18.

Prior to 1996, I had my firearms registered and I did not really have to. I do not think it is a huge impost. We register our cars and we do not object to that. I think it is a reasonable safety issue. Importantly, from this point of view, what it does do is isolate legitimate firearms owners so that you can actually concentrate on the illegal firearms. If you are just looking after the mass of firearms you have an impossible job and you will never manage illegal firearms. If you can say that 99 per cent of them are identified and in good hands, your job of identifying the one per cent and controlling them is much reduced.³

5.5 Mr Roland Browne, from Gun Control Australia, spoke about the importance of registration in preventing firearms from being diverted to the illicit market:

Registration has its own importance within the field of firearms control. It ensures that firearms that are bought and sold can be traced such that they are only bought from or sold to a person with a licence. Secondly, and most significantly, registration of firearms has a major role to play in the solving of crimes involving firearms. In terms of a link between registration of firearms and reduction of gun violence, my answer to that is, firstly, that if there is a consequence whereby the reduction of regulation, as you call it, leads to any change, I think that would be some years down the track. Secondly, I suspect it would be hard to pick how a reduction in gun violence, or any change in the levels of gun violence, could be sheeted home directly and solely to a reduction in registration requirements.⁴

5.6 The Attorney-General's Department (AGD) gave evidence that removing the licensing requirements would undermine the system used when determining import approvals:

The licensing of not just dealers but any individuals who might be seeking to import what would otherwise be a prohibited weapon, but fall into the exemptions in the Customs regulations that allow them to import guns for vertebrate pest control or for testing and demonstration, or any other of the range of exemptions that are set out in the Customs Act. We will always check that those people are licensed, and licensing is done through the states and territories, so that would obviously have an impact.⁵

5.7 Overall, there was strong support to retain the current requirements for registration and licensing, which were implemented following the adoption of the NFA. The NFA also recommended that these systems be linked, which led to the introduction of the National Firearm Licensing and Registration System (NFLRS):

The National Firearm Licens[ing] and Registration System (NFLRS) was developed in response to a recommendation of the Australasian Police Ministers' Council to ensure "effective nationwide registration of all

3 Mr Edward Stanley, *Committee Hansard*, 14 October 2014, p. 60.

4 Mr Roland Browne, Vice-President, Gun Control Australia (GCA), *Committee Hansard*, 14 October 2014, p. 6.

5 Mr Andrew Warnes, Director, Firearms Section, Attorney-General's Department (AGD), *Committee Hansard*, 31 October 2014, p. 59.

firearms". The National Firearms Agreement (1996) recommended that New South Wales, Queensland, and Tasmania immediately establish an integrated license and firearms registration system. The remaining jurisdictions were required to review their existing registration systems to ensure compatibility so that the databases could be linked. The NFLRS was designed to address this recommendation, serving as a national 'reference library' for police and law enforcement agencies.⁶

5.8 When CrimTrac was established in 2002 it took over the management of the NFLRS. CrimTrac noted in its submission that the NFLRS 'provides information to police and law enforcement agencies on past and present firearm licence holders; licensed firearm dealers; registered and handed in/destroyed firearms; and lost, stolen and transferred firearms'.⁷ The NFLRS operates in conjunction with the National Police Reference System (NPRS) which 'supports police and other law enforcement agencies by providing key reference data to support first responders, investigators and analysts'.⁸

Effectiveness of current registration and licensing systems

5.9 Some submitters questioned the adequacy and effectiveness of the registering and licensing systems to provide an accurate record of where registered firearms are located. Mr Stanley explained that the current system is based on individual state and territory records which are not linked with each other:

All police jurisdictions, with the exception I think of Western Australia, have their own systems, the ACC presumably has its system and the Federal Police have their systems. They are not integrated. They do not talk to each other. They communicate via an elementary system, run by CrimTrac, which we are very familiar with, having used it as the basis of the 2003 handgun buyback, which is riddled with inconsistencies, mistakes, errors and simply does not record things that should be there. We attempted and we established relationships with a couple of jurisdictions, New South Wales and Queensland. We established low-level information interchange. At best, it was ad hoc and it was not timely. It was periodic. We have suggested that this needs to be integrated in real time.⁹

5.10 The committee heard from some law enforcement authorities that the current registration and licensing systems suffer from certain weaknesses and are in need of improvement. For example, the Australian Federal Police (AFP) discussed problems arising from the inability of law enforcement bodies to track individual firearms:

There is obviously a lot of leakage—I mentioned earlier the [National Firearms Interface], this national register that is intended to prevent that leakage—where firearms are not re-licensed or change hands when they go

6 CrimTrac, *Submission 87*, p. 3.

7 CrimTrac, *Submission 87*, p. 3.

8 CrimTrac, 'Our services', 2011, http://www.crimtrac.gov.au/our_services/index.html (accessed 3 March 2015).

9 Mr Stanley, *Committee Hansard*, 14 October 2014, p. 56.

interstate and the records are lost and they are out there in the communities. That is one of the sources for firearms that can potentially end up in that illicit space. And then there are thefts, and that is quite clearly the case. Certainly the data I have seen recently in relation to thefts are numbers that are substantially greater than what we are seeing seized at the border, but really that is about as far as I can go.¹⁰

5.11 The NSW Police also raised concerns regarding tracking the movement of firearms, particularly when firearms are sold interstate:

To assist, we embarked on a recent audit of a prominent Sydney gun dealership—a shop as opposed to a private sale. I can report that, at the conclusion of the audit of the gun shop, there were errors found in their record-keeping for some 44 firearms. I think they were able to rectify those anomalies within a 24-hour period, indicating that some of those guns had in fact been sold interstate. So, in terms of the recording mechanisms for the interstate movement of firearms, I think at this point in time it would be safe to say that, for the most part, it is really on a case-by-case basis as to how those recordings are actually maintained, whether they are maintained on a database at the individual gun shop or in a handwritten ledger. So there is some work to be done there and there are some improvements to be made. They are certainly not classified as lost firearms from New South Wales police's perspective.¹¹

5.12 The AIC also commented on the weaknesses of the current system, advising the committee:

Diversion by interstate transfer is potentially facilitated by a mix of legislative and administrative loopholes. Until recently, there was no structured system agreed to by all state and territories in the reconciliation of firearm transactions between jurisdictions. Aware of this anomaly, some dealers have diverted licit firearms to the illicit market by falsely declaring on their dealer returns disposal of firearms to other companies or individuals interstate, when in fact the firearm never left the dealer's possession. This vulnerability assisted in the intra and inter-state diversion of firearms, predominantly handguns.¹²

5.13 CrimTrac acknowledged that 'in its current state, the NFLRS no longer meets the information needs of police and law enforcement'.¹³ CrimTrac discussed some of the limitations with regards to the current system:

10 Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 77.

11 Detective Acting Superintendent Jason Herbert, Commander, State Crime Command, Firearms and Organised Crime Squad, NSW Police, *Committee Hansard*, 31 October 2014, p. 50.

12 For further information see: S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012, p. 26.

13 CrimTrac, *Submission 87*, p. 3.

The NFLRS, the National Firearms Licensing and Registration System, is a capability which does its best to bring that information to a single place, but it does not take the place of the local system. It is a high-level aggregation of information that is known locally, but it does not take the place of the local system. At the port of import when a B709 is issued under the Customs Regulation to import a firearm, that is recorded in a Customs system. When that firearm goes into the Northern Territory firearms dealer in Cavanagh Street in Darwin, it will then go into the Northern Territory licensing system and then be uploaded into the national system from the Northern Territory system. Obviously, that is not a good system. It is inefficient; it creates a whole series of potential problems for the transference of information. What has recently been approved by all state and territory police ministers is for CrimTrac to build a new system to replace the current one. Over next couple of years CrimTrac will build a better capability to ensure that we do it better.¹⁴

5.14 As discussed earlier, the Joint Commonwealth-New South Wales Review of the events that took place during the Martin Place siege (*Martin Place siege report*) referred to a number of flaws in national firearm databases.¹⁵

5.15 The *Martin Place siege report* identified three major flaws with the operation of the NFLR and the NPRS:

- Gaps in the data—due to the lack of registration and licensing requirements pre-1996 a large number of firearms remain unaccounted for and make up the grey market. The lack of sharing arrangements between the State and Territory regarding firearm data was also viewed as an issue;
- Inconsistency across data holdings—the issue of whether Monis had lawful access to a gun was complicated by the fact there was no automatic interconnectivity between the NPRS and NFLRS; and
- Firearms are not tracked over time—the NFLRS does not give an indication of a person’s firearms possession history without more detailed interrogation. The system is person-focussed, rather than tracking firearms throughout Australia. This creates the potential for firearms to drop off the system if they are not registered with new owners, by owners who have relocated or where registration lapses.¹⁶

5.16 While certain weaknesses have been identified with the current systems, no law enforcement authority recommended that these systems should be removed.

14 Mr Doug Smith, Chief Executive Officer, CrimTrac, *Committee Hansard*, 31 October 2014, p. 27.

15 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, pp 48-49, <http://www.dpnc.gov.au/pmc/publication/martin-place-siege-joint-commonwealth-new-south-wales-review> (accessed 23 February 2015).

16 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, pp 48-49.

Rather, CrimTrac informed the committee that these problems had been recognised and a new system has been approved by state and territory ministers for development:

To summarise, the current system started back in the early 1990s. Its intention was to create a national view of known records that were accurate and consistent at the time. It is not transactional in that it follows the life of the firearm. It is only a point-in-time record. The state and territory ministers in particular recognise that we need to have a better system. The current system is called the National Firearms Licensing and Registration System. We are now approved by ministers to move to get a better system. Implicitly, one of the outcomes of the new system will be better data. Finally, if I could just make the point that the system is aimed at the regulatory knowledge we have about firearms and shooters. It is not a system that is built as an intelligence capability and it is not a system that will necessarily identify weapons that are not known to police or dealers or whatever.¹⁷

Development of the National Firearms Interface

5.17 In 2012, the Australian government introduced a range of measures aimed at targeting the illicit firearms market, which included the establishment of a National Firearms Interface (NFI).¹⁸ The NFI is intended to be 'a national shared firearms solution for law enforcement that provides a single, shared record for each firearm, firearm owner, and event in a firearm's existence in Australia'.¹⁹

5.18 CrimTrac noted that the NFI is expected to provide a range of benefits, including:

- more accurate information for law enforcement agencies regarding the presence of firearms;
- reduction in the number of firearms transferred to the grey market;
- increase in the automation of firearm management capabilities;
- improvement of the efficiency and effectiveness of firearm registry and shopfront processes;
- shortening the turnabout time for routine licensing procedures;
- reduction in the number of duplicated firearm records and other relevant entities; and

17 Mr Smith, CrimTrac, *Committee Hansard*, 31 October 2014, p. 27.

18 Australian Crime Commission (ACC), *Illicit Firearms fact sheet*, 2013, <https://www.crimecommission.gov.au/sites/default/files/ILLICIT%20FIREARMS%20JULY%202013.pdf> (accessed 2 October 2014).

19 CrimTrac, *Submission 87*, p. 6.

- improved information sharing between state, territory and Commonwealth law enforcement agencies, and better information on firearm event history and status.²⁰

5.19 As there are currently '30 different registers and databases across federal, state and territory agencies which are not linked', the establishment of the NFI is seen as 'critical to sharing information between law enforcement agencies around the country—and allows a firearm to be tracked through the course of its life'.²¹ CrimTrac submitted that the NFI will 'address the research data needs of police and law enforcement agencies as well as researchers and academia'.²²

5.20 With regard to the NFI, the *Martin Place siege report* recommended:

CrimTrac, in cooperation with Commonwealth and State Police and law enforcement agencies should prioritise bringing the National Firearms Interface into operation by the end of 2015.

And:

States and Territories' police forces should conduct an urgent audit of their firearms data holdings before the National Firearms Interface is operational where this has not already occurred.²³

Issues with state and territory registration systems

5.21 While the NFI will be a step forward and should deliver a range of benefits, it will still rely on information provided by the states and territories. The NFI can only be as good as the data upon which it relies and submitters noted that a number of inconsistencies exist with regards to the various police registries and the way in which firearm sales are recorded.²⁴ Indeed, the recent *Martin Place siege report* stated that 'the information in the new system will only be as good as the information already in the state databases' and included a recommendation that 'State and Territory police agencies, that have not already done so, should as a matter of urgency, audit their firearms data and work to upgrade the consistency and accuracy of their own holdings

20 CrimTrac, *Submission 87*, p. 6.

21 The Hon Julia Gillard MP, the then Prime Minister, 'National Plan to Tackle Gangs, Organised Crime and the Illegal Firearms Market', Media release, 6 March 2014.

22 CrimTrac, *Submission 87*, p. 6.

23 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. ix.

24 Mr Russell Pearson, Consultant, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 42; Mr Jeffery Gordon, Sales and Marketing Manager, Winchester Australia Ltd, *Committee Hansard*, 14 October 2014, p. 42; Mr Barry Howlett, Executive Officer, Australian Deer Association Inc., *Committee Hansard*, 14 October 2014, pp 47-48; Mr Stanley, *Committee Hansard*, 14 October 2014, p. 56.

before transferring it to the NFI'.²⁵ The report also recommended that CrimTrac fast-track the introduction of the NFI to make it operational in 2015.²⁶

5.22 Some submitters offered suggestions as to how the inconsistencies between state and territory registries could be addressed. The NSW Police Force discussed the need for a national approach for the registration of firearms and recommended that firearms dealers be required to keep computer records:

At the risk of completely upsetting the people in the industry, I think we could look at some better ways. We have spoken for a number of years about automating the way dealers keep records. Pawnbrokers have kept automated records and provided them for many years, and that is not even for goods that are dangerous weapons like firearms. There should be no reason why that should not happen, apart from the suggestion that sometimes the security of information is at risk. While potentially information can be compromised, if it is maintained on a secure database that possibility is restricted.²⁷

5.23 Winchester Australia Ltd discussed the benefits of online registration systems:

I am nodding because the feedback I get from dealers all over the country is that the Victorian registration of firearms, with their online system, is superior to that of other states. The online registration of firearms is a lot more efficient than the systems other states are using and has kind of been the benchmark within the industry. In terms of helping the industry keep itself regulated and accurate in terms of data, that online registering of firearms is extremely good, and it helps businesses to keep doing business legally.²⁸

5.24 The AIC has previously noted that the different approaches used to classify and record firearm and licensee records has led to the NFLRS containing misclassified and miscoded records.²⁹ CrimTrac submitted that the introduction of the National Firearms Identification Database (discussed below), will increase the cross-jurisdictional integrity of firearm data holdings by improving data consistency and completeness'.³⁰

25 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 49.

26 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 50.

27 Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police, *Committee Hansard*, 13 October 2014, pp 51–52.

28 Mr Gordon, Winchester Australia Ltd, *Committee Hansard*, 14 October 2014, p. 42.

29 CrimTrac, *Submission 87*, p. 5.

30 CrimTrac, *Submission 87*, p. 5.

Other firearms systems

5.25 In addition to development of the NFI, in February 2013, the National Firearm Identification Database (NFID) was deployed to all Australian police agencies, ACBPS, the ACC and AGD. The NFID is:

...a reference tool that assists with the identification of firearms. The database consists of templates that define the common attributes used to identify and characterise a firearm, such as make, model, calibre and capacity. Consistent with INTERPOL's Firearms Reference Table (IFRT), the NFID provides a reference to enable the consistent identification and recording of firearms.³¹

5.26 CrimTrac explained the purpose of the NFID:

The idea of the NFID, the identification database, is to have an accurate record of known firearms so that people can look at the library and say, 'If I am looking for a serial number, a model number or the make of a firearm, and this is the firearm.' So if it was a Model 70 Remington, for example, where there are a lot of iterations, it tells you where to look, what the serial number is, as opposed to a model number and things such as that, to make sure you get an accurate description. It is based on the information that is available from dealers and importers and our known information. I will point out that it is also consistent with international descriptions that are used by Interpol and the North American police forces, for example.³²

5.27 CrimTrac also discussed the launch of the Australian Ballistic Information Network (ABIN) in May 2014, which 'is a national capability for the electronic collection, storage and analysis of recovered ballistic evidence'.³³ It was described to the committee as 'fingerprints for guns' and has been in place in New South Wales for a number of years:

The Ballistic Information Network does not care whether or not it is a registered firearm. It is purely concerned about crime scene material, cases or whatever, and it matches that to a firearm. That will help by enabling police to know that that firearm is known, through crime scene material. The success we have had both within New South Wales for many years, and now nationally, is that we are connecting those firearms. Just reading the evidence on the difference between a hot weapon and a cold weapon, obviously the fact that it is known to police makes it a pretty cold weapon, to use the terms used by some of your witnesses. What we cannot do of course is capture information about weapons that have never been known through a registration process. If it has never been brought into existence in a registration—illegal imports, or weapons that were not registered following the firearms agreement—we cannot capture that, of course. The system can help. When police do seize firearms that have never been

31 CrimTrac, *Submission 87*, p. 3.

32 Mr Smith, CrimTrac, *Committee Hansard*, 31 October 2014, p. 28.

33 CrimTrac, *Submission 87*, p. 4.

registered they too will be entered, so we do know about the weapon at that point. But we cannot capture that which is not known.³⁴

34 Mr Smith, CrimTrac, *Committee Hansard*, 31 October 2014, p. 28.

Chapter 6

Development of 3D manufactured firearms

6.1 One of the most fascinating aspects of this inquiry was the issue of 3D manufacturing.¹ In particular, this inquiry was concerned with the development of 3D manufactured firearms.

6.2 While chapter 4 discussed the current situation with regard to the regulation of firearm parts and accessories more generally, this chapter will look at whether the current state and territory laws sufficiently cover 3D manufactured firearms and firearm parts.

What is 3D manufacturing?

6.3 In order to understand the impact that 3D manufacturing will have on society, it is important to first understand the concept. The World Intellectual Property Organization (WIPO) has provided a good explanation:

3-D printing, alias additive manufacturing (AM) or direct digital manufacturing (DDM), makes it possible to create an object by creating a digital file and printing it at home or sending it to one of a growing number of online 3-D print services. In the 3-D printing process, this digital blueprint, created using computer-aided design (CAD) software, is sliced into 2-dimensional representations which are fed through to a printer that starts building up an object layer by layer from its base. Layers of material (in liquid, powder or filament form) are deposited onto a "build area" and fused together. This additive process, which minimizes waste because it only uses the amount of material required to make the component (and its support), is distinct from traditional "subtractive" manufacturing processes where materials are cut away to produce a desired form.²

6.4 WIPO noted that there are a number of techniques used to print 3D objects:

A number of 3-D printing techniques exist. The first commercial 3-D print technology, stereolithography, was invented in 1984 by Charles Hull. Several other techniques have emerged since, including fused deposition modeling (FDM), selective laser sintering (SLS) and PolyJet Matrix. Some of these techniques involve melting or softening layers of material, others involve binding powdered materials and yet others involve jetting or selectively-hardening liquid materials.

The process of "growing" objects layer by layer also means that, with 3-D printing, it is possible to create more intricate and complex structures than can be done using traditional manufacturing techniques.³

1 In this report '3D manufacturing' and '3D printing' refer to the same manufacturing process and are used interchangeably.

2 C Jewell, '3-D Printing and the Future of Stuff', WIPO magazine, April 2013.

3 C Jewell, '3-D Printing and the Future of Stuff', WIPO magazine, April 2013.

6.5 While the concept of 3D manufacturing was originally developed for rapid prototyping purposes, developments which have improved its accuracy, speed and quality have led to it being used for a wide range of purposes:

The technology is already widely used to make jewellery and other bespoke fashion items, in dental laboratories to produce crowns, bridges and implants, as well as in the production of hearing aids and prostheses, offering patients a perfect fit. 3-D printing is particularly suited to low-volume, short production runs offering companies a more flexible, cost-effective and speedy alternative to traditional mass production methods.⁴

6.6 Dr Angela Daly, from Swinburne University, spoke to the committee about the beneficial aspects of 3D manufacturing in a number of areas including manufacturing, industry, medicine and arts and design.⁵ She noted that it is probably at the industrial level where societies like Australia are benefiting the most from 3D printing.⁶

6.7 Mr Michael de Souza, the Chief Executive Officer of the Australian 3D Manufacturing Association, spoke about some of the developments that have occurred, particularly in biomedical fields:

At the ANFF in Wollongong, we are world leaders in what we call additive manufacturing and additive research and development. The additives are the 'inks', as they are referred to. You are talking about absolutely anything that you can touch, see, breathe or feel. It is already at a molecular level, because everything base carbon, and once you break it down to a molecular level and begin to rebuild it, you can produce anything as an ink. They have managed to print live human cells. Prior to that, you could print the cell—a plant cell, animal cell or human cell—but the issue has been that the printing process kills the cells. There is now a way, developed by Gordon Wallace at Wollongong University, to actually protect that cell in a gel and, as the cell or cells begin to reproduce and collectively join a matrix, that gel dissolves and away you go. So you have human, animal, and plant tissue regenerating itself, which is of course fantastic for organs, burn victims' skin and all sorts of things like that.⁷

6.8 As part of its inquiry, the committee had the opportunity to visit Objective 3D, a commercial 3D manufacturing facility in Melbourne. While there, the committee learnt about the important role 3D manufacturing is playing with respect to Australia's broader manufacturing industry.

4 C Jewell, '3-D Printing and the Future of Stuff', *WIPO magazine*, April 2013.

5 Ms Angela Daly, Postdoctoral Research Fellow, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 20.

6 Ms Daly, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 20.

7 Mr Michael De Souza, CEO, Australian 3D Manufacturing Association (A3DMA), *Committee Hansard*, 31 October 2014, p. 24.

6.9 Examples were given of some of the many products which can now be printed, including prosthetic limbs for amputees and anatomical models for use by medical students. Anatomical models have also been used for pre-operative planning, for example, in the case of conjoined Bangladeshi twins Krishna and Trishna, a bespoke 3D printed model was used by doctors to plan surgery to separate their fused brain and skull tissue.

6.10 The committee toured Objective 3D's facility and viewed a number of 3D printers, including one in action (see Figures 6.1 and 6.2). Due to technological advancements, 3D printers have both increased in their sophistication as well as reduced in cost (some printers are now a third of the cost of those a decade earlier). The committee was fascinated to observe the processes used to manufacture 3D items and would like to thank Mr Matt Minnio of Objective 3D for his time and expertise.

Figure 6.1: Committee members inspect a 3D printer



Figure 6.2: Viewing a 3D printer in action



The development of 3D printed firearms

Current situation

6.11 The invention and expansion of 3D manufacturing means that the production of firearms in this way is now a reality. The Australian 3D Manufacturing Association noted that 'as 3D printers and manufacturing processes have become increasingly available worldwide, so too have 3D printed firearms components and accessories'.⁸

6.12 It was suggested to the committee that 3D manufactured firearms currently do not pose a particularly high risk to the community.

6.13 Mr Nicholas Jenzen-Jones, Director of Armament Research Services (ARES) commented that 3D manufactured firearms had started to gain significant media attention when Defense Distributed built its fully printable, single-shot polymer "Liberator" handgun.⁹ He emphasised that while the idea of being able to instantly print a firearm sounded alarming, at this stage, a degree of expertise is still required:

I think it is really important for me to stress that the state of technology, as it stands today, is not click, print and fire. You cannot simply download a

8 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 5.

9 Mr Nicholas Jenzen-Jones, Director, Armament Research Services (ARES), *Committee Hansard*, 31 October 2014, p. 5.

file, hit print on your printer and come out with a functional firearm. There is a degree of hand-finishing, there is a level of technical expertise, I understand, that is involved in producing the firearm in the first place; and, of course, once it is complete, there is no guarantee that it is going to function correctly unless it is correctly assembled and so on. So, while it does perhaps remove from the watchful eye of law enforcement some of these people and their ability to purchase or acquire firearms, it is not distinctly different from people being able to go to the hardware store, purchase components there and assemble them in their backyards.¹⁰

6.14 He also advised the committee that manufacturing 3D firearms from metals remained rare and was incredibly expensive:

There are functional handguns available commercially in very small numbers in the United States that have been produced almost overwhelmingly using the direct metal laser sintering process. It is not economically viable. Those handguns sell for US\$11,900 each, where a comparable handgun, in terms of capability and design, can be purchased in the United States for about US\$300 or US\$400. Clearly, there is a big gap there. The biggest hurdle for a criminal organisation or a non-state armed group seeking to produce metal 3D-printed firearms would be the cost of the printers themselves. Currently they are not economically viable for the consumer grade.¹¹

6.15 ARES also discussed the possibility of whether criminals and armed groups were already using 3D manufactured guns as part of their operations.¹² ARES found that such groups, including those operating in Australia, already 'routinely produce a range of improvised firearms from various materials using traditional or improvised manufacturing methods'.¹³ ARES argued that these weapons have more advanced capabilities than 3D printed firearms produced outside defence facilities, and that there is not yet a demand for 3D printed firearms:

At this stage the only benefits that an economically viable 3D printed weapon may hold for an individual or a non-state group seeking illicit weapons lie in their untraceable nature and the polymer construction that prevents many common screening devices from detecting them—for example, in order to smuggle a weapon inside a secured area. When the costs of purchasing or producing 3D printed firearms are considered, together with their operational limitations, traditional firearms purchased on the black market and those produced by traditional manufacturing methods illegally are likely to remain all the more appealing to individuals and non-state armed groups for the foreseeable future. Barring significant

10 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

11 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 7.

12 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

13 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

technological advances, advanced 3D printed metal firearms will remain beyond the reach of those seeking illicit weapons for many years to come.¹⁴

6.16 The Australian 3D Manufacturing Association agreed with this assessment:

I think the most important thing to note is that the media has somewhat sensationalised the gun story. The important thing is the fact that today, in the real world, with respect to the technology that is available for producing a gun—I am talking about outside; let us discount people like the US military and all these people we do not even know and will probably never know for years are doing—you would need several million dollars, several very clever designers, employees, engineers, scientists to be able to create a genuine weapon that would be effective. The devices that can be created today—you have seen this in the media and the police have tested these products—are more likely to kill you than the person you are aiming the device at. Can they be called a gun? You put a bullet in it so, if you want to call it a gun, okay, but where that bullet is going to go is debatable. With today's technology, could someone do it at home? No, not really. Would it be effective? No. Would it be accurate? No. Would I fire it? Absolutely not. I would not be anywhere near it. With today's technology, and keeping it in the topic of discussion, our position is that with the equipment, the machinery, the printers that are available today it is not reasonable to say that you could produce a gun per se that could do that sort of damage.¹⁵

6.17 The Australian Crime Commission (ACC) stated that it 'has not identified or been informed of law enforcement discoveries of 3D fabricated firearms being used or made by criminal entities in Australia'.¹⁶

Future challenges

6.18 While the use of 3D manufactured firearms in criminal activities appears at present to be negligible, some witnesses identified possible challenges for law enforcement with regards to firearms produced in this way.

6.19 The Victims of Crimes Assistance League argued that criminal groups are already exploring the uses of 3D manufacturing technology and this is of significant concern:

My concern with 3-D printing is not with responsible manufacturers at all. My concern goes to people such as outlaw motorcycle gangs. I am not sure whether the committee is aware, but as recently as last week police arrested three people in the outer western Sydney region who were involved in the manufacturing of illicit firearms, and they were using small die-cast equipment and foundries to manufacture illegal firearms. That is my concern with the 3-D printing. We have looked at the examples cited by Andrew Scipione, for example, with one of the handguns where after the second shot the weapon tended to explode in your hand, which I would

14 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

15 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 22.

16 Australian Crime Commission (ACC), *Submission 75*, p. 6.

have thought would have been somewhat of a disincentive. However, as I said, criminals are not particularly bright, so it may be they do not understand that.¹⁷

6.20 This was a view shared by Victoria Police, which stated 'we have varying organised crime groups—Middle Eastern organised crime, outlaw motorcycle gangs—that are quite innovative and adaptive in their approaches to their organised crime activities'¹⁸ and:

As technology is refined, and with 3D printers and other machines like a computer numerical control (CNC) machine becoming more readily available and affordable, it is likely that 3D printing of firearms will increase, posing a significant risk to community safety and law enforcement agencies.¹⁹

6.21 The United Nations Secretary-General has also acknowledged in a recent report that while 'weapons theft or purchase on the illicit market may require less effort than printing an effective, reliable weapon', this may change once production costs decrease and the quality of 3D printed firearms improves.²⁰

6.22 The ACC predicted that advances in technology could lead to 3D manufactured firearms posing more of a threat:

The ACC has assessed that 3D fabricated firearms will probably pose a low threat for at least the next two years. This is because of the current limitations of technology result in a low quality product, firing capability is unreliable, and development is complex and costly. However, decreased costs and advances in technology associated with machinery and manufacturing programs sourced from the internet will likely increase the quality of illicitly manufactured firearms and components within Australia in the future.²¹

6.23 The Australian Federal Police (AFP) also noted that the technology was advancing quite quickly and at some point would 'allow the production of metal objects similar to the way that plastic ones are currently produced'.²²

17 Mr Howard Brown OAM, Vice-President, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, pp 11–12.

18 Detective Superintendent Peter De Santo APM, Commander, State Anti-Gangs Division, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

19 Victoria Police, *Submission 389*, p. 3.

20 United Nations General Assembly, *Report of the Secretary General: Recent developments in small arms and light weapons manufacturing, technology and design and implications for the implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons*, 6 May 2014, p. 5.

21 ACC, *Submission 75*, p. 6.

22 Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 74.

6.24 Queensland Police confirmed that these concerns are a reality and described a recent property search that led to the discovery of 3D printed weapons parts:

The search resulted in investigators recovering a loaded sawn off .22 calibre rifle. The firearm, previously a long arm (rifle), had been modified to enable it to be concealed on a person. The search also resulted in officers locating four plastic bags containing major component parts for firearms. The component parts included the receiver, trigger assembly and cylinder/barrel. Officers identified there were sufficient parts to construct four concealable weapons, each constructed to hold and discharge up to six .22 calibre projectiles. The weapons parts had been manufactured through the utilisation of a 3D printer, where the devi[c]e would 'print' the component parts for assembly by the user. Officers also located a set of knuckle dusters which had also been 'printed' by the device.²³

6.25 The 3D printed firearms parts located by Queensland Police were able to be fired:

The defendant admitted he had constructed and test fired one of the weapons, indicating it had worked and discharged a .22 calibre round. The defendant had however strength issue in the 'printed' model and had set about rectifying the problem by re-enforcing the cylinder with metal tubing. The inclusion of this metal tubing would mean the weapon could have been reloaded and repeatedly used.²⁴

6.26 Significant concerns associated with 3D manufactured firearms and firearm parts produced from polymer resin are their disposable nature and the difficulty of detecting them with traditional methods. ARES spoke about these challenges,²⁵ informing the committee that not only are 3D manufactured firearms easy to replace, they are 'comparatively easy to incinerate'.²⁶

6.27 ARES also discussed whether 3D manufactured firearms are able to be detected using traditional means such as metal scanners, body scanners and X-ray:

The polymer 3D printed firearms in particular such as the Defence Distributed Liberator have already been successfully smuggled into a few secure locations—primarily by journalists seeking to test the security mechanisms. There are some technologies for which the polymer nature of the handgun will allow the weapon to be brought into secure areas. These are primarily metal detectors. Whilst these polymer frame handguns cannot be detected by metal detectors, they can still be detected by X-ray machines and backscatter X-ray body scanners.²⁷

23 Queensland Police, *Answer to written questions on notice*, received 25 February 2015.

24 Queensland Police, *Answer to written questions on notice*, received 25 February 2015.

25 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

26 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

27 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 70

6.28 Dr Daly commented that technological advances have allowed anyone who has access to a 3D printer, raw material and the relevant design files to make an undesirable object:

The problem for regulation and enforcement of the law with regard to these objects, whether we are talking about laws relating to control of weapons, health and safety laws or even intellectual property laws, is the decentralised nature of 3-D printing. The whole 3-D printing process can essentially take place in the privacy of individuals' homes. One way of regulating the 3-D printing process might be to target entities such as the printer manufacturers; the design repositories, which tend to be websites where people upload 3-D printing designs and others can download them; and internet service providers, given that a lot of this process happens online. One way of regulating might be to ensure that they must only handle certain kinds of approved files.²⁸

6.29 Dr Goldsworthy acknowledged that 3D manufacturing highlights a number of issues for law enforcement authorities and, given the availability of the technology and the motivation for criminals to manufacture 3D printed firearms, the government should be on the front foot.²⁹ The regulation of 3D printed firearms is discussed in the next section.

Regulation of 3D firearms

6.30 As with the majority of technological developments, 3D manufacturing offers not only exciting and hugely beneficial possibilities for the community, it also poses challenges for governments and law enforcement authorities. Before additional measures and controls are imposed, it is important to examine the state of the existing legislation.

Current legislative framework

6.31 There is currently no Australian legislation that goes specifically to regulating 3D printers and associated materials. As the ACC stated:

3D printers and materials are not subject to federal regulations as they have widespread legitimate applications. There is no offence in possessing or using a 3D printer. The ACC notes that firearms produced using new technologies are still subject to the licensing and registration requirements with any other firearm.³⁰

6.32 Internationally a number of instruments apply, as ARES explained:

Rapid advances in 3D printing technology and their increased application in the manufacture of firearms and firearms components raises a number of legal, normative and law enforcement questions. In general, national,

28 Ms Daly, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 17.

29 Dr Terry Goldsworthy, Assistant Professor, Criminology, Faculty of Society and Design, Bond University, *Committee Hansard*, 14 October 2014, pp 17–18.

30 ACC, *Submission 75*, p. 6.

regional and international controls apply to 3D printed firearms in the same way they apply to traditionally manufactured firearms. New technology will pose new challenges for law enforcement, however.

It is important to note that 3D manufacturing will not render current international and national controls on firearms obsolete. It may, however, make applying these norms more challenging. As additive manufacturing technologies continue to improve and become more readily available to private individuals, the enforcement of firearm manufacturing regulations will become increasingly difficult. Additive manufacturing techniques could be used to produce controlled accessories or components.³¹

6.33 Some witnesses suggested that Australia's existing firearms laws would apply equally to 3D printed firearms. The Attorney-General's Department (AGD) stated that:

...our understanding of this area of 3D printing or creating of firearms is that it would be treated no differently to traditionally manufactured firearms, and that importation, manufacture or possession of a 3D printed firearm, without a licence, would be illegal in Australia.³²

6.34 The Law Institute of Victoria (LIV) considered this issue carefully and found that the manufacture of firearms by way of 3D manufacturing was likely to be considered an offence in all Australian jurisdictions:

It appears that the current firearms statutes (and, where relevant, weapons statutes) in combination with the *Customs Act 1901* and import regulations sufficiently covers the possession and manufacture of all firearms, including those made with the use of 3D printers or from separately imported parts.³³

6.35 However, the LIV also noted that due to each state and territory having its own laws with regards to the registration of firearm parts and the manufacture of firearm parts, it is impossible to be certain without judicial consideration whether the legislation in all Australian jurisdictions will sufficiently cover 3D manufacturing of firearms.³⁴ Given these jurisdictional inconsistencies and the rapid changes in 3D manufacturing, the LIV recommended 'that it would be desirable to introduce and implement a uniform set of regulations in all Australian jurisdictions'.³⁵

Suggestions for further regulation

6.36 It was the view of some submitters that the law needs to keep pace with technological advances. For example, the Australian 3D Manufacturing Association stated:

31 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 5.

32 Ms Catherine Smith, Assistant Secretary, Crime Prevention and Federal Offenders Branch, Attorney-General's Department, (AGD) *Committee Hansard*, 31 October 2014, p. 59.

33 Law Institute of Victoria (LIV), *Submission 124*, p. 11.

34 LIV, *Submission 124*, p. 7.

35 LIV, *Submission 124*, p. 11.

I think the fact that we have seen over the past 20-odd years the problems that have occurred with trying to regulate the internet and put laws in place. I think part of that was because we started way too late. If we can work collaboratively today and develop standards from the get-go, then we are going to be in a much better position to be able to look at those things as the years go by.³⁶

6.37 As noted in paragraph 6.32, a number of international instruments apply to 3D printed firearms in the same way they do to traditionally manufactured firearms, but the development of 3D manufacturing technology will pose new challenges for law enforcement.³⁷

6.38 The Victims of Crimes Assistance League shared a similar view:

Until we can keep pace with that, we are going to have a situation where someone is going to be shot and injured with the use of a 3-D device, and we are going to have all sorts of problems getting that matter through the courts because of the failure of the courts to keep pace with that technology. We need to address it, and we need to address it before it becomes a problem, not after it becomes a problem, which is traditionally what the law does.³⁸

6.39 Submitters were generally opposed to either banning, or introducing a character test, for the ownership of 3D printers. The LIV noted that this was a 'drastic option' and that it 'would caution against introducing new legislation that is so broad and encompassing that it addresses every possible scenario in the future'.³⁹

6.40 Dr Goldsworthy noted that by preventing people from engaging in illegal activity, you would also prevent beneficial discoveries for society:

...3-D printers are multipurpose and most of them are quite legitimate and not illicit. So therein lies the problem of how you regulate something that is going to be used quite legitimately in most of the opportunities versus the small amount of times it may be used inappropriately. I think that is the real challenge we are facing here.⁴⁰

6.41 Dr Daly similarly cautioned against over-regulation:

...any attempt to regulate 3-D printing: that it would be largely ineffective and disproportionate to the potential harm of dangerous objects, such as guns. I propose that, due to some concern about guns, we should not allow a moral panic to stifle the large benefits from 3-D printing for society at large. There should be some hard evidence regarding the prevalence of 3-D

36 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 24.

37 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 5.

38 Mr Brown OAM, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, p. 14.

39 Mr Albert Yu, Co-chair, Young Lawyers Section, Law Reform Committee, LIV, *Committee Hansard*, 14 October 2014, p. 15.

40 Dr Goldsworthy, Bond University, *Committee Hansard*, 14 October 2014, p. 18.

printed weapons and the threat of these weapons to Australia before any new legislation is considered. There would also need to be consideration given to whether any such regulation would be effective in practice.⁴¹

6.42 However, in her submission, Dr Daly suggested three possible ways in which 3D printing could be more moderately regulated:

- use of 'gatekeepers': place obligations on 3D printer manufacturers and online design repositories to only allow for approved files to be used on their machines or present in their folders through technical protection measures;
- private regulation: examples include Danish 3D printing firm Create It REAL which recently announced it had developed a firearms component detection algorithm which can give 3D printers the option to block gun parts, and the decision of Mega to take down the Liberator gun blueprint; and
- role of internet service providers: require companies to report when users download 3D printing design files that relate to firearms.⁴²

6.43 The LIV was supportive of similar approaches,⁴³ while Dr Goldsworthy noted that recent proposed changes to Australia's telecommunications regime could be used to regulate 3D printing.⁴⁴

Copyright and intellectual property

6.44 The rapid development of 3D manufacturing technology offers huge benefits to the community in terms of industry, medicine, creativity and many other areas of human endeavour. It is also clear that it poses challenges for law makers and law enforcement authorities when it comes to the manufacture of potentially dangerous items such as firearms, as has been discussed elsewhere in this chapter. During the course of the inquiry, it also became apparent that 3D manufacturing technology will pose challenges with respect to copyright and other intellectual property issues.

6.45 The Australian 3D Manufacturing Association explained:

Although 3D manufacturing has been around for many, many years, it is only due to the lapse of patents and copyrights recently that has brought the technology into the fore...It is such complex technology. As I alluded to before, it has come to the fore because of the lapse of copyright, patents and all of these things that were not previously in the public domain. You would have had to pay millions, tens of millions of dollars to get hold of the technology. All of that technology is now coming out into the public domain.⁴⁵

41 Ms Daly, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 17.

42 Ms Daly, *Submission 393*, pp 4-5.

43 LIV, *Submission 124*, pp 8-9.

44 Dr Goldsworthy, Bond University, *Committee Hansard*, 14 October 2014, p. 19.

45 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 22.

6.46 The committee considers these issues are beyond the terms of reference for this inquiry. On that basis, the committee believes that there is scope for a further and more extensive inquiry into 3D manufacturing technology and the opportunities and challenges it offers.

Chapter 7

Committee comment and recommendations

7.1 As discussed in the preceding chapters, this inquiry focussed particularly on illicit firearms and in doing so examined a range of issues relating to the illicit firearms market in Australia. The inquiry was predominantly concerned with understanding the impact illicit firearms have on the community and examining the effectiveness of current regulatory arrangements.

7.2 The committee heard evidence from a range of stakeholders regarding the composition of the illicit firearms market, the way in which firearms enter this market and the lack of data in relation to both of these. Submitters and witnesses also discussed the way in which the legal firearms market is regulated and the need for registering and licensing of firearms. The emergence of 3D manufacturing technology and the need for future regulation of this technology were also the subject of debate during the course of the inquiry.

7.3 The committee reiterates that it was not its intention to target law-abiding firearms owners. The committee received many submissions from firearms owners and heard evidence at its public hearings from shooting groups. These individuals and organisations made a valuable contribution to the inquiry, particularly in relation to regulations currently applied to firearms owners and the different regulatory regimes across the states and territories, as well as concerns around the privacy of personal information. The committee acknowledges that the majority of firearm owners do abide by the laws applying to them and their firearms, and use their firearms in a responsible way. Indeed, the statistics suggest there has been a decrease in the firearms death rate in Australia (see chapters 1 and 3) and Australia has not in recent years suffered a mass shooting of the kind seen in the United States.

7.4 Illicit firearms and their impact on the community are clearly a problem which encompasses far more than law-abiding firearms owners. It is, however, disingenuous to suggest that all registered firearms owners abide by the law all the time or that no firearms owners have relationships with, or connections to, people who seek to use firearms for illicit purposes. It would be complacent to ignore the problems with current firearm regulation which have been raised during the course of this inquiry and naïve to quarantine law-abiding firearms owners from reform. The committee cannot ignore the challenges faced by law enforcement authorities, particularly in identifying, discovering, seizing and tracing firearms. Those challenges include issues arising from emerging 3D manufacturing technology.

7.5 In response to some of these challenges, the remainder of this chapter considers a number of options for reform.

The illicit firearms market

7.6 One of the clear revelations arising out of this inquiry was the lack of accurate, comprehensive data with regard to illicit firearms in Australia. As discussed in chapter 2, due to the insufficiency of information available, it is difficult to make

conclusions regarding the size of the illicit firearms market or the manner in which firearms transition from the licit market to the illicit.

Size of the illicit firearms market

7.7 It is nearly impossible to estimate the size of the illicit market. This is due largely to the inability of law enforcement authorities to determine how many undetected firearms are illegally manufactured in or imported to Australia (black market firearms) and to an unknown quantity of so called 'grey market' firearms. Grey market firearms in Australia are those that became subject to new regulation in 1996, following the Port Arthur massacre, having been legal beforehand. The Australian Crime Commission (ACC) estimated the total number of unaccounted firearms in the community at 260,000.¹ The committee accepts the evidence provided by the ACC that this is a conservative estimate.²

7.8 The committee heard contested evidence about the extent to which grey market firearms are used for illicit purposes (see chapter 2). The committee notes the joint report of the Department of Prime Minister and Cabinet and NSW Premier and Cabinet on the Martin Place siege (*Martin Place siege report*), which concluded that the firearm used in that incident was most likely diverted from the grey market.³ This is a tragic example of a firearm obtained from the grey market being subsequently used for illicit purposes. The committee believes that a better understanding of the illicit firearms market would assist in preventing such incidents from occurring and that one way to achieve this is with more accurate data about the diversion of firearms to the illicit market.

7.9 The committee acknowledges the challenges of obtaining accurate data about illicit firearms but is concerned that the evidence presented during the course of the inquiry indicates that we do not know the size of the problem. It is clear that further measures are required to improve the quality and accuracy of the data collected and held nationally.

Quantifying methods of diversion

7.10 Witnesses and submitters consistently presented differing views about the source of illicit firearms and how they are diverted to the illicit market. This is hardly surprising, given the lack of visibility over the diversion of firearms into the illicit market, as discussed above.

7.11 As outlined in chapter 2, the committee received evidence from both the ACC and the Australian Institute of Criminology (the AIC) regarding the availability of data

1 Mr Paul Jevtovic, National Manager, Strategic Intelligence and Strategy, Australian Crime Commission (ACC), *Committee Hansard*, 31 October 2014, p. 34.

2 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

3 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 45, <http://www.dpmc.gov.au/dpmc/publication/martin-place-siege-joint-commonwealth-new-south-wales-review> (accessed 23 February 2015).

on methods of diversion. During the inquiry, submitters and witnesses—including the ACC and AIC—identified shortcomings with this data.⁴ For example, the ACC is responsible for maintaining the National Firearm Trace Database (NFTD), which is based on serial number traces of registered and unregistered firearms conducted over a limited ten year period (from 2002 to 2012) and was intended to identify at what point a firearm entered the illicit market.⁵ An analysis of this data was last undertaken in 2012.⁶ By contrast, the AIC relies on research undertaken as part of the National Firearms Monitoring Program (NFMP) and the National Firearm Theft Monitoring Program (NFTMP).⁷ Both of these programs were only funded for a set period of time and therefore the majority of the data focuses on the period from 2004-05 to 2008-09.⁸ Further, data for the NFMP and NFTMP was provided by state and territory police which were not required to provide data in a consistent, uniform and comparable format.

7.12 It became clear during the course of the inquiry that there is concern among stakeholders regarding the accuracy of available data. Concerns included:

- the use of alternative datasets by the AIC and ACC which rely on different data collection methods;
- the age of the data available;
- the inability of the ACC to trace firearms in some circumstances;
- the quality of data provided by state and territory police; and
- the likelihood that owners of unregistered or illegal firearms, or those who fail to comply with the relevant storage requirements, are less likely to report their firearm stolen.

4 Dr Samantha Bricknell, Research Manager (Violence and Exploitation), Australian Institute of Criminology (AIC), *Committee Hansard*, 31 October 2014, p. 46; the Hon David Hawker, *Committee Hansard*, 14 October 2014, p. 61; Ms Sarah McKinnon, Manager, Workplace Relations and Legal Affairs, National Farmers' Federation (NFF), *Committee Hansard*, 13 October 2014, p. 18; Mr Howard Brown OAM, Vice-President, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, pp 10–11.

5 ACC, *Submission 75*, p. 5.

6 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, <http://www.aic.gov.au/publications/current%20series/rpp/100-120/rpp116.html> (accessed 2 October 2014).

7 The NFMP was established to monitor the effects of the 1996 reforms and included information on the use of firearms to commit crime; firearm theft and illegal importation; firearm-related morbidity and mortality; patterns in licensing of firearm owners and registration of firearms; and firearm offences in general. The NFTMP examined the prevalence of firearm theft and the adequacy of storage requirements for firearms.

8 Mr Doug Smith, Chief Executive Officer, CrimTrac, *Committee Hansard*, 31 October 2014, p. 32.

7.13 The cessation of the AIC's *Firearm Theft in Australia* series was also the subject of concern. These reports were identified by various submitters and witnesses as an important resource and it was suggested that funding for these reports, previously from the *Proceeds of Crime Act 2002*, should be reinstated to allow for continuation of the series.

7.14 These shortcomings in the currently available data on illicit firearms should be addressed. While the committee does not wish to suggest that improving the quality of data is a panacea for eliminating illicit firearms or resolving crime and violence associated with their use, more accurate data is a useful tool for identifying how and where law enforcement authorities should direct their effort and resources.

7.15 The committee is therefore persuaded that both the collection methods for, and reporting of data about firearms generally, and in particular their movement into the illicit market, must be improved. Comprehensive and accurate data will assist with the development of policies and regulatory arrangements, and empower both law enforcement authorities and other stakeholders to assess the effectiveness of those strategies. In order to achieve this, the committee recommends that the Commonwealth government review current data collection and reporting arrangements.

Recommendation 1

7.16 The committee recommends the Commonwealth government provide funding to allow programs, such as the National Firearms Monitoring Program and the National Firearm Theft Monitoring Program, and reports, such as those in the Firearm Theft in Australia series, to continue on an ongoing basis.

Recommendation 2

7.17 The committee further recommends the Australian Institute of Criminology conduct within three years a review of current data collection and reporting arrangements, with a particular focus on:

- **the need for more accurate data on firearm thefts, the recovery of stolen firearms and seizures of illegally imported firearms;**
- **the quality and comparability of data provided to Commonwealth agencies by state and territory police; and**
- **greater inter-agency co-operation with regards to data sharing.**

The need for consistent regulatory standards

7.18 The need for greater consistency between state and territory jurisdictions and the possible expansion of the Commonwealth's role in regulating firearms were raised during the course of the inquiry. In particular, submitters and witnesses discussed the need for consistent regulatory standards in relation to a range of issues including the regulation of firearm parts, accessories and ammunition; the adequacy of the current storage requirements for firearms; the security of personal information about firearm ownership; and the effectiveness of firearm amnesties (see chapter 4).

7.19 Some submitters discussed whether it was necessary for firearm parts to be subject to registration.⁹ The Law Institute of Victoria (LIV) noted that while some states and territories currently require that firearm parts be registered, the definition of what constitutes a firearm part varies across the different jurisdictions.¹⁰ The AIC noted that inconsistencies such as this had led to firearms being diverted to the illicit market, as firearms could then be sold without barrels or frames/receivers.¹¹ The committee believes that firearm parts should be subject to the same level of monitoring as firearms and recommends that the NFA be amended to require the registration of firearm parts.

7.20 Different storage requirements in different states and territories have led to unsafe practices, such as the sale of gun safes that do not comply with the relevant legislation, and confusion as to how and where firearms should be stored. Some submitters and witnesses advocated for uniform storage requirements in all jurisdictions.¹² Reforming storage requirements so that they are consistent across the nation would ensure that all states and territories have implemented adequate storage arrangements and would prevent confusion or inadvertent breaches of the law where firearm owners travel or relocate interstate.

7.21 The committee believes that the National Firearms Agreement (NFA) should be updated to include nationally consistent standards for the storage of firearms. These standards should reflect best practice and the highest standards currently observed in Australia, as opposed to the lowest common denominator.

7.22 Regulation of the deactivation of firearms was raised by a number of submitters.¹³ As discussed in chapter 3, while the majority of states and territories have now introduced legislation requiring deactivated firearms to be registered, others have yet to do so. The committee accepts that inconsistencies in this area have led to cases where firearms have been diverted to the illicit market. The Attorney-General's Department (AGD) suggested that jurisdictions should have similar legislative requirements for the deactivation of firearms in order to 'further restrict the movement of firearms to the illicit market'.¹⁴ The committee also recommends adoption of a national standard for how firearms are physically deactivated and understands that the

9 Law Institute of Victoria (LIV), *Submission 124*, p. 2; AIC, *Submission 76*, p. 18.

10 LIV, *Submission 124*, p. 2.

11 AIC, *Submission 76*, p. 18.

12 LIV, *Submission 124*, p. 7; Ms McKinnon, NFF, *Committee Hansard*, 13 October 2014, p. 20; Mr Peter Skillern, Policy Manager, Tasmanian Farmers and Graziers Association, *Committee Hansard*, 13 October 2014, p. 20; Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

13 For example AIC, *Submission 76*, p. 17; Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, pp 36-37.

14 AGD, *Submission 42*, p. 5.

Firearms and Weapons Policy Working Group is currently working to implement this standard.¹⁵

7.23 Both the LIV and AGD¹⁶ highlighted that the Commonwealth government currently has a limited role in the regulation of firearms and argued that it would be inappropriate for the Commonwealth's role to be expanded.¹⁷ The committee agrees that, given the states' and territories' current responsibilities in this regard, they should continue to regulate firearms but with far more consistency. The committee believes that the Commonwealth government should provide leadership and facilitate a process to encourage nationally consistent regulation for firearms, firearm parts and ammunition across all states and territories.

7.24 The committee is persuaded that the best way to achieve this is by updating the NFA. The committee notes that the *Martin Place siege report* contains a similar recommendation.¹⁸

Recommendation 3

7.25 The committee recommends that the National Firearms Agreement be updated to implement nationally consistent regulation in the following areas:

- **firearms, firearm parts and firearm accessories;**
- **ammunition; and**
- **the storage of firearms.**

7.26 The security of gun ownership data was explored in chapter 4. The committee acknowledges the need to guarantee the safety of information about gun ownership to prevent registered owners being targeted for theft. Evidence given during the course of the inquiry indicated that gun and shooting clubs are not currently required to follow any particular rules or standards in relation to the security of their membership records. The committee was alarmed that the main protection afforded gun ownership information by these clubs seemed to be their storage on a computer that is mostly disconnected from the internet.

7.27 The vulnerability of gun ownership records held by gun clubs should be rectified. The committee therefore recommends that the Commonwealth government work with state and territory governments to establish national standards for the security of membership data held by gun clubs.

15 AGD, *Submission 42*, p. 5.

16 AGD, *Submission 42*, p. 5.

17 AGD, *Submission 42*, p. 5; Mr Albert Yu, LIV, *Committee Hansard*, 14 October 2014, p. 13.

18 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 50.

Recommendation 4

7.28 The committee recommends that the Commonwealth government, together with state and territory governments, establish national standards for the security of membership data held by gun clubs.

7.29 The use of firearm amnesties and their effectiveness as a method of removing firearms from the illicit markets, and especially the grey market, was considered in chapter 4.

7.30 NSW Police raised the ability to pursue individuals and investigative leads where a firearm used in a serious crime is forfeited and the sheer volume of firearms to be processed as challenges posed by gun amnesties for law enforcement authorities.

7.31 The committee acknowledges the continued use of a firearm amnesty in Tasmania and the huge number of firearms forfeited in the Australia-wide amnesty following the tragedy at Port Arthur in 1996. The committee is of the view that amnesties are an effective way of reducing the pool of illicit firearms in the community and recommends that an ongoing and Australia-wide gun amnesty should be implemented.

7.32 The committee is also cognisant of the issues described by NSW Police. With regard to processing potentially large volumes of forfeited firearms, police should be appropriately resourced to do so. The issue of identifying individuals and pursuing investigative leads where a firearm used in the commission of a serious crime is forfeited is more problematic. On the one hand, the purpose of an amnesty is to allow people to forfeit illicit firearms without penalty; on the other, serious crimes, particularly those where a firearm is used, should not go unpunished. The committee is not equipped to offer a solution to this particular problem but consideration should be given to it in the implementation of an ongoing gun amnesty.

Recommendation 5

7.33 The committee recommends that an ongoing, Australia-wide gun amnesty is implemented, with consideration given to ways in which this can be done without limiting the ability of police to pursue investigative leads for serious firearm-related crimes.

Registration and licensing of firearms

7.34 The committee supports the current requirements for registering and licensing firearms and considers them necessary in preventing firearms from being diverted to the illicit market. However, as part of its inquiry, the committee received evidence that there are weaknesses in the current registration and licensing systems which impact on their effectiveness. The National Firearm Licensing and Registration System (NFLRS), which was implemented following the adoption of the NFA, and the National Police Reference System (NPRS) are the two main systems currently used by police to track firearms. In particular, the NFLRS 'captures a "point-in-time picture" of

firearm information held by State and Territory police agencies' own firearm registries'.¹⁹

7.35 Submitters were generally of the view that the NFLRS has a number of flaws.²⁰ CrimTrac acknowledged these and advised that the National Firearms Interface (NFI) has been developed to replace the NFLRS.

7.36 The committee welcomes the development of the NFI and understands that it will provide a range of benefits to law enforcement agencies, including the ability to track a firearm over its lifespan. However, the committee is also concerned that the NFI will still rely on information provided by the states and territories.

7.37 The committee refers to the recent *Martin Place siege report* which stated that 'the information in the new system will only be as good as the information already in the state databases' and included a recommendation that 'State and Territory police agencies, that have not already done so, should as a matter of urgency, audit their firearms data and work to upgrade the consistency and accuracy of their own holdings before transferring it to the NFI'.²¹

7.38 The committee concurs with the recommendation of the *Martin Place siege report* and supports the suggestion from the NSW Police Force for a national approach for the registration of firearms.²² It is the committee's view that there needs to be greater consistency in the data provided by state and territory police forces regarding the registration and licensing of firearms. The committee therefore recommends that all jurisdictions update their firearm data holdings and transfer these to the NFI.

Recommendation 6

7.39 The committee recommends that all jurisdictions update their firearm data holdings and ensure the data is transferred to the National Firearms Interface.

Development of 3D printed firearms

7.40 The innovation of 3D manufacturing technology and the possibilities it offers were an interesting aspect of the inquiry.

19 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 48.

20 Mr Edward Stanley, *Committee Hansard*, 14 October 2014, p. 56; Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 77; Detective Acting Superintendent Jason Herbert, Commander, State Crime Command, Firearms and Organised Crime Squad, NSW Police, *Committee Hansard*, 31 October 2014, p. 50; S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, p. 26; CrimTrac, *Submission 87*, p. 3.

21 Commonwealth of Australia and the State of New South Wales, *Martin Place Siege: Joint Commonwealth - New South Wales Review*, February 2015, p. 49.

22 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

7.41 The committee heard about the significant developments that have occurred in this area and the opportunities it presents for Australia's manufacturing industry. In particular, the committee recognises the benefits 3D printing will provide to society in fields such as manufacturing, industry, medicine, arts and design. The committee acknowledges the significance of 3D manufacturing for many Australian industries and the potential for job creation, innovation and entrepreneurship in the sector.

7.42 However, the committee is also concerned that this technology will allow individuals to manufacture firearms. While submitters were generally of the view that 3D printed firearms did not pose a high risk to the community, there have already been cases where law enforcement authorities have uncovered individuals using this technology to manufacture firearm parts. The committee notes the challenges that 3D printed firearms pose for law enforcement, due to their disposable nature and the difficulty associated with detection using traditional methods.

7.43 It seems that current laws pertaining to firearms would apply equally to 3D printed firearms and firearm parts. However, the LIV argued that given the inconsistencies across the different jurisdictions regarding firearm regulation and the rapid changes in 3D manufacturing, uniform regulations covering 3D manufacturing should be considered.²³ The committee supports this view and recommends that uniform legislation regulating the manufacture of 3D printed firearms and firearm parts be introduced in all jurisdictions.

Recommendation 7

7.44 The committee recommends that Australian governments investigate the requirement for uniform regulations in all jurisdictions covering the manufacture of 3D printed firearms and firearm parts.

7.45 The committee recognises that rapid developments in 3D manufacturing technology are likely to enable the production of metal firearms. The committee considers it important that the government ensure that the law keeps pace with technological advances, without stifling innovation.

7.46 Submitters were generally of the view that although some regulation of 3D printing should be implemented, over-regulation should be avoided. The committee recognises these views and does not accept that banning the individual use of 3D printers or introducing a character test for ownership is either necessary or practical.

7.47 The committee recommends that Australian governments continue to monitor potential risks associated with the manufacture of dangerous items, such as firearms, posed by the emergence of 3D manufacturing.

Recommendation 8

7.48 The committee recommends that Australian governments continue to monitor the risks posed by 3D manufacturing in relation to the manufacture of firearms and consider further regulatory measures if the need arises.

23 LIV, *Submission 124*, p. 11.

Resourcing for law enforcement agencies

7.49 The committee recognises that a number of its recommendations impose an additional burden on law enforcement authorities and other government agencies both at a national and state and territory level.

7.50 The committee considers that in order to implement these recommendations, both Commonwealth and state and territory governments may require additional resources. Further funding for law enforcement agencies would also help ensure that these recommendations are implemented in a timely manner. The committee therefore recommends that consideration be given to the allocation of additional funding for this purpose.

Recommendation 9

7.51 The committee recommends that Australian governments consider committing further funding and resourcing to assist in implementing the preceding recommendations.

**Senator Penny Wright
Chair**

**Senator the Hon Joe Ludwig
Labor Senator for Queensland**

REPORT BY A MAJORITY OF SENATORS ATTENDING THE INQUIRY

Chapter 1

Introduction and Background

Referral of the inquiry

1.1 On 19 June 2014, the Senate referred the following matter to the Legal and Constitutional Affairs References Committee for inquiry and report by 2 October 2014:

The ability of Australian law enforcement authorities to eliminate gun-related violence in the community, with reference to:

- (a) the estimated number, distribution and lethality of illegal guns, including both outlawed and stolen guns, in Australia;
- (b) the operation and consequences of the illicit firearms trade, including both outlawed and stolen guns within Australia;
- (c) the adequacy of current laws and resourcing to enable law enforcement authorities to respond to technological advances in gun technology, including firearms made from parts which have been imported separately or covertly to avoid detection, and firearms made with the use of 3D printers;
- (d) the extent to which the number and types of guns stolen each year in Australia increase the risk posed to the safety of police and the community, including the proportion of gun-related crime involving legal firearms which are illegally held;
- (e) the effect banning semi-automatic handguns would have on the number of illegally held firearms in Australia;
- (f) stricter storage requirements and the use of electronic alarm systems for guns stored in homes;
- (g) the extent to which there exist anomalies in federal, state and territory laws regarding the ownership, sale, storage and transit across state boundaries of legal firearms, and how these laws relate to one another; and
- (h) any related matters.¹

1.2 On 2 September 2014, the Senate extended the committee's reporting date to 2 December 2014.² On 24 November 2014, the Senate granted a further extension of time for reporting until 26 March 2015.³

1 *Journals of the Senate*, 19 June 2014, pp 920–921.

2 *Journals of the Senate*, 2 September 2014, p. 1390.

3 *Journals of the Senate*, 24 November 2014, p. 1827.

Conduct of the inquiry

1.3 In accordance with usual practice, the committee advertised the inquiry on its website and wrote to a number of organisations and individual stakeholders inviting submissions by 15 August 2014. Details of the inquiry were made available on the committee's website at www.aph.gov.au/senate_legalcon

1.4 The committee received 427 submissions, which are listed at Appendix 1. Public hearings were held in Sydney, Melbourne and Canberra on 13, 14 and 31 October 2014. A list of witnesses who appeared before the committee at the hearings is at Appendix 2.

Site visit

1.5 On 17 February 2015 the committee visited the Australian Customs and Border Protections Detector Dog Program Facility and Objective 3D's manufacturing facility, both based in Victoria. The committee thanks both of these organisations for assisting the committee with its inquiry.

Acknowledgment

1.6 The committee thanks all those who made submissions and gave evidence at its public hearings.

Note on references

1.7 References to the committee *Hansard* are to the proof *Hansard*. Page numbers may vary between the proof and the official *Hansard* transcript.

Structure of the report

1.8 This report is the report of the majority Senators of the committee who actually attended hearings and private meetings of the committee and is presented as a majority-alternative to the Chair/Labor's Report of the Legal and Constitutional Affairs References Committee's inquiry into the ability of Australian law enforcement authorities to eliminate gun-related violence in the community.

1.9 It is endorsed by Senators from the Liberal Party, National Party and Liberal Democratic Party, comprising a majority of those who attended the Committee's hearings (The Majority).

Clarification of the purpose of this inquiry

1.10 In response to this inquiry, the committee received over 400 submissions, many of which were concerned about the impact the inquiry might have on the ownership and use of firearms.

1.11 It is important to clarify from the outset that the main focus of this inquiry was on illicit firearms in Australia. While some of the terms of reference refer to regulation of registered firearms that are legally held, this is in the context of ensuring that these are not diverted to the illicit market. The committee appreciates that the majority of firearm owners comply with the relevant legislation and acknowledges the work of the various firearms organisations in promoting the safe use and storage of

firearms. The committee also recognises the number of Australians who participate in the sport of shooting and in hunting.

1.12 The committee would also like to clarify the terminology used throughout this inquiry. As noted by the Attorney-General's Department (AGD) in its submission, firearms and firearm-related articles are not in themselves either legal or illegal:

...regardless of the type of firearm or firearm-related article, there will always be a situation in which it is able to be lawfully possessed in Australia. For example, although certain firearms (such as fully automatic firearms) are generally unable to be possessed or used by civilians, they are able to be possessed by law enforcement, the military and private companies engaged in activities such as research and development. It is more accurate to state that a person's possession or use of a particular firearm or firearm-related article is legal or illegal. Generally, illegal possession or use would involve either possession without a licence, without a licence that authorises possession of that particular firearm type or possession or use in contravention of licence conditions.⁴

1.13 In using the term 'illicit firearms', the committee is referring to those firearms that 'were illegally imported into or illegally manufactured in Australia, diverted from the licit market or moved from the grey market'.⁵

Background and overview of firearm regulation in Australia

Pre-1996 situation

1.14 Prior to the incident at Port Arthur on 28 April 1996, in which 35 people were killed and 23 wounded by a gunman using a range of semi-automatic weapons, gun laws in Australia were less restrictive than current laws.

1.15 In its submission, the Attorney-General's Department (AGD) discussed the situation pre-1996, noting that a number of inconsistencies existed between the various jurisdictions with regards to the regulation of firearms.⁶

1.16 Its submission asserted that:

One of the most significant consequences of the lack of a uniform approach to gun control in Australia was the opportunity for firearms to be diverted to the illicit market. This was facilitated to an extent by loopholes in legislation and regulation, lack of oversight, and low penalties that were applied to firearm offences.⁷

1.17 On 9 August 1987, a mass shooting took place on Hoddle Street, Clifton Hill which resulted in the deaths of seven people, and serious injury to 19 others. Less than five months later, another mass shooting took place in Melbourne at the Queen Street post office, which resulted in nine fatalities and five people being injured. As a result

4 Attorney-General's Department (AGD), *Submission 42*, p. 4.

5 Australian Institute of Criminology (AIC), *Submission 76*, p. 4.

6 AGD, *Submission 42*, p. 3.

7 AGD, *Submission 42*, p. 3.

of these incidents, the government formed the National Committee on Violence (NCV). In its final report, released in 1990, the NCV included a recommendation that national firearm laws be implemented.⁸ This recommendation was not acted upon until the establishment of the 1996 National Firearms Agreement.

The 1996 National Firearms Agreement

1.18 After the events at Port Arthur, the Australasian Police Ministers' Council (APMC) adopted the National Agreement on Firearms (NFA), which consisted of 10 resolutions which formed a nationwide plan for the regulation of firearms. The NFA contained the following changes:

- a ban on automatic and semi-automatic long-arms other than in exceptional circumstances
- nationwide registration of all firearms (expanding the existing regulations requiring handguns to be registered to include long-arms as well);
- established categories of firearm types to be used in the licensing of firearms;
- a requirement that applicants for a firearms license demonstrate a 'genuine reason for owning, possessing or using a firearm' (for some licence categories applicants must also demonstrate a genuine need);
- the introduction of basic licence requirements: in addition to the demonstration of 'genuine reason', a licence applicant should be aged 18 years or over, be a fit and proper person, be able to prove identity (have 100 points of original identification) and undertake an adequate safety test;
- a requirement that first time licence applicants complete a safety training course;
- the introduction of grounds for licence refusal or cancellation and seizure of firearms;
- a uniform standard for the security and storage of firearms;
- introduction of firearm permits and a minimum 28-day waiting period; and
- a requirement that firearms sales be conducted only by or through licensed firearm dealers.⁹

1.19 These reforms were implemented by the states and territories, though some inconsistencies still remained.¹⁰

8 AGD, *Submission 42*, Attachment A.

9 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, pp 7–10, http://www.aic.gov.au/publications/current_per_cent20series/rpp/100-120/rpp116.html (accessed 2 October 2014).

10 AGD, *Submission 42*, p. 5; S Bricknell, *Firearm trafficking and serious and organised crime gangs*, Australian Institute of Criminology, Research and Public Policy Series no. 116, June 2012.

1.20 The NFA also contained a resolution establishing a 12 month national amnesty period and compensation program, along with a public information campaign.¹¹ The federal government passed the *National Firearms Program Implementation Act 1996* and the *Medicare Levy Amendment Act 1996*, which established the national firearms confiscation with compensation program (commonly known as a buyback) funded by a temporary increase in the Medicare levy.

1.21 Prior to the buyback, there were approximately 3.25 million guns in Australia.¹² The gun buyback scheme ran from 1 October 1996 to 30 September 1997 and resulted in the surrender of approximately 640,000 now-prohibited firearms.¹³ The effectiveness of the buyback scheme has remained a subject of debate amongst commentators.¹⁴

Further agreements

1.22 In 2002, the APMC developed two new agreements: the National Handgun Agreement 2002 (the Handgun Agreement) and the National Firearms Trafficking Policy Agreement 2002 (the Trafficking Agreement).¹⁵

1.23 The Trafficking Agreement was agreed to by APMC at its meeting in July 2002 and was aimed at addressing the illegal firearms trade. As noted by AGD in its submission, the agreement 'committed jurisdictions to putting in place additional controls to address the illegal firearms trade, including the introduction of nationally consistent rules for the legal manufacture of firearms and tighter recording and reporting provisions for dealer transactions involving firearms and major firearms parts'.¹⁶

1.24 As a result of a shooting incident causing the death of two students at Monash University in October 2002, the APMC agreed on a series of 28 resolutions aimed at 'restricting the use and availability of handguns through such measures as restricting the possession of handguns based on calibre, barrel length and magazine capacity'.¹⁷ These were adopted by the Council of Australian Governments (COAG) in December 2002 and formed the Handgun Agreement.

11 AGD, *Submission 42*, p. 4.

12 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007, http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BN/0708/FirearmsAustralia (accessed 2 October 2014).

13 Australian National Audit Office (ANAO), *The Gun Buy-Back Scheme*, December 1997, pp 6–7, http://www.anao.gov.au/uploads/documents/1997-98_audit_report_25.pdf (accessed 2 October 2014).

14 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007.

15 AGD, *Submission 42*, Attachments C and D.

16 AGD, *Submission 42*, p. 4.

17 AGD, *Submission 42*, p. 4.

1.25 The agreed restrictions were implemented legislatively by the states and territories:

Each state and territory agreed to amend its firearms laws by 1 July 2003 to prevent the purchase, possession and use of prohibited handguns used for sports shooting and also those that are held as part of historical collections. Where legislation was not already in place, the states and territories also agreed to introduce substantial penalties for the illegal possession of a firearm.¹⁸

1.26 The federal government amended the Customs (Prohibited Imports) Regulations 1956 to reflect the new restrictions and introduced a confiscation with compensation program for handguns that did not comply with these restrictions. The program resulted in 70,000 handguns being surrendered.¹⁹

Recent reforms

1.27 In 2012, the states and territories reached an agreement with the federal government with regards to further reforms. These were aimed at targeting the illicit firearms market and included:

- tougher penalties—including a maximum penalty of life imprisonment for aggravated firearm trafficking;
- national roll-out of the Australian Ballistics Identification Network;
- establishing a National Firearms Interface;
- expanding the Australian Crime Commission's Firearm Tracing Capability;
- establishing a firearm intelligence and targeting team within Customs and Border Protection;
- establishing measures to identify and target vulnerabilities in the international airstream;
- improving police responses to firearm crime;
- establishing a national campaign on unlicensed firearms; and
- developing an annual illicit firearm intelligence assessment.²⁰

1.28 In order to implement these changes, the federal government passed the Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012.²¹

18 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007.

19 J Phillips, M Park and C Lorimer, *Firearms in Australia: a guide to electronic resources*, Parliamentary Library, 9 August 2007.

20 Australian Crime Commission (ACC), *Illicit Firearms fact sheet*, 2013, https://www.crimecommission.gov.au/sites/default/files/ILLICIT_per_cent20FIREARMS_per_cent20JULY_per_cent202013.pdf (accessed 2 October 2014).

1.29 In 2014, the government introduced the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014, which seeks to 'introduce international firearms trafficking offences and mandatory minimum sentences and extend existing cross-border disposal or acquisition firearms offences'.²² On 15 February 2015 this Bill was passed.

Current situation regarding firearm regulation

1.30 The regulation of firearms in Australia is primarily the responsibility of the states and territories, with the federal government's formal role limited to the import and export of firearms.

Federal government

1.31 As noted by AGD, 'the Commonwealth's main role in relation to the regulation of firearms and firearm-related articles is through the control on imports [and] exports and the use of the trade and commerce power in the Constitution in relation to interstate movement'.²³

1.32 Section 51(i) of the Constitution, which deals with overseas and interstate trade and commerce, has been relied on by the Commonwealth to prohibit the importation of certain firearms into Australia. Regulation 4F and Schedule 6 of the Customs (Prohibited Imports) Regulations 1956 'control the importation of firearms, firearm accessories (silencers, certain types of stocks and devices designed or capable of converting a firearm to semi or fully automatic), firearm parts, firearm magazines, ammunition, components of ammunition and imitation firearms'.²⁴

1.33 With regard to the importation of firearms, an importer may be required to get permission from the Australian Customs and Border Protection Service, their state or territory firearms registry or AGD.²⁵ This depends on what type of firearm they are applying to import. AGD argued in its submission that the current rules regarding importation:

...results in situations where the Commonwealth's role in the regulation of the importation of firearms and firearm-related articles is of limited or no value, creates anomalies and results in more red-tape for legitimate importers.²⁶

21 See the committee report for further information: Senate Legal and Constitutional Affairs Legislation Committee, *Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012*, March 2013.

22 See the committee report for further information: Senate Legal and Constitutional Affairs Legislation Committee, *Crimes Legislation Amendment (Psychoactive Substances and Other Measures)*, September 2014.

23 AGD, *Submission 42*, p. 7.

24 AGD, *Submission 42*, Attachment E. Further information with regards to import restrictions is set out in AGD's submission at Attachment E.

25 AGD, *Submission 42*, p. 7.

26 AGD, *Submission 42*, p. 7.

States and territories

1.34 The states and territories have retained control over the regulation of the sale, purchase, possession and storage of firearms (including imitation firearms). The following relevant legislative instruments currently apply:

- New South Wales: *Firearms Act 1996*, Firearms Regulation 2006, *Weapons Prohibition Act 1998*, Weapons Prohibition Regulation 2009;
- Victoria: *Firearms Act 1996*, Firearms Regulations 2008, *Control of Weapons Act 1990*, Control of Weapons Regulations 2011;
- Queensland: *Weapons Act 1990*, Weapons Regulations 1996, Weapons Categories Regulations 1997;
- Western Australia: *Firearms Act 1973*, Firearms Regulations 1974;
- South Australia: *Firearms Act 1977*, Firearms Regulations 2008;
- Tasmania: *Firearms Act 1996*, Firearms Regulations 2006;
- Northern Territory: *Firearms Act*, Firearms Act Regulations; and
- Australian Capital Territory: *Firearms Act 1996*, Firearms Regulation 2008, *Prohibited Weapons Act 1996*, Prohibited Weapons Regulation 1997.²⁷

1.35 There have been a number of recent reforms to state and territory laws.

1.36 In New South Wales, legislation was enacted in June 2012 to place further restrictions on the sale and purchase of ammunition. In December 2012, the New South Wales government announced that it had established a committee to provide advice on proposed new gun control legislation that would tighten restrictions in some areas.

1.37 In South Australia, the state Attorney-General announced a gun amnesty campaign in June 2012, which ran from 1 August to 31 October 2012. It was reported that 2783 firearms were surrendered to authorities during the three-month period.

1.38 In Queensland, the police minister established an advisory panel in August 2012 to examine gun laws and licensing with the aim of reducing red tape for licensed firearms owners, generating a strong negative response from the Queensland Police Union.²⁸ The Queensland government also introduced amending legislation in November 2012 to introduce new mandatory minimum penalties for weapons offences 'in an effort to address the unlawful use of firearms'. At the same time, the government

27 The Law Library of Congress, *Firearms-Control Legislation and Policy: Australia*, 16 September 2014, <http://www.loc.gov/law/help/firearms-control/australia.php> (accessed 2 October 2014).

28 The Law Library of Congress, *Firearms-Control Legislation and Policy: Australia*, 16 September 2014.

announced an amnesty for people to either hand in or register their firearms. The bill was passed in December 2012.²⁹

Overseas comparisons

1.39 Australian laws regarding the regulation of firearms are 'stricter than that of a number of comparable countries':

... in contrast to the position in the United States, there is no legal right to gun ownership. Owning and using a firearm is limited in Australia to people who have a genuine reason and self-protection does not constitute a genuine reason to possess, own or use a firearm. Secondly, the Australian system requires both the licensing of individual shooters and the registration of each firearm. In contrast, countries such as New Zealand and Canada broadly speaking only require shooters to obtain a license, which enables them to freely purchase firearms appropriate to that licence.³⁰

1.40 Ms Lauren Hirsh argued that a majority of studies examining the NFA's impact on gun violence in Australia have concluded that the reforms 'have been responsible for substantial reductions in the Australian firearm death rate and have also put an end to mass shooting'.³¹

1.41 In examining Australia's firearm reforms, Ms Hirsh argued that cumulatively these studies provide strong evidence that Australia's firearm reforms have been effective:

The most comprehensive study into the effects of the reforms, conducted by Leigh and Neill in 2010, found a 65 per cent decline in the firearm homicide rate and a 59 per cent decline in the firearm suicide rate in the decade following the implementation of the NFA, with no parallel increase in rates of non-firearm related homicides or suicides. These authors also demonstrated a strong causal relationship between the NFA and these declines. Their research showed that the NFA was responsible for a 36 per cent decline in the firearm homicide rate and a 74 per cent decline in the firearm suicide rate.

Current data reveals that the Australian firearm death rate has today been reduced to 1/100 000, which is less than half of the 1996 rate and one tenth of the current US rate. Likewise, the Australian firearm homicide rate, which was already one fifteenth of the US rate prior to Port Arthur, has been reduced to one twenty-seventh of that rate today.³²

29 The Law Library of Congress, *Firearms-Control Legislation and Policy: Australia*, 16 September 2014.

30 J Curtis, *Australian gun laws*, Parliamentary Library, 21 December 2012, [http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/2164439/upload_binary/2164439.pdf;fileType=application per cent2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/2164439/upload_binary/2164439.pdf;fileType=application%20pdf) (accessed 2 October 2014).

31 L Hirsh, 'Brothers in Arms Control: Introducing Australian-Style Gun Control in the United States', *Macquarie Law Journal*, 2013, vol. 12, pp 89-91.

32 L Hirsh, 'Brothers in Arms Control: Introducing Australian-Style Gun Control in the United States', *Macquarie Law Journal*, 2013, vol. 12, p. 90.

1.42 A number of other submissions argued the opposite, that Australia's firearm law reforms had made no difference to the firearm death rate. Among them, Mr Tom Vangelovski noted that:

While ignoring that the overall Australian homicide rates has remained statistically stable at its historical rate since 1915, gun control advocates have claimed that homicide by firearm has decreased (implying that being murdered by other means is somehow preferable).³³

1.43 He also noted:

Another important comparison is Australia's violent crime rate to that of individual American states (Figure 4). Vermont has some of the most liberal gun laws in the US, in that they virtually do not exist. Its residents are free to own and use whatever firearms they deem necessary, so long as they are not misused for criminal purposes. However, its violent crime rates are radically lower than Australia's. Its homicide rate is the same (at 1.3 per 100,000). Overall, you are 1.5 times more likely to be the victim of a home invasion, 3.5 times more likely to be robbed, 4 times more likely to be raped and 8 times more likely to be assaulted than in Vermont.

Another interesting comparison is Texas. While its gun laws are much more liberal than Australia's, they are slightly more stringent than in Vermont. However, even in Texas you are 2.5 times less likely to be the victim of a violent crime than in Australia.³⁴

1.44 Dr Samara McPhedran noted :

A useful demonstration of how prohibition can be expected to impact illicit firearms use is found in the United Kingdom (UK). In 1997, the UK banned private ownership of all cartridge ammunition handguns (whether semi-automatic or otherwise).

As such, the UK provides real-world data about the impact that a 'prohibition policy' can be expected to have on illegal firearms use. This information is particularly valuable because it is drawn from an applied setting, rather than being based on theory or statistical modelling.

Because all legal handgun ownership was banned, rather than just certain types of handgun, the UK policy also represents a "maximum policy impact" scenario – that is, the greatest effect that could be reasonably expected to arise from prohibition.

If the policy was successful, then it would be expected that the number of recorded crimes in the UK involving the use of handguns would decline sharply after 1997.

Handgun crimes rose sharply after total prohibition of legal ownership, reaching a peak in the early 2000s. The number of handgun crimes has consistently remained higher than it was at the time of handgun prohibition.

33 Tom Vangelovski, *Submission 206*.

34 Dr Samara McPhedran, *Submission 88*.

Even allowing for the possibility of a 'lag' between policy implementation and policy impact, it is obvious that the prohibition policy did not impact on illicit possession and use of handguns. According to the Home Office, from 2001/2002 to 2010/2011, handguns have consistently been the most common type of firearm used in crime.³⁵

1.45 Mr William Woolmore, a former member of the Firearms Appeals Tribunal for the Victorian Justice Department, noted:

There has been a steady decline in gun related deaths in Australia since 1980 and, as expected, the rate of decline increased marginally following the new gun laws introduced in 1996 but this was due solely to a reduction in gun suicides. According to the Australian Bureau of Statistics the rate of gun murders in the few years after 1996 was actually higher than the equivalent period before 1996. While gun violence has been steadily declining there has been a substantial growth in total violence, with knife murders exceeding gun murders by up to 4 to 1 in some years (The latest AIC figure given in 2013 was 47 knife and 24 gun; worth comparing with 27 children murdered by one or both of their parents).³⁶

1.46 Dr John Lott noted:

Prior to 1996, there was already a clear downward in firearm homicides, and this pattern continued after the buyback. It is hence difficult to link the decline to the buyback.

Again, as with suicides, both non-firearm and firearm homicides fell by similar amounts. In fact, the trend in non-firearms homicides shows a much larger decline between the pre- and post-buyback periods. This suggests that crime has been falling for other reasons.

Note that the change in homicides doesn't follow the change in gun ownership – there is no increase in homicides as gun ownership gradually increased.³⁷

35 Homicides, Firearm Offences and Intimate Violence 2010/11: Supplementary Volume 2 to Crime in England and Wales 2010/11. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/116483/hosb0212.pdf

36 Mr William Woolmore, *Submission 383*.

37 Dr John Lott, *Submission 394*.

Chapter 2

Illicit firearms in Australia: quantity and source

1.47 This chapter considers the illicit firearms market in Australia, its composition and the relative contribution from different methods of diverting firearms into the illicit market.

What are illicit firearms?

1.48 The illicit firearms market in Australia comprises grey market and black market firearms. The Australian Institute of Criminology (AIC) explained:

The licit market comprises all firearms that are subject to registration and held by a person with the approved authority to do so. The grey market consists of all long-arms that were not registered, or surrendered as required during the gun buybacks, following the National Firearms Agreement (1996). Grey market firearms are not owned, used or conveyed for criminal purposes but may end up in the illicit market. Illicit market firearms are those which were illegally imported into or illegally manufactured in Australia, diverted from the licit market or moved from the grey market.³⁸

1.49 This definition of illicit firearms is well accepted. The use of the term 'grey market', however, caused debate amongst submitters to the inquiry.

1.50 While agreeing that the grey market did not include handguns, the Australian Crime Commission (ACC) disagreed with the explanation provided by the AIC and argued that grey market firearms formed part of the illicit market without needing to be diverted for an illicit purpose:

There appears to be some inconsistency in evidence that has been presented to the committee, particularly in relation to the definition of the grey market and methods of diversion. The illicit firearm market is primarily made up of firearms that have been diverted from licit markets through various means. The grey market is comprised only of long-arm firearms which should have been either registered or surrendered in firearm buybacks following the 1996 National Firearms Agreement but were not. Handguns are not included in the grey market as they required registration prior to the 1996 agreement. The black market includes all firearms, both long-arms and handguns, illicitly obtained by individuals and criminal entities. While the use of these terms and related definitions may be debated, both the grey and black market are part of the illicit firearm market. The ACC's ongoing firearm trace activities, which we would like to elaborate on further in camera, continue to indicate that the majority of illicit firearms are derived from Australia's grey market. Theft, failure to reconcile the interstate movement of firearms, and importation of undeclared firearms and firearm parts are all key components of the illicit market.³⁹

38 Australian Institute of Criminology (AIC), *Submission 76*, p. 4.

39 Mr Paul Jevtovic, National Manager, Strategic Intelligence and Strategy, Australian Crime Commission (ACC), *Committee Hansard*, 31 October 2014, p. 34.

1.51 Detective Chief Superintendent Finch of the New South Wales Police Force stated that the terminology was misleading:

[It] is a term that gives people comfort, and it should not. It is a benign term. People who possess firearms—and they may be firearms that were not handed back under the 1996 provisions—may well be committing criminal offences and, in fact, serious criminal offences. I think the term 'grey market' gives people comfort that it is not such a bad thing. The problem with that is that when firearms are stolen from those people it may not ever be reported. That is a problem in itself. [Grey market] is a term that was perhaps coined by the [Australian Crime Commission]. I understand the reason for it, but I do not agree with its use. I obviously understand the difference between that and the black market, but it is something I think we should be constantly vigilant about. We remind people strongly that it is an offence—and a serious criminal offence, at that—to have possession of firearms that are unregistered and so on.⁴⁰

Size of the illicit firearms market

1.52 The evidence provided to this inquiry indicated that it is exceedingly difficult, if not impossible, to ascertain the number of firearms that comprise the grey and illicit markets. In its *Firearm trafficking and serious and organised crime gangs report*, the AIC stated that 'it is not possible...to estimate the size of either the grey or illicit market'.⁴¹

1.53 The ACC, as part of its *2012 National Illicit Firearm Assessment*, has provided one estimate:

Whilst the exact size of the illicit firearm market is unknown, our 2012 assessment conservatively estimated the market contained around 260,000 firearms comprised of more than 250,000 long-arms and around 10,000 handguns.⁴²

1.54 This estimate included both grey and black market firearms and was derived from 'analysis of importation numbers, seizures, firearms data from industry, in particular, and historical legislation and other relevant data'.⁴³ While the actual data used to determine these figures was classified, the ACC stated that the next national assessment, to be finalised in 2015, will 'be accompanied with appropriate unclassified and publicly available materials'.⁴⁴

40 Detective Chief Superintendent Ken Finch, Director of the Organised Crime Directorate, NSW Police Force, *Committee Hansard*, 13 October 2014, pp 41–42.

41 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012, p. 23, http://www.aic.gov.au/publications/current_per_cent20series/rpp/100-120/rpp116.html (accessed 2 October 2014).

42 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

43 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

44 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, pp 33–34.

1.55 In preparing the *2012 National Illicit Firearm Assessment*, the ACC 'identified significant national issues relating to the quality and accuracy of data'.⁴⁵ This was a view shared by other witnesses,⁴⁶ who argued that data provided by the states and territories to the ACC contained inconsistencies and that the ACC's role was limited to analysing the data provided as opposed to collecting its own.⁴⁷

1.56 Another estimate of the size of the grey market was provided by the Sporting Shooters Association of Australia, which in evidence endorsed its 1997/1998 estimate that the number of firearms not registered or surrendered may be as high as 6 million.⁴⁸

1.57 Given the overall lack of data and basis for calculation provided by any witness, there is no reason to believe its estimate is any less reliable than that of the ACC, highlighting the fact that the Greens are grasping at straws.

Methods of diversion

1.58 There are three ways in which firearms enter the illicit market: they are diverted from the licit market or moved from the grey market, for example by theft, or they are illegally imported into or illegally manufactured in Australia.

1.59 The extent to which theft and illegal importation contribute to the pool of illicit firearms in Australia proved to be one of the most contentious points of this inquiry, with witnesses divided over whether the main source was one of theft from licensed individuals and firearms dealers or porous borders.

Theft of firearms

1.60 Various representatives of the firearms industry argued that, based on statistics provided by government agencies and state and territory police, the overall number of firearms stolen was quite small.⁴⁹

1.61 The Sporting Shooters' Association of Australia submitted that 'stolen firearms are not the main source of supply for the illegal gun trade' and argued that data on firearms thefts was unreliable:

In South Australia, for example, the figure submitted for legal handguns was inversed, leading the AIC to believe that there were 41,300 instead of

45 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 33.

46 Mr Luca Scribani Rossi, President, National Firearm Dealers Association Inc., *Committee Hansard*, 14 October 2014, p. 28; Mr Greg Chan, General Manager, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 39.

47 Mr Chan, Beretta Australia Pty Ltd, *Committee Hansard*, 14 October 2014, p. 39.

48 Mr Geoff Jones, Sporting Shooters Association of Australia, *Committee Hansard*, 31 October 2014, p. 16.

49 For example: Mr Bryant, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 5; Field & Game Australia Inc., *Submission 81*, p. 2; Shooters Union Australia, *Submission 101*, p. 4; Dr Jim Lemon, *Submission 215*, p. 4; and Mr Geoffrey Jones, President, Sporting Shooters' Association of Australia, *Committee Hansard*, 31 October 2014, p. 33.

14,300 owned handguns in that jurisdiction. Western Australia at one stage provided no information on firearms or firearms theft, while Victoria inadvertently recorded firearm parts as actual stolen firearms. Even the AIC's senior research analyst, Dr Samantha Bricknell, has stated that the number of illegal firearms in the community is impossible to estimate. As we have said in our written submission, the origin of illegal handguns, according to the AIC, has an 'unknown' rate of 70 per cent. Handguns in particular are the least likely to be stolen or ever used in a subsequent crime. In the state of Victoria, only six handguns were stolen last year. Illegal long-arm ownership is more likely to have come from the grey market, where rifles and shotguns are not registered.⁵⁰

1.62 Shooting Australia acknowledged that sporting shooters 'are very conscious of the fact that our sporting equipment is a firearm and therefore something that we need to keep secure as far as any theft is concerned'.⁵¹

1.63 Victoria Police noted that while the number of stolen firearms in Victoria had decreased from 800 in the 2011–12 period to 500 in the last period, they nonetheless opined that 'the more weapons that are available to the wrong hands from the grey market or the black market the more the potential for them to facilitate crimes and/or injure or kill people'.⁵²

Geographic patterns of firearm theft

1.64 In addition to discussing the location (for example, private residence or licensed dealer) from which firearms are stolen, a number of state police discussed geographic patterns of firearm theft.

1.65 For example, Victoria Police informed the committee it had recently seen an increase in firearm thefts in rural areas:

There had been a significant increase in the burglaries of registered firearms owners' homes or farms in the western district of Victoria over the preceding 12 months. There has been concerted operations conducted in relation to trying to find the perpetrators of those offences. There was a significant spike across remote-rural locations of the thefts of those firearms which corresponded with an escalation in firearm-related violence in our north-west metro region. Victoria is divided into four policing regions—north-west, east, western and southern metro. There was found to be quite a big spike in firearm-related violence which corresponded with the thefts

50 Mr Jones, Sporting Shooters' Association of Australia, *Committee Hansard*, 31 October 2014, p. 33.

51 Mrs Catherine Fettell, President, Shooting Australia, *Committee Hansard*, 31 October 2014, p. 13.

52 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 56.

and burglaries on those premises, of which some of those firearms were used in north-west metro area.⁵³

1.66 NSW Police suggested that firearm thefts in rural areas could be attributed to a number of factors including attitudes toward firearms, storage and geographic isolation:

In some areas of Australia, of course, the attitude to gun ownership and security of guns is different from the attitude of people in metropolitan Sydney, for example. I understand, having lived and worked in rural areas in New South Wales, the reasons for that. That does not mean, however, that the storage requirements should be any less in those areas because, at times, you will see hobby farmers who have safe storage areas in sheds away from the main dwelling. They may not be resident on the premises for weeks or months, and they will then return and find that their firearms have been stolen. We would receive a report, but it might be weeks or months later. That is a problem. The location of the safe storage area away from main dwelling houses is a problem. Often they are in storage sheds stored with angle grinders and other implements that can open the storage areas. We see that regularly.⁵⁴

Illegal importation of firearms

1.67 The other source of illicit firearms in Australia is illegal importation. Like theft, the committee heard contested evidence about the extent to which illegal importation contributes to the illicit firearms market in Australia.

1.68 The Firearm Safety and Training Council argued that illegal importation of firearms into Australia was a more significant source of illicit firearms than theft:

...on the established data that has been presented, there are very few firearms that have been stolen and subsequently used in illegal acts or established as coming from a pathway from a registered firearm owner, through theft, into a recorded crime. We then had to rely on press reports, including on such things as the post office in Sydney that was being used for illegal importation of firearms—from Germany, as I recall. They were, in fact, semiautomatic handguns. We are also aware of the fact that there have been press reports of particular organisations—and I am not singling out particular bureaucracies here—including Customs officers who have been involved in, and I believe charged with, illegal importation on occasion.⁵⁵

1.69 The NSW Police Force noted that the 'the illegal importation of firearms, especially modern handguns and assault rifles, is a key driver of gun crime in NSW'.⁵⁶

53 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 54.

54 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 48.

55 Mr Bryant, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 5.

56 NSW Government Justice Cluster, *Submission 391*, p. 2.

Detective Chief Superintendent Finch, Director of the Organised Crime Directorate informed the committee that there has been a 'big influx in illegal importation in NSW', though it is impossible to quantify:

To steal someone else's words, we do not know what we do not know. The reality is that there are obviously guns being illegally imported regularly. We detect some. There has been a slight change in the way importations are reported. Prior to last year, the Australian Customs and Border Protection Service and the New South Wales Police had primacy in terms of the legal importations. Last year, a unilateral decision was taken that the AFP would take control of investigations of illegal imports. That is in line with their charter and their primacy in relation to narcotics. We work very closely with the Australian Federal Police.⁵⁷

1.70 In particular, NSW Police referred to the use of "shot-gunning", where firearms are broken into parts and brought into the country illegally by post:

In the case of firearms, to some extent they do it because they are able to break the firearm down, and if certain parcels are X-rayed it might not show up. If, for example, there is a barrel from a semiautomatic, it might show up as a metal tube, but that does not make it readily identifiable as a firearm part if it has been misdescribed. So they are broken up, and sent—en masse, at times—and then reassembled...They only have to be successful with one importation, obviously, to make a significant profit.⁵⁸

1.71 NSW Police gave an example, citing its recent operation Strike Force Maxworthy, which resulted in the detection of 12 Glock pistols that had been sent in pieces to Australia via international mail.⁵⁹ The NSW Police Force gave further evidence to the committee about the impact the internet has had in facilitating the illegal importation of firearms, with some overseas retailers even advertising that they can assist in overcoming customs regulations (although not always with the intention to break the law).⁶⁰

1.72 It was NSW Police's view that this practice will continue to pose a threat. A lack of detection cannot be linked to the number of firearms that are imported illegally:

...because of the volume of air freight and parcel post they may not be detected. Modern firearms are very easily disassembled. There is a large amount of material other than metal in them. So at times they can be misdescribed, as was the case in Strike Force Maxworthy, and they may never be X-rayed. Certainly I think illegal importation is an area that needs

57 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 42.

58 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, pp 47–48.

59 NSW Government Justice Cluster, *Submission 391*, p. 3.

60 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 46.

to be looked at closely. To the credit of the Australian Customs and Border Protection Service, they have markedly increased their response. The firearm squad have an analyst from Customs embedded with them. They work very closely with Customs and the AFP, for that matter.⁶¹

1.73 Victoria Police also raised the issue of illegal importation, noting that internet facilitated firearm trafficking is an emerging trend.⁶² In explaining its impact to the committee, Detective Superintendent De Santo commented that it has opened the door to individuals who previously would not have had the connections or resources to import firearms:

Currently they are imported into Australia via online and through parcel post. I am talking about the one-off purchasers or two-off purchasers, possibly in the dark net side of the internet. They are imported into Australia and may be able to bypass screening, or may not be detected in screening, and then they go out to the recipients who have ordered them online.⁶³

1.74 He noted that 'there is a whole varying element of individuals out there who try to buy certain things', as opposed to just being limited to serious and organised crime groups.⁶⁴

1.75 Victoria Police also discussed the traditional method used by organised crime groups of shipping large numbers of illegal imports on the assumption that not all containers would be x-rayed by Customs and the need for better resourcing and intelligence.⁶⁵ In particular, Detective Superintendent De Santo discussed the emergence of firearms manufactured to avoid metal detectors:

They are probably not as sophisticated as what you may see depicted in some of the movies, but they are relatively well manufactured, not manufactured in backyards. Those are the next ones I am going to go to, where we have also seized firearms. Again, they are single shot, within the confines of a mobile phone or within the confines of a belt buckle, a fashion accessory worn around the waist. Insofar as avoiding detection, the components are sometimes not picked up on X-ray, and the parts are disassembled for easy transportation. It would be quite easy within some of our airlines. Components can be separated, placed in cargo hold luggage and go through a lesser degree of screening than hand luggage. That is the

61 Detective Chief Superintendent Finch, NSW Police, *Committee Hansard*, 13 October 2014, p. 42.

62 Victoria Police, *Submission 389*, p. 3.

63 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 57.

64 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

65 Detective Superintendent 4 De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

way they are transported across border lines, other than being concealed in cars or about the person.⁶⁶

1.76 The Australian Customs and Border Protection Service (ACBPS) assured the committee it was not complacent on the issue of illegal importation of illicit firearms:

We are conscious of evidence previously given and the report by the Australian Crime Commission with respect to the view that the vast majority of firearms in the Australian illicit market are diverted from the domestic licit market...However, we are conscious within Australian Customs and Border Protection that we are vulnerable to illicit importations of firearms, particularly in relation to whole firearms and firearms parts, and that that risk has the potential to increase as criminal entities seek weapons. But we are very vigilant to that issue.⁶⁷

1.77 The ACBPS also confirmed that it is impossible to quantify the number of firearms that enter the country undetected. Instead, this information is derived from the organisation's detection data as well as intelligence information:

We are talking about an illicit market. So in relation to how many times it happens, the answer is: we do not know what we do not know. However, we do have a tracing mechanism now through the Australian Crime Commission and if guns were being imported into the illicit market using criminality and seized, we would be aware of those and be able to do that work in relation to a post-detection analysis. Operation Maxworthy relates to that particular seizure. Even with the work that we do with New South Wales we are making seizures at the border, so we are not complacent about it, but what we have not got is examples where those sorts of large importations are occurring. We do a lot of work with international partners. We do a lot of work with the firearms manufacturers. I think if those were happening on a regular basis, they would be a lot more visible in the environment, and we do not have an intelligence picture to suggest that that is the case.⁶⁸

1.78 With regards to intelligence, Mrs Karen Harfield, National Director of Intelligence, explained that detecting firearms was about understanding the various risk factors, which include factors such as high-risk destination or departure countries or type of items.⁶⁹ She also discussed situations where the ACBPS has worked with overseas partners in sharing intelligence, which helps in targeting onshore arrivals:

In the channels, say, for passengers—and we do have finds on passengers—with air cargo and sea cargo we are supplied with information that gives us an opportunity to do analytical work while that individual or that cargo is in

66 Detective Superintendent De Santo APM, Victoria Police, *Committee Hansard*, 13 October 2014, p. 56.

67 Mrs Karen Harfield, National Director Intelligence, ACBPS, *Committee Hansard*, 31 October 2014, p. 61.

68 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 62.

69 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 66.

transit. That leads us to targeting in a particular way. Then, once onshore, we have got those detection capabilities such as the X-ray machines. We have chemical detection capabilities and, obviously, the people part of that is a really important aspect—in particular, in international mail because we do not have electronic data prior to mail arriving. Those are the types of work that we do. We clearly have an ability where partners might have intelligence through a number of their sources that would impact on what we might do and how we might intervene at the border. We are also able to provide intelligence offshore so, where we can impact offshore and reduce and mitigate risk, we will do so. For example, if we are looking at a particular network of criminality, we might provide information offshore so that actual importation never departs.⁷⁰

1.79 The committee heard that during 2013-14, the ACBPS detected 1737 firearms and firearm parts (49 handguns, 21 rifles, 10 shotguns, 525 parts and accessories and 1132 magazines).⁷¹ The ACPBS also noted that serious criminal penalties exist with respect to illegal importation, with a penalty on conviction up to \$425 000 or 10 years imprisonment, or both.⁷²

1.80 The ACBPS discussed the practicalities of conducting screening at its international mail gateways:

It is a factory environment. There are massive volumes and a continual requirement around the conveyor belt system that they have there. On a practical day-to-day basis the intelligence piece provides support to the managers and the staff around detection methodologies and the types of concealments that we see on a regular basis. We have done training around recognition of firearms parts and what anomalies might look like within some of the detection technologies that we employ. We have a sort of layered approach to the use of detector dogs in particular circumstances, depending on the types of items we are looking at. There is that sort of broad level agreement on what risk looks like and therefore on how we deploy people physically in the environment. The main gateways are Sydney and Melbourne, and the predominant number of staff and detections are there.⁷³

Site visit: National Detector Dog Program Facility

1.81 In order to gain a better understanding of the role detector dogs play in locating firearms, the committee undertook a site visit to the National Detector Dog Program Facility located in Bulla, Victoria.

1.82 Originally focused on the detection of narcotics, the Detector Dog Program was expanded in 2003 'to include firearms and component parts, ammunition,

70 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 66.

71 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 64.

72 ACBPS, *Submission 61*, p. 3.

73 Mrs Harfield, ACBPS, *Committee Hansard*, 31 October 2014, p. 67.

explosives and chemical precursors'.⁷⁴ While visiting the facility, the committee observed dogs in the early stages of training learning to search pallets of goods to detect explosives (Figures 2.1 and 2.2). Customs officers explained that these exercises are used to teach the dogs the correct searching technique.

Figure 2.1: Customs' officer and dog searching pallet for explosives as part of a training exercise



1.83 The committee also observed younger dogs honing their natural instincts for searching through exercises conducted with their trainers:

Training is based on channelling each dog's inherent hunt and play drive. Dogs are conditioned to detect specific target odours and are rewarded by playing a vigorous game of tug-of-war with a rolled up towel. Training is based on positive reinforcement and strives to produce a dog that is self-driven and able to make independent decisions.⁷⁵

1.84 Detector dog teams are trained to find goods hidden in luggage, parcels, mail, cargo containers, vessels, vehicles, aircraft and on people:

Customs focuses on the training of various methodologies, including multi-purpose response dogs. These dogs are capable of searching both people and cargo and can work in Customs search areas. A multi-purpose response dog is trained to give a passive or "sit" response to people carrying

74 ACBPS, *Detector dog program*, July 2006, http://www.customs.gov.au/webdata/resources/files/FS_detectDogProg040819.pdf (accessed 18 February 2015).

75 ACBPS, *Training detector dog teams*, <http://www.customs.gov.au/site/page4305.asp> (accessed 18 February 2015).

or concealing items or a pawing or scratching response to cargo or areas where items might be hidden. This dual capability allows Customs to more effectively deploy detector dogs.⁷⁶

1.85 In 2012-13, detector dogs 'contributed to the detection of 2272 illegal imports and exports totaling 92.8kgs'.⁷⁷

1.86 Due to the difficulties finding dogs capable of completing the Program, Customs developed its own breeding program in the early 1990s which has been responsible for the birth of over 2500 Labrador Retrievers. The majority of these dogs have gone on to work as detector dogs, though not all as Customs dogs:

Many other agencies also use dogs bred by Customs, including the Australian Defence Force, the Australian Federal Police, the Australian Quarantine and Inspection Service and State and Territory police. Customs-bred dogs have been deployed in a variety of fields, including arson detection, food detection and/or explosives and firearms detection.⁷⁸

1.87 The committee was interested to learn that dogs are trained to detect narcotics, firearms, currency or explosives. In the past, dogs had been trained to detect both firearms and explosives. However, a positive response from a dog (see Figure 2.2) for a firearm results in a very different course of action (a more thorough inspection of an article) to that taken for an explosive (evacuating the area). For this reason, Customs no longer trains dogs to detect both—dogs now specialise in one or the other.

76 ACBPS, *Detector dog program*, July 2006.

77 Senator the Hon Michaelia Cash, 'Minister Cash commends ACBPS Detector Dog Program', Media release, 29 November 2013.

78 ACBPS, *Detector dog program*, July 2006.

Figure 2.2: Detector dog alerting handler to the presence of explosives in the package as part of a training exercise



1.88 The committee would like to thank the customs officers at the National Detector Dog Program Facility for their time and the knowledge they imparted and commends them on the important role they play in protecting the community.

Figure 2.3: Committee members with Mr Glenn Scutts and Mr Smyl Fischer at the ACBPS Detector Dog Program facility



Manufacture of illicit firearms

1.89 With the exception of the potential for firearms to be manufactured through the use of 3D printing technology (discussed in chapter 6), the committee heard little evidence about the illegal manufacturing of firearms in Australia and the extent to which this might contribute to the illicit firearms market.

Identifying the source of illicit firearms

1.90 The main resource for identifying the source of illicit firearms in Australia relied upon by submitters and witnesses appeared to be research prepared by the AIC. The two main research projects undertaken by the AIC were the National Firearms Monitoring Program (NFMP) and the National Firearm Theft Monitoring Program (NFTMP). Both of these programs were established in response to particular firearm issues and had funding for a set period of time.⁷⁹ Consequently, the majority of data focuses on the period from 2004-05 to 2008-09.

1.91 In 2012, the AIC also published a report into *Firearm trafficking and serious and organised crime gangs*, which included analysis of data from the National Firearm Trace Database (NFTD).⁸⁰ The NFTD is based on traces conducted by the ACC between 2002 and 2012:

On behalf of Australian law enforcement agencies, the ACC conducts serial number tracing of both registered and unregistered firearms through the Firearm Trace Program. It provides insights into the points of diversion at which firearms enter the illicit market and the types of firearms used and seized as well as highlighting the changes in the illicit firearms market. Firearm trace data and sales information may also assist in the identification and initiation of investigations.⁸¹

1.92 The ACC provided the committee with detailed information on the various processes involved in conducting a firearm trace, which include:

- Confirming that the information supplied is sufficient for tracing purposes;
- Checking the firearm factory frame/receiver serial number against the ACC Firearm Transaction Database (FTD), which currently stores some 1.5 million records of historical firearm transactions and the CrimTrac Agency National Firearm Licencing & Registration System (NFLRS), which consists of records submitted by states/territories. If no record of the firearm is identified on the NFLRS then searches are made for the same make and model firearms that have similar serial number structure – this provides an important avenue for potential identification of these firearms; and

79 Mr Doug Smith, Chief Executive Officer, CrimTrac, *Committee Hansard*, 31 October 2014, p. 32.

80 S Bricknell, *Firearm trafficking and serious and organised crime gangs*, AIC, Research and Public Policy Series no. 116, June 2012.

81 ACC, *Submission 75*, p. 5.

- Contacting foreign law enforcement agencies where the firearm has been manufactured overseas and cannot be identified as recorded either in the FTD or NFLRS. In the case of US manufactured firearms the ACC can submit a firearm trace request to the USA Department of Justice. The ACC signed a memorandum of understanding with the Bureau of Alcohol, Tobacco, Firearms and Explosives in 2007 for the sharing of firearm related information, which also supports the United Nations Program of Action on Small Arms and Light Weapons for the tracing of illicit firearms.⁸²

1.93 The data obtained from the NFTD indicates the majority of illicit firearms investigated were diverted from the grey market.⁸³ The ACC nonetheless noted that 'theft, failure to reconcile the interstate movement of firearms, and the importation of undeclared firearms and firearm parts are all key components of the illicit market' and that the means of diversion varied depending on the type of firearm.⁸⁴

1.94 For investigated illicit long-arms (shotguns and rifles) the grey market was the main source (92 per cent of restricted and 86 per cent of non-restricted long-arms)⁸⁵ with theft from licensed individuals and dealers the next most common source (4 per cent of restricted long-arms and 10 per cent of non-restricted long-arms).⁸⁶ The AIC noted that other methods of supply include illicit domestic manufacture, false deactivation, failure to notify of interstate transfer and illegal import, though these accounted for very few of the long-arms recorded in the NFTD.⁸⁷

1.95 According to the AIC, the primary sources of illicit restricted handguns are false deactivation (39 per cent) and theft or loss (31 per cent).⁸⁸ Non-restricted handguns are most commonly diverted to the illicit firearms by theft or loss: 50 per cent of all non-restricted handguns are stolen from legal owners.⁸⁹ The ACC cited historical deactivation and technical loopholes, theft from licensed individuals and dealers, failure to reconcile the interstate movement of a firearm and importation of undeclared firearms and firearm parts as the main methods of diverting handguns into the illicit market.⁹⁰ The ACC gave further evidence that the theft of handguns was quite small and that while it estimates there are 10,000 handguns on the illicit market 7500 of these are deactivated firearms.⁹¹

82 ACC, *Answers to questions taken on notice*, received 17 November 2014.

83 ACC, *Submission 75*, p. 4.

84 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

85 AIC, *Submission 76*, p. 6.

86 AIC, *Submission 76*, p. 6.

87 AIC, *Submission 76*, p. 6.

88 AIC, *Submission 76*, p. 7.

89 AIC, *Submission 76*, p. 8.

90 AIC, *Submission 76*, p. 4.

91 Mr Jevtovic, ACC, *Committee Hansard*, 31 October 2014, p. 34.

1.96 While the NFTMP demonstrated that the majority of firearms lost or stolen constituted long-arms, with handguns only comprising 7 per cent of thefts between 2005-06 to 2008-09,⁹² data from the NFTD found that a significantly high proportion of handguns were seized from serious and organised crime groups (SOCG).⁹³

1.97 According to the AIC, 40 per cent of firearms seized from SOCG were rifles and 39 per cent were handguns.⁹⁴ The AIC remarked that 'SOCG and non-SOCG seizures contrasted in the prevalence of handguns, with a significantly greater proportion of handguns found in association with SOCG'.⁹⁵

1.98 The AIC's *Firearm Theft in Australia* reports were also cited during the course of the inquiry, for example by the ACC. However, as highlighted by the Firearm Safety and Training Council, this series of reports is not currently produced by the AIC with the *Firearm Theft in Australia 2008-09* report 'the last of a series of such reports funded by the Australian Government under the *Proceeds of Crime Act 2002*'.⁹⁶ The Firearm Safety and Training Council argued that unless funding is provided to the AIC for the production of the Firearm Theft in Australia reports, this 'valuable source of reliable information' will cease.⁹⁷

1.99 Other submitters to the inquiry were critical of data provided by the AIC, particularly in regard to its findings regarding the sources of illicit firearms. Some of this appears to arise from the complexity of the AIC's datasets (both the NFTMP and the NFTD) and the definitions used for different types of firearms. The AIC attempted to clarify:

Firstly, the grey market is only long-arms, so we cannot talk about handguns in that respect. Definitely a lot of them would have been imported legally into Australia before the firearm reforms and then entered the grey market with reforms that came in either because the owner chose not to register the firearm or because they were not aware of the reforms.

I think there is a sort of conflation between some of the figures and a misunderstanding of how they work together. Again, based on the firearm trace database, it indicated that the theft was an important conduit to the illicit firearm market. That somewhat straddles the firearm theft monitoring program data that we have which showed that handguns contributed about seven per cent of all stolen firearms that were reported each year. I would like to add that there has been a lot of focus on, 'It's only seven per cent of firearms that are reported stolen are handguns.' It is proportionate with the number of registered handguns in the country, as we have found with rifles and shotguns as well. Just because we are finding that only a small

92 AIC, *Submission 76*, p. 10.

93 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

94 AIC, *Submission 76*, p. 4.

95 AIC, *Submission 76*, p. 4.

96 Firearm Safety and Training Council, *Submission 73*, p. 3.

97 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 49.

proportion of handguns are being reported stolen I do not think there is necessarily a problem to show that it is an important conduit through to the illicit market. I do not think those figures are necessarily at odds with each other.⁹⁸

1.100 In terms of the completeness of data, the AIC noted that there was 'a high unknown response rate' (that is, untraceable firearms) with regards to the NFTD, predominantly with regards to long-arms.⁹⁹ The ACC stated that there are a number of reasons for this 'which include defaced serial numbers, the firearm having no record of being registered in Australia or overseas, or the trace analysis not being finalised pending further information from industry sources'.¹⁰⁰

1.101 Questions were also raised regarding the completeness of the NTMP statistics, with some jurisdictions not providing data for certain years or providing incomplete datasets. Yet, overall, the AIC seemed pleased by the level of co-operation provided by the state and territory police forces:

We have received excellent data, particularly from a number of jurisdictions. I would like to highlight Queensland in particular. Their data is excellent and has always been excellent in terms of the firearm theft monitoring program. It is very thorough. I must say the database that was developed for this monitoring program is extremely thorough. The data, for the most part, that we collected over that period of time has been complete and has allowed the analysis that we have done. But, as said, the majority of reported incidents that are included in the monitoring program are from private owners. Dealer stock, I think, represented less than 10 per cent. Then we have had the occasional theft from security organisations, and I think one or two from police. But for the most part it is from private owners.¹⁰¹

1.102 The AIC also confirmed that the study was based around reported firearm theft and therefore owners of unregistered or illegal firearms, or those who had failed to comply with the relevant storage requirements, were less likely to have reported their firearm stolen.¹⁰²

Need for more comprehensive data

1.103 A number of organisations called for stronger reporting requirements and more reliable data. For example, the Honourable Mr David Hawker shared his views regarding the dangers of inaccurate data:

One of the problems that you have, and will always have, with anything illegal is that your data is never going to be complete—in fact, it is going to be very incomplete—which means that it is wide open to interpretation and

98 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 49.

99 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 46.

100 ACC, *Submission 75*, p. 5.

101 Dr Bricknell, AIC, *Committee Hansard*, 31 October 2014, p. 49.

102 AIC, *Submission 76*, p. 9.

possibly exaggeration by vested interests. That in itself is something that has to be elicited through all the discussions. In the meantime, the bodies that could do more and have done more in the past, like the Institute of Criminology, have probably been discouraged from doing some of the work that they used to do.¹⁰³

1.104 The National Farmers' Federation (NFF) spoke about the importance to registered firearm owners of being able to protect their firearms from the criminal element and the need for more qualitative data:

I think one of the things that this inquiry really needs to get to is the data that is out there and available. There are statistics on guns, illegal gun use and gun theft, but there is not much qualitative data [about] what actually happens—how a gun actually falls into the wrong hands. Particularly when you are talking about regional areas and the farming community, if there is a concern around the current laws not already having their required effect because, for example, there is some issue with the use of gun safes or whatnot, that is something I think needs to be given some attention. There are good laws in place but, if gun thefts are happening...we need to understand why and how.¹⁰⁴

1.105 Mr Howard Brown, from the Victims of Crime Assistance League, stated that more data was certainly required to determine how firearms enter the illicit market:

...there has clearly been a great deal of discussion about the number of weapons that have been stolen from premises and used in the commission of crimes. There is such paucity of detail on that. According to the New South Wales Police submission, four per cent of handguns that were stolen were used in the commission of crimes. Is there a problem there or not? Clearly, four per cent is actually quite a small figure. If you go to the Victorian police, they have their own way of gathering data, so we do not know if we have a problem with the security of weapons or a problem elsewhere. Look at the last 2½ years in Sydney specifically. We have, unfortunately, become the drive-by capital of the world. We have had an enormous number of drive-bys and yet we know through the Integrated Ballistics Investigation System that the New South Wales Police use that a number of those weapons have been used on multiple occasions by different perpetrators, so you cannot say that that was caused by incorrect storage. But we still have the problem, and the person who has their house shot up does not really care whether the gun was stolen or brought into the country illegally. We need to determine what the cause of the problem is, because you cannot fix it unless you know what the problem is.¹⁰⁵

103 The Honourable David Hawker, *Committee Hansard*, 14 October 2014, p. 61.

104 Ms Sarah McKinnon, Manager, Workplace Relations and Legal Affairs, National Farmers' Federation (NFF), *Committee Hansard*, 13 October 2014, p. 18.

105 Mr Howard Brown OAM, Vice-President, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, pp 10–11.

Chapter 3

Development of 3D manufactured firearms

1.106 One of the most fascinating aspects of this inquiry was the issue of 3D manufacturing.¹⁰⁶ In particular, this inquiry was concerned with the development of 3D manufactured firearms.

1.107 While chapter 4 discussed the current situation with regard to the regulation of firearm parts and accessories more generally, this chapter will look at whether the current state and territory laws sufficiently cover 3D manufactured firearms and firearm parts.

What is 3D manufacturing?

1.108 In order to understand the impact that 3D manufacturing will have on society, it is important to first understand the concept. The World Intellectual Property Organization (WIPO) has provided a good explanation:

3-D printing, alias additive manufacturing (AM) or direct digital manufacturing (DDM), makes it possible to create an object by creating a digital file and printing it at home or sending it to one of a growing number of online 3-D print services. In the 3-D printing process, this digital blueprint, created using computer-aided design (CAD) software, is sliced into 2-dimensional representations which are fed through to a printer that starts building up an object layer by layer from its base. Layers of material (in liquid, powder or filament form) are deposited onto a 'build area' and fused together. This additive process, which minimizes waste because it only uses the amount of material required to make the component (and its support), is distinct from traditional "subtractive" manufacturing processes where materials are cut away to produce a desired form.¹⁰⁷

1.109 WIPO noted that there are a number of techniques used to print 3D objects:

A number of 3-D printing techniques exist. The first commercial 3-D print technology, stereolithography, was invented in 1984 by Charles Hull. Several other techniques have emerged since, including fused deposition modeling (FDM), selective laser sintering (SLS) and PolyJet Matrix. Some of these techniques involve melting or softening layers of material, others involve binding powdered materials and yet others involve jetting or selectively-hardening liquid materials.

The process of 'growing' objects layer by layer also means that, with 3-D printing, it is possible to create more intricate and complex structures than can be done using traditional manufacturing techniques.¹⁰⁸

106 In this report '3D manufacturing' and '3D printing' refer to the same manufacturing process and are used interchangeably.

107 C Jewell, '3-D Printing and the Future of Stuff', WIPO magazine, April 2013.

108 C Jewell, '3-D Printing and the Future of Stuff', WIPO magazine, April 2013.

1.110 While the concept of 3D manufacturing was originally developed for rapid prototyping purposes, developments which have improved its accuracy, speed and quality have led to it being used for a wide range of purposes:

The technology is already widely used to make jewellery and other bespoke fashion items, in dental laboratories to produce crowns, bridges and implants, as well as in the production of hearing aids and prostheses, offering patients a perfect fit. 3-D printing is particularly suited to low-volume, short production runs offering companies a more flexible, cost-effective and speedy alternative to traditional mass production methods.¹⁰⁹

1.111 Dr Angela Daly, from Swinburne University, spoke to the committee about the beneficial aspects of 3D manufacturing in a number of areas including manufacturing, industry, medicine and arts and design.¹¹⁰ She noted that it is probably at the industrial level where societies like Australia are benefiting the most from 3D printing.¹¹¹

1.112 Mr Michael de Souza, the Chief Executive Officer of the Australian 3D Manufacturing Association, spoke about some of the developments that have occurred, particularly in biomedical fields:

At the ANFF in Wollongong, we are world leaders in what we call additive manufacturing and additive research and development. The additives are the 'inks', as they are referred to. You are talking about absolutely anything that you can touch, see, breathe or feel. It is already at a molecular level, because everything base carbon, and once you break it down to a molecular level and begin to rebuild it, you can produce anything as an ink. They have managed to print live human cells. Prior to that, you could print the cell—a plant cell, animal cell or human cell—but the issue has been that the printing process kills the cells. There is now a way, developed by Gordon Wallace at Wollongong University, to actually protect that cell in a gel and, as the cell or cells begin to reproduce and collectively join a matrix, that gel dissolves and away you go. So you have human, animal, and plant tissue regenerating itself, which is of course fantastic for organs, burn victims' skin and all sorts of things like that.¹¹²

1.113 As part of its inquiry, the committee had the opportunity to visit Objective 3D, a commercial 3D manufacturing facility in Melbourne. While there, the committee learnt about the important role 3D manufacturing is playing with respect to Australia's broader manufacturing industry.

109 C Jewell, '3-D Printing and the Future of Stuff', WIPO magazine, April 2013.

110 Ms Angela Daly, Postdoctoral Research Fellow, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 20.

111 Ms Daly, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 20.

112 Mr Michael De Souza, CEO, Australian 3D Manufacturing Association (A3DMA), *Committee Hansard*, 31 October 2014, p. 24.

1.114 Examples were given of some of the many products which can now be printed, including prosthetic limbs for amputees and anatomical models for use by medical students. Anatomical models have also been used for pre-operative planning, for example, in the case of conjoined Bangladeshi twins Krishna and Trishna, a bespoke 3D printed model was used by doctors to plan surgery to separate their fused brain and skull tissue.

1.115 The committee toured Objective 3D's facility and viewed a number of 3D printers, including one in action (see Figures 6.1 and 6.2). Due to technological advancements, 3D printers have both increased in their sophistication as well as reduced in cost (some printers are now a third of the cost of those a decade earlier). The committee was fascinated to observe the processes used to manufacture 3D items and would like to thank Mr Matt Minnio of Objective 3D for his time and expertise.

Figure 3.1: Committee members inspect a 3D printer



Figure 3.2: Viewing a 3D printer in action



The development of 3D printed firearms

Current situation

1.116 The invention and expansion of 3D manufacturing means that the production of firearms in this way is now a reality. The Australian 3D Manufacturing Association noted that 'as 3D printers and manufacturing processes have become increasingly available worldwide, so too have 3D printed firearms components and accessories'.¹¹³

1.117 It was suggested to the committee that 3D manufactured firearms currently do not pose a particularly high risk to the community.

1.118 Mr Nicholas Jenzen-Jones, Director of Armament Research Services (ARES) commented that 3D manufactured firearms had started to gain significant media attention when Defense Distributed built its fully printable, single-shot polymer "Liberator" handgun.¹¹⁴ He emphasised that while the idea of being able to instantly print a firearm sounded alarming, at this stage, a degree of expertise is still required:

I think it is really important for me to stress that the state of technology, as it stands today, is not click, print and fire. You cannot simply download a

113 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 5.

114 Mr Nicholas Jenzen-Jones, Director, Armament Research Services (ARES), *Committee Hansard*, 31 October 2014, p. 5.

file, hit print on your printer and come out with a functional firearm. There is a degree of hand-finishing, there is a level of technical expertise, I understand, that is involved in producing the firearm in the first place; and, of course, once it is complete, there is no guarantee that it is going to function correctly unless it is correctly assembled and so on. So, while it does perhaps remove from the watchful eye of law enforcement some of these people and their ability to purchase or acquire firearms, it is not distinctly different from people being able to go to the hardware store, purchase components there and assemble them in their backyards.¹¹⁵

1.119 He also advised the committee that manufacturing 3D firearms from metals remained rare and was incredibly expensive:

There are functional handguns available commercially in very small numbers in the United States that have been produced almost overwhelmingly using the direct metal laser sintering process. It is not economically viable. Those handguns sell for US\$11,900 each, where a comparable handgun, in terms of capability and design, can be purchased in the United States for about US\$300 or US\$400. Clearly, there is a big gap there. The biggest hurdle for a criminal organisation or a non-state armed group seeking to produce metal 3D-printed firearms would be the cost of the printers themselves. Currently they are not economically viable for the consumer grade.¹¹⁶

1.120 ARES also discussed the possibility of whether criminals and armed groups were already using 3D manufactured guns as part of their operations.¹¹⁷ ARES found that such groups, including those operating in Australia, already 'routinely produce a range of improvised firearms from various materials using traditional or improvised manufacturing methods'.¹¹⁸ ARES argued that these weapons have more advanced capabilities than 3D printed firearms produced outside defence facilities, and that there is not yet a demand for 3D printed firearms:

At this stage the only benefits that an economically viable 3D printed weapon may hold for an individual or a non-state group seeking illicit weapons lie in their untraceable nature and the polymer construction that prevents many common screening devices from detecting them—for example, in order to smuggle a weapon inside a secured area. When the costs of purchasing or producing 3D printed firearms are considered, together with their operational limitations, traditional firearms purchased on the black market and those produced by traditional manufacturing methods illegally are likely to remain all the more appealing to individuals and non-state armed groups for the foreseeable future. Barring significant technological advances, advanced 3D printed metal firearms will remain

115 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

116 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 7.

117 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

118 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

beyond the reach of those seeking illicit weapons for many years to come.¹¹⁹

1.121 The Australian 3D Manufacturing Association agreed with this assessment:

I think the most important thing to note is that the media has somewhat sensationalised the gun story. The important thing is the fact that today, in the real world, with respect to the technology that is available for producing a gun—I am talking about outside; let us discount people like the US military and all these people we do not even know and will probably never know for years are doing—you would need several million dollars, several very clever designers, employees, engineers, scientists to be able to create a genuine weapon that would be effective. The devices that can be created today—you have seen this in the media and the police have tested these products—are more likely to kill you than the person you are aiming the device at. Can they be called a gun? You put a bullet in it so, if you want to call it a gun, okay, but where that bullet is going to go is debatable. With today's technology, could someone do it at home? No, not really. Would it be effective? No. Would it be accurate? No. Would I fire it? Absolutely not. I would not be anywhere near it. With today's technology, and keeping it in the topic of discussion, our position is that with the equipment, the machinery, the printers that are available today it is not reasonable to say that you could produce a gun per se that could do that sort of damage.¹²⁰

1.122 The Australian Crime Commission (ACC) stated that it 'has not identified or been informed of law enforcement discoveries of 3D fabricated firearms being used or made by criminal entities in Australia'.¹²¹

Future challenges

1.123 While the use of 3D manufactured firearms in criminal activities appears at present to be negligible, some witnesses identified possible challenges for law enforcement with regards to firearms produced in this way.

1.124 The Victims of Crimes Assistance League argued that criminal groups are already exploring the uses of 3D manufacturing technology and this is of significant concern:

My concern with 3-D printing is not with responsible manufacturers at all. My concern goes to people such as outlaw motorcycle gangs. I am not sure whether the committee is aware, but as recently as last week police arrested three people in the outer western Sydney region who were involved in the manufacturing of illicit firearms, and they were using small die-cast equipment and foundries to manufacture illegal firearms. That is my concern with the 3-D printing. We have looked at the examples cited by Andrew Scipione, for example, with one of the handguns where after the second shot the weapon tended to explode in your hand, which I would

119 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

120 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 22.

121 Australian Crime Commission (ACC), *Submission 75*, p. 6.

have thought would have been somewhat of a disincentive. However, as I said, criminals are not particularly bright, so it may be they do not understand that.¹²²

1.125 This was a view shared by Victoria Police, which stated 'we have varying organised crime groups—Middle Eastern organised crime, outlaw motorcycle gangs—that are quite innovative and adaptive in their approaches to their organised crime activities'¹²³ and:

As technology is refined, and with 3D printers and other machines like a computer numerical control (CNC) machine becoming more readily available and affordable, it is likely that 3D printing of firearms will increase, posing a significant risk to community safety and law enforcement agencies.¹²⁴

1.126 The United Nations Secretary-General has also acknowledged in a recent report that while 'weapons theft or purchase on the illicit market may require less effort than printing an effective, reliable weapon', this may change once production costs decrease and the quality of 3D printed firearms improves.¹²⁵

1.127 The ACC predicted that advances in technology could lead to 3D manufactured firearms posing more of a threat:

The ACC has assessed that 3D fabricated firearms will probably pose a low threat for at least the next two years. This is because of the current limitations of technology result in a low quality product, firing capability is unreliable, and development is complex and costly. However, decreased costs and advances in technology associated with machinery and manufacturing programs sourced from the internet will likely increase the quality of illicitly manufactured firearms and components within Australia in the future.¹²⁶

1.128 The Australian Federal Police (AFP) also noted that the technology was advancing quite quickly and at some point would 'allow the production of metal objects similar to the way that plastic ones are currently produced'.¹²⁷

122 Mr Howard Brown OAM, Vice-President, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, pp 11–12.

123 Detective Superintendent Peter De Santo APM, Commander, State Anti-Gangs Division, Victoria Police, *Committee Hansard*, 13 October 2014, p. 58.

124 Victoria Police, *Submission 389*, p. 3.

125 United Nations General Assembly, *Report of the Secretary General: Recent developments in small arms and light weapons manufacturing, technology and design and implications for the implementation of the International Instrument to Enable States to Identify and Trace, in a Timely and Reliable Manner, Illicit Small Arms and Light Weapons*, 6 May 2014, p. 5.

126 ACC, *Submission 75*, p. 6.

127 Assistant Commissioner Julian Slater, National Manager, Forensics, Australian Federal Police (AFP), *Committee Hansard*, 31 October 2014, p. 74.

1.129 Queensland Police confirmed that these concerns are a reality and described a recent property search that led to the discovery of 3D printed weapons parts:

The search resulted in investigators recovering a loaded sawn off .22 calibre rifle. The firearm, previously a long arm (rifle), had been modified to enable it to be concealed on a person. The search also resulted in officers locating four plastic bags containing major component parts for firearms. The component parts included the receiver, trigger assembly and cylinder/barrel. Officers identified there were sufficient parts to construct four concealable weapons, each constructed to hold and discharge up to six .22 calibre projectiles. The weapons parts had been manufactured through the utilisation of a 3D printer, where the devi[c]e would 'print' the component parts for assembly by the user. Officers also located a set of knuckle dusters which had also been 'printed' by the device.¹²⁸

1.130 The 3D printed firearms parts located by Queensland Police were able to be fired:

The defendant admitted he had constructed and test fired one of the weapons, indicating it had worked and discharged a .22 calibre round. The defendant had however strength issue in the 'printed' model and had set about rectifying the problem by re-enforcing the cylinder with metal tubing. The inclusion of this metal tubing would mean the weapon could have been reloaded and repeatedly used.¹²⁹

1.131 Significant concerns associated with 3D manufactured firearms and firearm parts produced from polymer resin are their disposable nature and the difficulty of detecting them with traditional methods. ARES spoke about these challenges,¹³⁰ informing the committee that not only are 3D manufactured firearms easy to replace, they are 'comparatively easy to incinerate'.¹³¹

1.132 ARES also discussed whether 3D manufactured firearms are able to be detected using traditional means such as metal scanners, body scanners and X-ray:

The polymer 3D printed firearms in particular such as the Defence Distributed Liberator have already been successfully smuggled into a few secure locations—primarily by journalists seeking to test the security mechanisms. There are some technologies for which the polymer nature of the handgun will allow the weapon to be brought into secure areas. These are primarily metal detectors. Whilst these polymer frame handguns cannot be detected by metal detectors, they can still be detected by X-ray machines and backscatter X-ray body scanners.¹³²

128 Queensland Police, *Answer to written questions on notice*, received 25 February 2015.

129 Queensland Police, *Answer to written questions on notice*, received 25 February 2015.

130 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

131 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 6.

132 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 70.

1.133 Dr Daly commented that technological advances have allowed anyone who has access to a 3D printer, raw material and the relevant design files to make an undesirable object:

The problem for regulation and enforcement of the law with regard to these objects, whether we are talking about laws relating to control of weapons, health and safety laws or even intellectual property laws, is the decentralised nature of 3-D printing. The whole 3-D printing process can essentially take place in the privacy of individuals' homes. One way of regulating the 3-D printing process might be to target entities such as the printer manufacturers; the design repositories, which tend to be websites where people upload 3-D printing designs and others can download them; and internet service providers, given that a lot of this process happens online. One way of regulating might be to ensure that they must only handle certain kinds of approved files.¹³³

1.134 Dr Goldsworthy acknowledged that 3D manufacturing highlights a number of issues for law enforcement authorities and, given the availability of the technology and the motivation for criminals to manufacture 3D printed firearms, the government should be on the front foot.¹³⁴ The regulation of 3D printed firearms is discussed in the next section.

Regulation of 3D firearms

1.135 As with the majority of technological developments, 3D manufacturing offers not only exciting and hugely beneficial possibilities for the community, it also poses challenges for governments and law enforcement authorities. Before additional measures and controls are imposed, it is important to examine the state of the existing legislation.

Current legislative framework

1.136 There is currently no Australian legislation that goes specifically to regulating 3D printers and associated materials. As the ACC stated:

3D printers and materials are not subject to federal regulations as they have widespread legitimate applications. There is no offence in possessing or using a 3D printer. The ACC notes that firearms produced using new technologies are still subject to the licensing and registration requirements with any other firearm.¹³⁵

1.137 Internationally a number of instruments apply, as ARES explained:

Rapid advances in 3D printing technology and their increased application in the manufacture of firearms and firearms components raises a number of legal, normative and law enforcement questions. In general, national,

133 Ms Daly, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 17.

134 Dr Terry Goldsworthy, Assistant Professor, Criminology, Faculty of Society and Design, Bond University, *Committee Hansard*, 14 October 2014, pp 17–18.

135 ACC, *Submission 75*, p. 6.

regional and international controls apply to 3D printed firearms in the same way they apply to traditionally manufactured firearms. New technology will pose new challenges for law enforcement, however.

It is important to note that 3D manufacturing will not render current international and national controls on firearms obsolete. It may, however, make applying these norms more challenging. As additive manufacturing technologies continue to improve and become more readily available to private individuals, the enforcement of firearm manufacturing regulations will become increasingly difficult. Additive manufacturing techniques could be used to produce controlled accessories or components.¹³⁶

1.138 Some witnesses suggested that Australia's existing firearms laws would apply equally to 3D printed firearms. The Attorney-General's Department (AGD) stated that:

...our understanding of this area of 3D printing or creating of firearms is that it would be treated no differently to traditionally manufactured firearms, and that importation, manufacture or possession of a 3D printed firearm, without a licence, would be illegal in Australia.¹³⁷

1.139 The Law Institute of Victoria (LIV) considered this issue carefully and found that the manufacture of firearms by way of 3D manufacturing was likely to be considered an offence in all Australian jurisdictions:

It appears that the current firearms statutes (and, where relevant, weapons statutes) in combination with the Customs Act 1901 and import regulations sufficiently covers the possession and manufacture of all firearms, including those made with the use of 3D printers or from separately imported parts.¹³⁸

1.140 However, the LIV also noted that due to each state and territory having its own laws with regards to the registration of firearm parts and the manufacture of firearm parts, it is impossible to be certain without judicial consideration whether the legislation in all Australian jurisdictions will sufficiently cover 3D manufacturing of firearms.¹³⁹ Given these jurisdictional inconsistencies and the rapid changes in 3D manufacturing, the LIV recommended 'that it would be desirable to introduce and implement a uniform set of regulations in all Australian jurisdictions'.¹⁴⁰

136 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 5.

137 Ms Catherine Smith, Assistant Secretary, Crime Prevention and Federal Offenders Branch, Attorney-General's Department, (AGD) *Committee Hansard*, 31 October 2014, p. 59.

138 Law Institute of Victoria (LIV), *Submission 124*, p. 11.

139 LIV, *Submission 124*, p. 7.

140 LIV, *Submission 124*, p. 11.

Suggestions for further regulation

1.141 It was the view of some submitters that the law needs to keep pace with technological advances. For example, the Australian 3D Manufacturing Association stated:

I think the fact that we have seen over the past 20-odd years the problems that have occurred with trying to regulate the internet and put laws in place. I think part of that was because we started way too late. If we can work collaboratively today and develop standards from the get-go, then we are going to be in a much better position to be able to look at those things as the years go by.¹⁴¹

1.142 As noted in paragraph 6.32, a number of international instruments apply to 3D printed firearms in the same way they do to traditionally manufactured firearms, but the development of 3D manufacturing technology will pose new challenges for law enforcement.¹⁴²

1.143 The Victims of Crimes Assistance League shared a similar view:

Until we can keep pace with that, we are going to have a situation where someone is going to be shot and injured with the use of a 3-D device, and we are going to have all sorts of problems getting that matter through the courts because of the failure of the courts to keep pace with that technology. We need to address it, and we need to address it before it becomes a problem, not after it becomes a problem, which is traditionally what the law does.¹⁴³

1.144 Submitters were generally opposed to either banning, or introducing a character test, for the ownership of 3D printers. The LIV noted that this was a 'drastic option' and that it 'would caution against introducing new legislation that is so broad and encompassing that it addresses every possible scenario in the future'.¹⁴⁴

1.145 Dr Goldsworthy noted that by preventing people from engaging in illegal activity, you would also prevent beneficial discoveries for society:

...3-D printers are multipurpose and most of them are quite legitimate and not illicit. So therein lies the problem of how you regulate something that is going to be used quite legitimately in most of the opportunities versus the small amount of times it may be used inappropriately. I think that is the real challenge we are facing here.¹⁴⁵

141 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 24.

142 Mr Jenzen-Jones, ARES, *Committee Hansard*, 31 October 2014, p. 5.

143 Mr Brown OAM, Victims of Crime Assistance League, *Committee Hansard*, 13 October 2014, p. 14.

144 Mr Albert Yu, Co-chair, Young Lawyers Section, Law Reform Committee, LIV, *Committee Hansard*, 14 October 2014, p. 15.

145 Dr Goldsworthy, Bond University, *Committee Hansard*, 14 October 2014, p. 18.

1.146 Dr Daly similarly cautioned against over-regulation:

...any attempt to regulate 3-D printing: that it would be largely ineffective and disproportionate to the potential harm of dangerous objects, such as guns. I propose that, due to some concern about guns, we should not allow a moral panic to stifle the large benefits from 3-D printing for society at large. There should be some hard evidence regarding the prevalence of 3-D printed weapons and the threat of these weapons to Australia before any new legislation is considered. There would also need to be consideration given to whether any such regulation would be effective in practice.¹⁴⁶

1.147 However, in her submission, Dr Daly suggested three possible ways in which 3D printing could be more moderately regulated:

- use of 'gatekeepers': place obligations on 3D printer manufacturers and online design repositories to only allow for approved files to be used on their machines or present in their folders through technical protection measures;
- private regulation: examples include Danish 3D printing firm Create It REAL which recently announced it had developed a firearms component detection algorithm which can give 3D printers the option to block gun parts, and the decision of Mega to take down the Liberator gun blueprint; and
- role of internet service providers: require companies to report when users download 3D printing design files that relate to firearms.¹⁴⁷

1.148 The LIV was supportive of similar approaches,¹⁴⁸ while Dr Goldsworthy noted that recent proposed changes to Australia's telecommunications regime could be used to regulate 3D printing.¹⁴⁹

Copyright and intellectual property

1.149 The rapid development of 3D manufacturing technology offers huge benefits to the community in terms of industry, medicine, creativity and many other areas of human endeavour. It is also clear that it poses challenges for law makers and law enforcement authorities when it comes to the manufacture of potentially dangerous items such as firearms, as has been discussed elsewhere in this chapter. During the course of the inquiry, it also became apparent that 3D manufacturing technology will pose challenges with respect to copyright and other intellectual property issues.

146 Ms Daly, Swinburne Institute for Social Research, *Committee Hansard*, 14 October 2014, p. 17.

147 Ms Daly, *Submission 393*, pp 4-5.

148 LIV, *Submission 124*, pp 8-9.

149 Dr Goldsworthy, Bond University, *Committee Hansard*, 14 October 2014, p. 19.

1.150 The Australian 3D Manufacturing Association explained:

Although 3D manufacturing has been around for many, many years, it is only due to the lapse of patents and copyrights recently that has brought the technology into the fore...It is such complex technology. As I alluded to before, it has come to the fore because of the lapse of copyright, patents and all of these things that were not previously in the public domain. You would have had to pay millions, tens of millions of dollars to get hold of the technology. All of that technology is now coming out into the public domain.¹⁵⁰

1.151 The committee considers these issues are beyond the terms of reference for this inquiry. On that basis, the committee believes that there is scope for a further and more extensive inquiry into 3D manufacturing technology and the opportunities and challenges it offers.

150 Mr De Souza, A3DMA, *Committee Hansard*, 31 October 2014, p. 22.

Chapter 4

ADDITIONAL REMARKS

1.152 The majority of Senators attending the inquiry welcome the Chair's comments that it was not the intention of the inquiry to target law-abiding firearms owners through this inquiry. The Committee heard evidence that lawful use of firearms has a wide range of economic, social and environmental benefits to the Australian community which deserve to be promoted to counteract the myths about them which are perpetuated by some in the community.

1.153 One of the difficulties encountered by this inquiry has been the inability of the Committee to ascertain, with any degree of certainty, where the majority of the illicit guns originate and the size of the illegal gun market.

1.154 Notwithstanding that difficulty, the evidence provided by witnesses including law enforcement agencies, confirmed that most guns used in the commission of crime do not originate from licensed firearm owners.

1.155 No case was made to the committee for any increased regulation around gun ownership laws. In particular there was no evidence to show that:

- banning semi-automatic handguns would have any material effect on the number of illegally held firearms in Australia;
- stricter storage requirements and the use of electronic alarm systems for guns stored in homes would have any impact on gun-related violence; and
- anomalies in federal, state and territory laws regarding the ownership, sale, storage and transit across state boundaries of legal firearms has any material impact on gun-related violence in the community.

1.156 It is also unfortunate that the joint report of the Department of Prime Minister and Cabinet and NSW Premier and Cabinet on the Martin Place siege was referenced in the Chair's report, since it was not mentioned by any witness or considered by the committee as part of this inquiry.

Misinformation not helpful

1.157 Despite the acknowledged deficiencies in the data available, the Chair of the inquiry has unfortunately made comments in the media about the size of the illegal gun market and its impact on crime in the community. Many of the claims made were not substantiated by the evidence to the inquiry, particularly regarding the source of illegal guns and legal gun owners in Australia.

1.158 Claims made in the media by the Chair, which The majority of Senators attending the inquiry believe are not substantiated by the evidence, include:

- most illegal guns are not trafficked into Australia, but stolen from registered owners;¹⁵¹ and
- many illicit firearms are actually stolen from legitimate sources or taken from the grey market, including the gun used in the Sydney siege.¹⁵²

1.159 The hypothesis that illegal guns are mainly stolen from registered gun owners was not supported by the evidence presented to the Committee.

Data Deficiencies - The size and operation of the illicit firearms trade

1.160 The Committee heard evidence from a number of organisations in Australian jurisdictions about the size and distribution of the illegal firearms market within Australia. The lack of reliable data on the size of the illicit (or black) and grey market means that currently it is impossible to accurately assess the extent of the problem.

1.161 The Sporting Shooter's Association of Australia asserted that the data presented by the Australian Institute of Criminology (AIC) and Australian Crime Commission (ACC) are unreliable because they:

...have been supplied, unintentionally, with data, contaminated at best, and rubbish at worst, from South Australia, Western Australia and Victoria...skewing results and leading to a misunderstanding of the legal and illegal firearms landscape.¹⁵³

1.162 The majority of Senators attending the inquiry do not accept evidence provided by the ACC which estimated the number of illegal firearms in the community at 260 000, including 250 000 long-arms and 10 000 handguns.¹⁵⁴

1.163 This figure is taken from the Final Report of the National Investigation into the Illegal Firearms Market. These estimated 260 000 illicit firearms were supposedly based on a tracing analysis of 3186 weapons seized by law enforcement agencies.¹⁵⁵

1.164 There are issues with this data that bring its reliability and validity into serious question. Firstly, this sample size was revealed to be much smaller than the ACC report first indicated based on 2119 firearms not 3186.¹⁵⁶ In addition, it is unclear

151 Media Release, Senator Penny Wright, *Abbott's mandatory sentencing plan won't fix gun crime*, 4 July 2014 at <http://penny-wright.greensmps.org.au> (accessed 9 April 2015).

152 Media Release, Senator Penny Wright, *Mandatory minimums wrong way to address gun crime*, 15 March 2015 at <http://penny-wright.greensmps.org.au> (accessed 9 April 2015).

153 Mr Geoffrey Jones, Sporting Shooters' Association of Australia, *Committee Hansard*, 31 October 2014, p. 10.

154 Mr Paul Jevtovic, Australian Crime Commission, *Committee Hansard*, 31 October 2014, p. 34.

155 Media Release, The Hon. Jason Clare MP, *Final Report of the National Investigation into the Illegal Firearms Market*, 29 June 2012.

156 National Firearm Dealers Association Inc., *Submission 85*, p. 6.

whether a third of these firearms can be classed as illicit considering 33.5 per cent of the traces had an unknown method of diversion due to insufficient information.¹⁵⁷

1.165 The majority of Senators attending the inquiry agree with Mr Rossi, President of the National Firearms Dealers Association:

Policy and research ought to be underpinned by comprehensive, accurate, verifiable and transparent data. We believe that any policy based inquiry must be built on these foundations. In the case of firearm and shooter issues, this is not the case. That includes the issues that are the subject of this inquiry.¹⁵⁸

1.166 Accordingly it is not advisable for the Committee to make any recommendations based on flawed evidence. Further developments in policy should be focussed on further research in this area.

Data Deficiencies - Theft of firearms

1.167 The data on the number of stolen firearms provided by the AIC is dependent on the reliability of data provided to it by the state authorities, which cannot be relied upon for the following reasons:

- Some jurisdictions did not provide data for all collection years or did not provide the full complement of data requested for individual years. For example, the data for stolen firearms excludes Western Australia for 2007-08;¹⁵⁹
- Victoria inadvertently recorded firearm parts as actual stolen firearms;¹⁶⁰ and
- The numbers were inverted by accident to read 41 300 handguns rather than 14 300 being licensed in South Australia.¹⁶¹

1.168 There was no evidence presented to the Committee which demonstrated a significant problem with stolen firearms being used for criminal activity:

- Data provided by state and territory police indicated that firearms from a very small percentage of theft incidents (less than 5 per cent) reported in the four year period 2005-06 to 2008-09 were subsequently used to commit a criminal offence or found in the possession of a person charged with a non-firearm related criminal offence;¹⁶² and

157 Media Release, The Hon. Jason Clare MP, *Final Report of the National Investigation into the Illegal Firearms Market*, 29 June 2012.

158 Mr Luca Scribani, President, National Firearm Dealers Association Inc., *Committee Hansard*, Tuesday 14 October 2014, p. 28.

159 Australian Institute of Criminology, *Submission 76*, p. 9.

160 Mr Geoffrey Jones, Sporting Shooter's Association, *Committee Hansard*, 31 October 2014, p. 13.

161 Sporting Shooter's Association, *Submission 58*, p. 4.

162 Australian Institute of Criminology, *Submission 76*, p. 10.

- ...there are very few firearms that have been stolen and subsequently used in illegal acts or established as coming from a pathway from a registered firearm owner, through theft, into a recorded crime.¹⁶³

1.169 During the public hearing, Dr John Lott gave evidence in relation to an AIC report which showed that one in every 2500 guns were stolen, a rate of four hundredths of one per cent. Of the 664 guns stolen as described in the report, three were used in the commission of a crime. Dr Lott argued that by any measure the costs of firearms regulation greatly outweighs any expected benefits.¹⁶⁴

1.170 According to the ACC an average of 1545 firearms per annum was reported stolen during the period 2004-05 to 2008-9. The majority of reported stolen firearms are rifles, followed by shotguns. Handguns generally make up less than 10 per cent of stolen firearms.¹⁶⁵

1.171 The committee heard that even though the current price of an illegal handgun was up to \$15 000, there had been no rise in gun thefts from licensed gun owners.¹⁶⁶

The Law Enforcement Response to Illegal Firearms

1.172 Some witnesses claimed that firearms reform in Australia over the last two decades had helped to significantly reduce the misuse of firearms with firearm related homicide in Australia down from 31.9 per cent in 1998 to 18.9 per cent in 2013.¹⁶⁷

1.173 Others asserted that similar declines had been observed in countries that did not adopt Australia's approach to gun control, including New Zealand.

1.174 Moreover, it is noted that knives continue to be the most commonly used weapon in homicides, not guns, with 42 per cent of all homicide incidents in 2010–11 involving knives/sharp instruments compared with 14 per cent involving the use of a firearm.¹⁶⁸

1.175 Since 1996 there has been a national approach to the regulation of firearms, resulting from the 1996 National Firearms Agreement, the 1996 Firearms Buyback, the 2002 National Firearms Trafficking Policy Agreement and the National Handgun Control Agreement. This has led to a large degree of consistency between Australian

163 Mr Gary Bryant, General Manager, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 5.

164 Dr John Lott, Crime Prevention Resource Centre, *Committee Hansard*, 31 October 2014, p. 3.

165 Australian Crime Commission, *Submission 75*, p. 4.

166 Det. Chief Supt Ken Finch, Organised Crime Directorate NSW Police, *Committee Hansard*, 13 October 2014, p. 45.

167 Ms Catherine Smith, Attorney General's Department, *Committee Hansard*, 31 October 2014, p. 52.

168 Willow Bryant & Tracy Cussen, *Homicide in Australia: 2010–11 to 2011–12: National Homicide Monitoring Program report*, Australian Institute of Criminology, Monitoring Report 23, p. vi.

jurisdictions in dealing with illegal firearms. In their submission the Attorney General's Department stated that:

...the adoption of the Agreements... by the States and Territories represents a significant achievement in developing a consistent national approach to the regulation of firearms and firearm-related articles.¹⁶⁹

1.176 The claim in the Attorney General's Department submission that the lack of a uniform approach to gun control in Australia prior to 1996 was a significant factor in the diversion of firearms to the illicit market was not supported by any evidence.

1.177 There were, and still are, ample opportunities for firearms to be acquired for criminal purposes and no reason was offered to suggest how that the differences between states had ever been a major contributor to this.¹⁷⁰

1.178 Mr Tim Bannister, CEO of the Sporting Shooters Association of Australia, argued that the focus of the NFA was flawed:

The concept of government registries and manually generated permits to acquire and the like is nothing more than a holdover from a time before electronic data retention, and it is not only completely ineffective but incredibly expensive to maintain. However, here in Australia the vast majority of state and federal law enforcement resources and strategies are now, and have been for the past 18 years, mistakenly focused on spending massive amounts of their time and efforts on monitoring and restricting the activities of just one sector of our society, the licensed firearms owners, which every statistic and every example show are responsible for almost no gun related violence.

1.179 The Attorney-General's Department noted that while there were sometimes 'calls for the Commonwealth to take over the entire regulation of firearms... experience has shown that State and Territory governments are the most appropriate level of government' to manage gun related issues.¹⁷¹

1.180 The majority of Senators attending the inquiry welcome initiatives under CrimTrac's 'National Firearms Interface' program that are designed to improve data collection standards.

Importation of illegal firearms

1.181 The Committee found that it was not possible to accurately assess the source of the importation of illicit firearms and firearm parts into Australia. The Government is urged to focus on continuous improvement in border control processes to assist in detecting illegal imports of firearms and firearm parts.

1.182 The recent Auditor General's Report into the Screening of International Mail showed that screening processes may require some improvements. The Auditor General stated that:

169 Attorney-General's Department, *Submission 42*, p. 5.

170 Mr Graham Park, Shooters Union of Australia, *Committee Hansard*, 31 October 2014, p. 10.

171 Attorney-General's Department, *Submission 42*, p. 5.

The ANAO's analysis of data from the agency's sampling program indicated that around only 13 per cent of prohibited imports arriving in international mail were seized in 2012-13. Customs advised that it now considers the implementation of its sampling program was flawed, raising questions about the integrity of its sampling data.¹⁷²

1.183 The Committee heard evidence from the Australian Customs and Border Protection Service about its increased focus on screening international mail, air cargo and sea cargo to detect illegal imports of firearms.¹⁷³

1.184 The NSW Police agreed that illegal imports contribute to the presence of firearms in the community:

The fight against illegal gun crime must start at the nation's borders. The day to day experience of front line police in NSW suggests that the illegal importation of firearms, especially modern handguns and assault rifles, is a key driver of gun crime in NSW.¹⁷⁴

3D printers

1.185 Evidence was given that firearms and/or parts can be produced by a reasonably proficient handyman in his home workshop. While 3D printers may be of assistance in carrying out this task they were by no means integral to the illegal manufacture of firearms.

1.186 Evidence received by the committee indicated that Commonwealth, State and Territory laws relating to the import and manufacture of firearms or firearm parts, including by 3D printers, was sufficient to enable prosecution of any offence.

1.187 The majority of Senators attending the inquiry agrees that State and Territory governments should continue to regulate firearms but acknowledges that data sharing between jurisdictions would contribute to greater effectiveness.

Banning semi-automatic handguns

1.188 No evidence was received that banning semi-automatic handguns would have a material effect on the number of illegally held firearms in Australia or the level of gun violence. The relatively small number of handguns stolen each year, of which only a portion are semi-automatics, suggests a complete ban would make no difference to gun violence. Evidence was received that a ban on semi-automatic handguns would have a significant effect on sporting shooters including Olympic and Commonwealth Games participants.¹⁷⁵

172 The Auditor-General, *Audit Report No.42 2013-14: Performance Audit, Screening of International Mail by the Department of Agriculture and Australian Customs and Border Protection Service*, pp 17-18.

173 Mrs Karen Harfield, Australian Customs and Border Protection Service, *Committee Hansard*, 31 October 2014, p. 61.

174 Justice Cluster, NSW Government, *Submission 391*, p. 1.

175 Sporting Shooter's Association Australia, *Submission 58*, p. 8.

1.189 Victoria and NSW police did not seek further regulation but wanted more resources for compliance activities. Victoria Police evidence revealed that the majority of semi-automatic handguns seized are from criminals who are prohibited from owning. It was not clear that a ban on semi-automatic handguns would diminish their ability to obtain such handguns.¹⁷⁶

Stricter storage requirements

1.190 There was no credible evidence provided to support the conclusion that the use of electronic alarms on residential gun safes would materially enhance the security of stored firearms.¹⁷⁷

The Economic, Environmental and Social Benefits of Legal Firearm Use

1.191 The committee heard from several witnesses and received written submissions describing the wide range of benefits to the Australian community of the lawful use of firearms. Responsible recreational shooting and hunting is a culturally important activity and legitimate industry that creates jobs and injects significant funds into the economy. Farmers use firearms as a 'tool' of their trade for the control of pests who wreak havoc on the environment and the humane treatment of stock.

1.192 The committee did not seek to address the economics of a failure to control illicit firearms or the financial and resource costs involved in monitoring and enforcing firearms laws and their impact on legal firearms owners.

1.193 The committee heard that there is no direct mechanism for shooting groups and the firearms industry to be consulted since the abolition of the Commonwealth firearms advisory committee.

Hunting

1.194 Game hunting provides significant social and cultural benefits to our nation. An independent study by the University of Queensland demonstrates that the benefit of recreational hunting to the economy is at least \$1 billion. The number of recreational hunters in Australia was calculated to be at least 200 000, but more likely 300 000.¹⁷⁸

1.195 Evidence received from the Sporting Shooters' Association of Australia conservatively estimates the contributions of hunting, pest control activities, farming and the shooting sports to be between \$1.25 and \$1.5 billion per annum.¹⁷⁹

1.196 The Victorian Government estimates that the total economic impact of game and pest animal hunting by game licence holders in 2013 was worth \$439 million to

176 Victoria Police, *Submission 389*, p. 4.

177 Sporting Shooter's Association Australia, *Response to Question on Notice*.

178 Sporting Shooter's Association Australia, *Response to Question on Notice*.

179 Sporting Shooter's Association Australia, *Response to Question on Notice*.

the economy and that 60 per cent of hunting expenditure occurs in regional Victoria.¹⁸⁰

Competitive Shooting

1.197 In its submission Field and Game Australia Inc. stated that:

Participating in target shooting sports and hunting are increasing in Australia with participants coming from a wide variety of socio-economic and ethnic backgrounds.¹⁸¹

1.198 Competitive shooting is a legitimate use of firearms and Australian shooters compete at Olympic, Paralympic and Commonwealth and world championship level. The sport requires intense training and is already heavily regulated. The Committee heard from Shooting Australia that those wishing to compete in this legitimate sport must already undergo lengthy probationary periods.¹⁸²

1.199 The Committee also heard that recreational shooting provides benefits for a wide variety of people including those with a disability or unable to participate in contact sports. In some disciplines women can compete on equal terms with men and the old with the young. Disabled shooters are provided with similar opportunities as their able-bodied counterparts, and compete at local, state, national and international levels. Additionally young Australian's have established a network of young shooters, establishing a community across the country that enjoys this legitimate use of firearms.

Agricultural/Environmental Uses

1.200 The Committee heard that firearms are a very important tool in agriculture as they are used for a variety of purposes such as humanely putting down an injured animal and controlling feral pests. Creating further regulation on firearm use would be an unnecessary financial and practical burden on farmers, as described by the National Farmer's Federation:

...there are set-up costs with access to firearms and then ongoing maintenance. Most farm businesses in Australia are small businesses. Many of them operate in a low cash environment. Particularly when things are tighter, any additional cost has an impact on the ability of the farm business to keep going. So any additional cost is a serious concern to us and our members...¹⁸³

1.201 Australian farmers are one of our country's best protectors of the natural environment. Farmers in various agricultural and horticultural industries take it upon themselves to remove feral, pest species of animals including foxes, cats, wild pigs,

180 Department of Environment and Primary Industries, *Estimating the economic impact of hunting in Victoria in 2013*.

181 Field and Game Australia Inc., *Submission 81*, p. 7.

182 Mrs Catherine Fettell, Shooting Australia, *Committee Hansard*, 31 October 2014, p. 14.

183 Ms Sarah McKinnon, National Farmers' Federation, *Committee Hansard*, 13 October 2014, p. 16.

wild dogs, rabbits and others. The Committee heard that the cost of pest animals to agriculture is in excess of \$750 million.¹⁸⁴

1.202 Destroying these nuisance animals with firearms is far more humane than baiting or poisoning which can often take a toll on native species:

...a firearm is a necessary adjunct to rural occupations in respect of dealing with animals humanely and efficiently and we know that we cannot keep dropping increasing thousands of tonnes of poison into the environment trying to control feral animals when in fact the firearm is largely underused and underutilised.¹⁸⁵

1.203 As well as protecting our native species from predators and competition for food from introduced species, farmers are able to enjoy higher yields in both livestock and horticultural settings with the assistance of firearms.

International Comparisons

1.204 At an international level, there is no consensus on whether there exists a relationship between the level of firearm availability and firearm-related violence. Mr David Hawker pointed out that New Zealand declined the invitation to join with Australia in adopting firearms registration in 1996. Canada has since abandoned longarm registration, concluding it was not worth the cost. He agreed that neither country had seen a subsequent increase in gun related violence and stated 'we are going to considerable expense for questionable results'.¹⁸⁶

1.205 Police witnesses were unable to account for the disparity between their views on gun ownership and community safety and the record of Switzerland and Israel that have extremely high gun ownership, but low levels of gun-related crime.

New Zealand

1.206 In 1983, New Zealand moved away from the requirement to register long-arms and focus available resources upon the person making an application for a firearm licence by ensuring, as far as possible, that only fit and proper people had access to firearms. The licensing system includes background and reference checks, as well as safety training and a written test.

1.207 There are estimated to be about 1.1 million firearms in New Zealand—about one for every four people. The rate of deaths involving firearms has decreased in the past twenty years, including those resulting from assault, suicide, and accidents.¹⁸⁷

184 The Hon. David Hawker, *Committee Hansard*, 14 October 2014, p. 55.

185 Mr Gary Bryant, General Manager, Firearm Safety and Training Council, *Committee Hansard*, 13 October 2014, p. 6.

186 The Hon. David Hawker, *Committee Hansard*, 14 October 2014, p. 60.

187 Library of Congress, *Firearms-Control Legislation and Policy: New Zealand*, at <http://www.loc.gov/law/help/firearms-control/newzealand.php> (accessed 9 April 2015).

1.208 Additional evidence provided to the Committee showed that violent offending with firearms remained stable in New Zealand at about 1.3 per cent of all violent offending from 1985 - 2005.¹⁸⁸

Canada

1.209 Canada has followed New Zealand's example and focuses more on the person making an application for a licence. Canada decreased the regulatory requirements for long arms and found no subsequent increase in gun related violence. Applicants are required to pass safety tests before being eligible for a firearms license. Applicants are also subject to background checks which take into account criminal, mental health, addiction, and domestic violence records. According to 2010 data, over the past thirty years firearm-related homicides have continued to decline.¹⁸⁹

United Kingdom

1.210 The United Kingdom has some of the strictest gun laws in the world. In 1997 the UK banned all handguns. Only police officers, members of the armed forces, or individuals with written permission from the Home Secretary may lawfully own a handgun.¹⁹⁰

1.211 The ban did not reduce the number of active shooters. Pistol clubs turned to pistol calibre carbines, which are more powerful and have higher capacity magazines. The UK has also reported an increase in homicide with pistols and in terms of crime: 'the ban on handguns is neither here nor there in the equation'.¹⁹¹

1.212 It is reasonable to conclude that the banning of certain categories of firearm only affects those who possess and use them lawfully. Those who use them unlawfully are already outside the law.

Response to Chair's Recommendations

1.213 The majority of Senators attending the inquiry do not agree with Recommendation 1 and Recommendation 2 of the Chair's report: the AIC should not receive additional funding for further research programs.

1.214 The majority of Senators attending the inquiry do not agree with Recommendation 3 of the Chair's report: these matters should remain responsibility for State and Territory governments.

188 Inspector Joe Green, *Arms Control Strategies, Debunking the Myths*, New Zealand Police, 2008.

189 Library of Congress, *Firearms-Control Legislation and Policy: Canada*, at <http://www.loc.gov/law/help/firearms-control/canada.php> (accessed 9 April 2015).

190 Library of Congress, *Firearms-Control Legislation and Policy: Great Britain*, at <http://www.loc.gov/law/help/firearms-control/greatbritain.php> (accessed 9 April 2015).

191 Greenwood, J., *The British Handgun Ban: logic, Politics and Effect, Paper to International Firearms safety Seminar*, New Zealand, 2006.

1.215 The majority of Senators attending the inquiry do not agree with Recommendation 4 of the Chair's report: membership data held by gun clubs should remain a responsibility of State and Territory governments.

1.216 The majority of Senators attending the inquiry do not agree with Recommendation 7 of the Chair's report: new regulations do not need to be introduced to cover the manufacture of 3D printed firearms and firearm parts at this point in time.

1.217 The majority of Senators attending the inquiry do not support Recommendation 9 of the Chair's report and instead urge the government to consider funding initiatives that educate the wider public on safe use of firearms.

1.218 The majority of Senators attending the inquiry support Recommendation 5 of the Chair's report, that an ongoing Australia-wide gun amnesty could potentially reduce the number of illicit firearms in the community, especially those firearms that were not given up as part of the 1996 buyback. It is, however, noted that criminals are unlikely give up any firearms.

1.219 The majority of Senators attending the inquiry support Recommendation 6 of the Chair's report: jurisdictions have already agreed to update their firearm data holdings and transfer it to the National Firearms Interface.

1.220 The majority of Senators attending the inquiry support Recommendation 8 of the Chair's report and agree that it is important to continue monitoring the risks posed by 3D manufacturing of firearms.

Additional majority of Senators attending the inquiry Recommendations

Recommendation 1

1.221 The majority of Senators attending the inquiry recommend that the Commonwealth commission a study into the social, economic and environmental benefits of hunting across Australia, similar to the report that was released by the Victorian Government in 2013.

Recommendation 2

1.222 The majority of Senators attending the inquiry recommend the Commonwealth establish a formal mechanism for industry and firearm user groups to be consulted on issues relating to firearms regulation.

Recommendation 3

1.223 The majority of Senators attending the inquiry recommend the Commonwealth continue to pursue improvements in border control for detecting illegal imports of firearms and firearms parts.

Recommendation 4

1.224 The majority of Senators attending the inquiry recommend the Commonwealth review its contribution to firearms regulation in the context of the Reform of the Federation White Paper.

Recommendation 5

1.225 The majority of Senators attending the inquiry recommend State and territory governments investigate avenues to decrease regulation of the firearm industry to ease the economic burden on governments, industry and legal firearm users.

**Senator the Hon Ian Macdonald
Deputy Chair**

**Senator Linda Reynolds
Liberal Senator for Western Australia**

**Senator Bridget McKenzie
Nationals Senator for Victoria**

**Senator David Leyonhjelm
Liberal Democrats Senator for New South Wales**

Appendix 1

Public submissions

- 1 Mr Scott Payne
- 2 Mr Thomas Raybould
- 3 Mr Jeff Bourman
- 4 Mr Craig Stonner
- 5 Mr Carl LeBon
- 6 Mr David Voss
- 7 Ms Susan West
- 8 Mr Benjamin Jarratt
- 9 Springvale Pistol Club
- 10 Mr Ying K Lui
- 11 Mr Jay Dean
- 12 Ms Nik Halliwell
- 13 Mr Roman Katruk
- 14 Mr Greg Kessell
- 15 Mr Jack Pettigrew
- 16 Mr Chris Portman
- 17 Mr Trevor Thompson
- 18 Mr Andrew Chattington
- 19 Mr Patrick Kealy
- 20 Mr Carl Forman
- 21 Mr Michael Woods
- 22 Mr Gus Borowski
- 23 Mr Heath Jefferis
- 24 Mr S Zaga
- 25 Mr Warwick Milne
- 26 Mr Peter Gough
- 27 Mr Glen Daly
- 28 Mr James Batersby
- 29 Mr Paul Jones
- 30 Mr Michael Swan

- 31 Ms Sally Jones
- 32 Mr Ricky McKay
- 33 Dr John Pyne
- 34 The Quorn Pistol & Shooting Club Inc
- 35 Mr James Thornely
- 36 Mr Tobie Deale
- 37 Adelaide Collectors Guild Inc.
- 38 Mr Justin Sawell
- 39 Mr John Dennis
- 40 Antique Arms Collectors Society of Australia Co-Operative Ltd
- 41 Name Withheld
- 42 Attorney-General's Department
- 43 Antique & Historical Arms Collectors Guild of Victoria Inc.
- 44 Acme Firearms
- 45 Miss Patricia Thornely
- 46 Mr Geoffrey Hamence
- 47 Mr Michael Sparrow
- 48 Mr Bob Vries
- 49 Mr Phil Stowe
- 50 Mr John Nash
- 51 Mr Josh Wilson
- 52 Mr William Coleman
- 53 Mr Graeme Kerr
- 54 Mr Trevor Stow
- 55 Mr Peter Holdsworth
- 56 Mr Cameron Beale
- 57 Mr Bogdan Degtyariov
- 58 Sporting Shooters' Association of Australia Inc
- 59 Sporting Shooters Association of Australia (NSW) Inc
- 60 Shooting Australia
- 61 Australian Customs and Border Protection Service
- 62 Combined Firearms
- 63 Firearm Dealers Association Qld Inc

- 64 Mr Rodney Hutcheon
- 65 Mr Michael Ahern
- 66 Mr John Coochey
- 67 Mr Norm Elliott
- 68 Lt Gail Were
- 69 Tasmanian Pistol and Rifle Club
- 70 Victorian Rifle Association Inc.
- 71 South Australian Target Pistol League
- 72 Shooters Union NSW Inc.
- 73 Firearm Safety and Training Council
- 74 Mr Tony Turner
- 75 Australian Crime Commission
- 76 Australian Institute of Criminology
- 77 Australian Airsoft Council
- 78 Australian Deer Association
- 79 Australian Service Rifle Association
- 80 Mr Christopher Wilhelm
- 81 Field and Game Australia Inc.
- 82 IPSC Australia
- 83 NSW Firearms Dealers Association Inc.
- 84 South Australian Revolver & Pistol Association Inc
- 85 National Firearm Dealers Association Inc.
- 86 Pistol Shooting Queensland
- 87 Crimtrac
- 88 International Coalition for Women in Shooting and Hunting
- 89 Adelaide Pistol and Shooting Club Inc.
- 90 Sporting Shooters' Association of Australia (Para Branch) Inc.
- 91 Lex Pistol Club Inc.
- 92 Yarra Pistol Club Inc
- 93 ACT Antique and Historical Arms Association
- 94 Canberra Rifle Club Inc
- 95 Goulburn Valley Pistol Club
- 96 Rockhampton Pistol Club Inc.

- 97 Quirindi Sporting Clay Target Club
- 98 Competitive Pistol and Shooting Club Monarto
- 99 St Ives Pistol Club
- 100 Military Arms Preservation Society Inc.
- 101 Shooters Union Australia Inc.
- 102 Balaklava Sports Shooting Club
- 103 Mr Peter Orth
- 104 NSW Amateur Pistol Association Inc.
- 105 Pastoralists & Graziers Association of WA (Inc)
- 106 Mountain District Pistol Club
- 107 Sporting Shooters Association of Australia (Tasmania) Inc
- 108 Arms & Militaria Collectors' Association of NSW
- 109 North Queensland Rifle Association Incorporated
- 110 Shooters Union QLD
- 111 Name Withheld
- 112 Mr Noel O'Connor
- 113 Mr Stephen Barrett
- 114 Mr Ian Simmons
- 115 Mr Ken Farmer
- 116 Mr Daniel May
- 117 SSAA Orange Branch Inc
- 118 SSAA Bendigo
- 119 Gun Control Australia Inc.
- 120 Mr Frederick Bitneris
- 121 Mr Brad Williams
- 122 Brisbane Mariners Rifle Club Inc
- 123 Mr Rhys Bosley
- 124 Law Institute of Victoria
- 125 Mr Glen McKinnon
- 126 Dr David Ingram
- 127 Ms Gwen Hickman
- 128 Name Withheld
- 129 Mr Ken Slee

- 130 Name Withheld
- 131 Mr Iain Kemp
- 132 Tasmanian Farmers & Graziers Association
- 133 RAYTRADE
- 134 Mr Jack Gill
- 135 Tamworth Firearms
- 136 Name Withheld
- 137 Southeast Firearms Sorell
- 138 Winchester Australia Limited
- 139 Mr Patrick Davis
- 140 Mr Geoff Spicer
- 141 Mr Paul Miles
- 142 Mr Mervin C Reed
- 143 Mr Geoff Smith
- 144 Mr Trevor Kenny
- 145 Ms Julie-Anne Spicer
- 146 Mr Jamie Spicer
- 147 Mr George Merridew
- 148 Name Withheld
- 149 Mr Bruce Johnson
- 150 Mr John Algar
- 151 Mr William Blundell
- 152 Mr Tristan Fremlin
- 153 Mr Peter Cunningham
- 154 Roy Alexander & Sons
- 155 Beretta Australia Pty Ltd
- 156 Freerange Supplies
- 157 Clayton Firearms Pty Ltd
- 158 Mr Mark Dwyer
- 159 Mr Carlo Moussi
- 160 Security & Allied Services Firearms Club Inc
- 161 Mr Klaus Wendt
- 162 Mr Geoff Hall

- 163 Mr Geoff Harcombe
- 164 Metropolitan Pistol Club Inc.
- 165 Confidential
- 166 Mr Stephen Baird
- 167 Ms Margaret Jarosz
- 168 Mr Clinton Brunt
- 169 Campbelltown Liverpool District Pistol Club Inc.
- 170 Mr Chris Burder
- 171 Mr Bradley Yates
- 172 Name Withheld
- 173 Mr Malcolm Racz
- 174 Firearm Traders Association of Victoria
- 175 The Antique and Historical Arms Association of South Australia Inc.
- 176 Historic Arms Collector's Council of Australasia Ltd
- 177 Mr Stephen Pearman
- 178 Mr David Lloyd
- 179 Mr D Finnie
- 180 Mr Bruce McHardy
- 181 Sporting Shooters Association of Australia (Victoria)
- 182 Australian Federal Police
- 183 Mr Patrick Maguire
- 184 Mr William Mitchell
- 185 Mr Ben Sudholz
- 186 Mr Andrew Winbanks
- 187 Mr John Docker
- 188 Ms Katharine Alexandra Thompson
- 189 Pistol Australia Inc (Endorsed by Gladstone District Pistol Club Inc., Lismore Target Club Inc., and 1 individual (name withheld))
- 190 Lismore Target Club Inc.
- 191 Mr Tony Saros
- 192 Mr Murray Smith
- 193 Mr Dan Steele
- 194 Mr Martin Schoenfisch
- 195 Mr Brett Sandman

- 196 Mr Philip Gannon
- 197 Mr Gregory Dixon
- 198 Mr David Bateman
- 199 Mr Bill Williams
- 200 Mr George Crevatin
- 201 Mr Nicholas Dean
- 202 Mr Chris Evans
- 203 Benallack's Sports
- 204 Dr John Coe
- 205 Mrs Selin Veral
- 206 Mr Tom Vangelovski
- 207 Mr David Back
- 208 Ms Margaret Jarosz JP
- 209 Mr Gregory J Dodd
- 210 Mr Neil de Coite
- 211 Ms Nichola Ingham
- 212 Mr Robin Dunn
- 213 Miss Natalie Anderson
- 214 Mr Gregory Snart
- 215 Dr James Lemon
- 216 Name Withheld
- 217 Mr Kyle Ringin
- 218 Mr Robert Gee
- 219 Mrs Robyn Birch
- 220 Mr Foot Young
- 221 Victims of Crime Assistance League
- 222 Mr Clive N Palmer
- 223 Mr Austin Sadler
- 224 Hon. David Hawker AO
- 225 Mr Luke Mitchell
- 226 Mr A Wadood Siddiqui
- 227 Mr Mark Roots
- 228 Dr Miles Doddridge

- 229 Mr Frederick Pryor
- 230 Mr Dane Hastings
- 231 Ms Christine Naus
- 232 Mr P Spurga
- 233 Mr Douglas Grant Young
- 234 Mr P Lapham
- 235 Mr Leon Zembekis
- 236 Mr Michael R Espe
- 237 Mr Doug Read
- 238 Ms Ashley Buckwell
- 239 Mr Phillip Edwards
- 240 Mr Randall Scott
- 241 Mr Antii Roppola
- 242 Name Withheld
- 243 Mr Mark Bedingfield
- 244 Mr Clive Whelan
- 245 Mr Bruce Gorton
- 246 Mr Viktor Taranov
- 247 Mr Carlo Di Falco
- 248 Mr Michael Birch
- 249 Name Withheld
- 250 Mr Jeff Blackmore
- 251 Blue Mountains Field Sports Association Incorporated
- 252 Mr David Chambers
- 253 Mr Neville Cliff
- 254 Mr Anthony Carroll
- 255 Mr Robert Brewer
- 256 Ripeville Pty Ltd
- 257 Mr Robert Hollier
- 258 Mr Ross Torrington
- 259 Mr Jack Boswell
- 260 Mr Roger Wootton
- 261 Mr Gregory Coleman

262 Mr Damien Buller
263 Mr Phil Patterson
264 Dr Jeff Mount
265 Ms Karen Probst
266 Name Withheld
267 Mr John Csanki
268 Mr Kris McMillan
269 Mr Michael Lawson
270 Ms Phillipa Ingham
271 Mr Kevin Ingham
272 Mr Niccolo Scribani Rossi
273 Mr Stephen Baird
274 Ms Susan Anonstrom
275 Mr Michael Hurtado
276 Name Withheld
277 Name Withheld
278 Mr Peter Lindsay
279 Mrs Cheryl Arnol
280 Mr Glenn Arnol
281 Mr Adam Stanway
282 Mr Mathew Lutwyche
283 Mr Ken Sinfield
284 Mr Mike Crockford
285 Mr Mark Stone
286 Mr Brett Vincent
287 Mr Alex Rogoysky
288 Mr Jacob Harris
289 Mr John Lennon
290 Mr Chris Allen
291 Name Withheld
292 Mr Hugh Mackinnon
293 Mr Mark Ellis
294 Name Withheld

- 295 Name Withheld
- 296 Name Withheld
- 297 Mr Graeme Forbes
- 298 Name Withheld
- 299 Mr Ian Coombes
- 300 Name Withheld
- 301 Mr Gianni Rossetto
- 302 Mr Antony O'Brien
- 303 Name Withheld
- 304 Name Withheld
- 305 Name Withheld
- 306 Name Withheld
- 307 Mr Robert Hatswell
- 308 Mr Douglas Bright
- 309 Adventure Camping
- 310 Mr Christopher Stabolidis
- 311 Mr Bryan Finlay
- 312 Mr Paul Jenner
- 313 Mr Mike Holland
- 314 Mr David Hugh Inkster
- 315 Mr Wayne Turner
- 316 Mr Timothy Nancarrow
- 317 Mr Roger Wakelin
- 318 Name Withheld
- 319 Mr Ray Harrison
- 320 Mr John Ogilvie
- 321 Name Withheld
- 322 Name Withheld
- 323 Mr Scott Williams
- 324 Mr William J Warriner
- 325 Mr Christopher Di Manno
- 326 Mr Rod Leunig
- 327 Dr Duncan Hywel-Evans

328 Mr Tom Vangelovski
329 Mr Robert Moorfield
330 Mr Robert Boord
331 Mr Peter Mills
332 Mr Jarrod Clark
333 Mr Jon Martyn
334 Ms Karen Lee Rose
335 Mr Espen Filskov
336 Mr Andrew Blackwell
337 Mr Chet Cline
338 Mr Steve W
339 Mr Gil May
340 Mr Matthew Grainger
341 Mr Tony Gray
342 Mr Miles Wright
343 Mr William Harris
344 Mr Neil Grigg
345 Mr Neil McCormick
346 Mr Patrick Veldhoven
347 Mr John Williams MP
348 Mr Brett McKeever
349 Mr Andrew Butts
350 Mr Tino Cucinotta
351 Mr Desmond Lilley
352 Mr Paul Dawson
353 Name Withheld
354 Mr Richard Calver
355 Mr John Butcher
356 Mr George Fane
357 Mr Robert Walsh
358 Ms Sharon Hutchinson
359 Mr William Morris
360 Dr Matthys Draisma

361 Ms Cheryl Hurlston
362 Mr Colin Curtis
363 Mr Dan Flynn
364 Mr James Brown
365 Mr Alan Pugh
366 Mr Karl Loerand
367 Name Withheld
368 Mr Robert Gough
369 Mr Adam Smith
370 Victorian Amateur Pistol Association
371 Mr Paul Fleming
372 Mr Ray Williams
373 Mr Edward Stanley & Mr David Dettmann
374 Name Withheld
375 Mr Mike Harrison
376 Mr Tony Mahar
377 Mr Robert Butterworth
378 Mr Tom Challis
379 Mr Allan Jones
380 Mr Richard Langford
381 Mr Kevin Loy
382 Name Withheld
383 Mr William Woolmore
384 Name Withheld
385 Mr Dean Symons
386 Mr F.J.L Downing
387 Mr Dave Manley
388 Shooters and Fishers Party
389 Victoria Police
390 National Farmers' Federation
391 NSW Government Justice Cluster
392 Dr Terry Goldsworthy
393 Ms Angela Daly

394 Dr John Lott
395 Name Withheld
396 Confidential
397 Geelong Pistol Club Inc.
398 Mr Jason Selmes
399 Endeavour Pistol Club
400 Mr Peter Sweetman
401 Mr Bob Large
402 Mr Clyde Thomas
403 Mr Paul Hart
404 Mr Brian Dawes
405 Australian 3D Manufacturing Association
406 The Australian Industry Group
407 Mr Charles Bradshaw
408 Mr Rod Spinks
409 Name Withheld
410 Name Withheld
411 Confidential
412 Confidential
414 Name Withheld
417 Mr Rob Dobie
418 Mr Don Caswell
419 Mr Allan Wilkin
420 Mr Christopher Wardrop
421 Mr Pedr Born
422 Muswellbrook Pistol Club Inc
423 Greg Sheppard
424 Mr Shane Ride
425 Mr Scott Dixon
426 Queensland Indoor Air Rifle Association
427 Mr Peter Bennett
428 Mr Kirk Yatras
429 National Rifle Association of Australia

Appendix 2

Tabled documents, answers to questions on notice and additional information

Tabled documents

Canberra – Friday, 31 October 2014

- 1 Australian Crime Commission

Additional information

- 1 Information provided by Mr Leonce Kealy (received 5 August 2014)
- 2 Information provided by the Australian Federal Police (received 10 October 2014)
- 3 Information provided by the Australian Federal Police (received 14 November 2014)

Answers to questions on notice

- 1 National Firearms Dealers Association - response to a question taken on notice at a public hearing on 14 October 2014 (received 24 October 2014)
- 2 Victoria Police - response to a question taken on notice at a public hearing on 14 October 2014 (received 24 October 2014)
- 3 New South Wales Police - response to a question taken on notice at a public hearing on 14 October 2014 (received 6 November 2014)
- 4 Shooting Australia - response to a question taken on notice at a public hearing on 14 October 2014 (received 7 November 2014)
- 5 Gun Control Australia - response to questions taken on notice at a public hearing on 14 October 2014 (received 10 November 2014)

- 6 Law Institute of Victoria - response to questions taken on notice at a public hearing on 14 October 2014 (received 10 November 2014)
- 7 Sporting Shooter's Association of Australia - response to a question taken on notice at a public hearing on 31 October 2014 (received 11 November 2014)
- 8 Firearm Traders Association of Victoria - response to a question taken on notice at a public hearing on 31 October 2014 (received 11 November 2014)
- 9 Shooters Union of Australia - response to a question taken on notice at a public hearing on 31 October 2014 (received 11 November 2014)
- 10 Australian Institute of Criminology - response to written questions on notice (received 13 November 2014)
- 11 Australian Federal Police - response to a question taken on notice at a public hearing on 31 October 2014 (received 14 November 2014)
- 12 Shooting Australia - response to a question taken on notice at a public hearing on 31 October 2014 (received 14 November 2014)
- 13 Australian Crime Commission - response to questions taken on notice at a public hearing on 31 October 2014 (received 17 November 2014)
- 14 Women in Shooting and Hunting - response to written questions on notice (received 21 November 2014)
- 15 Australian Customs and Border Protection Service - response to written questions on notice (received 25 November 2014)
- 16 Australian Federal Police - response to written questions on notice (received 25 November 2014)
- 17 Australian Institute of Criminology - response to written questions on notice (received 26 November 2014)
- 18 Attorney-General's Department - response to written questions on notice (received 26 November 2014)
- 19 Australian Crime Commission - response to written questions on notice (received 27 November 2014)
- 20 Queensland Police - response to written questions on notice (received 8 December 2014)
- 21 Northern Territory Police - response to written questions on notice (received 10 December 2014)
- 22 Victoria Police - response to a question taken on notice at a public hearing on 13 October 2014 (received 10 December 2014)
- 23 New South Wales Police - response to written questions taken on notice (received 11 December 2014)

- 24 Western Australian Police - response to written questions taken on notice (received 12 December 2014)
- 25 Tasmania Police - response to written questions taken on notice (received 16 December 2014)
- 26 New South Wales Police - response to written questions taken on notice (received 25 February 2015)
- 27 Northern Territory Police - response to written questions taken on notice (received 27 February 2015)
- 28 Australian Federal Police - response to written questions taken on notice (received 24 February 2015)
- 29 Sporting Shooters Association Australia (Victoria) - response to written questions taken on notice (received 20 February 2015)
- 30 Queensland Police - response to written questions taken on notice (received 25 February 2015)
- 31 Victoria Police - response to written questions taken on notice (received 25 February 2015)
- 32 Government of South Australia - response to written questions taken on notice (received 10 March 2015)

