

Supplementary Questions

Q1	What is the Strategic Intelligence Unit's role in producing reports on emerging crime themes and trends? How does this information inform the Commission's priorities and decision making?
	<p>The Strategic Intelligence Unit (SIU) collects intelligence from a range of sources. It scans media, analyses data and extracts information from within Commission and joint investigations (including from human sources and coercive hearings). It uses this information to develop a more thorough understanding of the criminal environment, identify the most significant threats and predicts how they will evolve or how others will emerge, and prioritise Commission resources to investigate the highest risks in the criminal environment.</p> <p>The Commission has five intelligence priorities:</p> <ul style="list-style-type: none">• Illicit drugs• Criminal groups• Criminal wealth• Organised violence; and• Enablers (e.g., professional facilitators, technologies). <p>The SIU monitors and reports on these in its annual Picture of Crime report and quarterly snapshot. The annual report identifies intelligence gaps where further collection is required and the quarterly snapshot monitors changes over time.</p> <p>The Commission applies a prioritisation matrix in selecting which investigations to commence. This considers the threat posed by the alleged offending as well as the value Commission capabilities can provide to the investigation. The intelligence produced by the SIU helps inform this process.</p> <p>The SIU also produces specific reports on emerging organised crime issues which can assist in preventing and disrupting serious crime.</p>
Q2	How crucial are digital forensics and technical deployments in gathering evidence and intelligence, especially after the COVID-19 pandemic?
	<p>The amount of information held within electronic devices such as mobile devices has increased exponentially in recent years and continues to do so. In the context of criminal and financial investigations, and asset confiscation matters, this includes information about an offenders' criminal associations, activities, and the location of their assets.</p> <p>The Commission's ability to access, extract, analyse and interpret this information in a timely manner for use in intelligence and evidence in both criminal and confiscation proceedings is a critical aspect of its investigative capabilities.</p> <p>The increase in encryption makes telecommunications interception less effective than it used to be. Digital forensic extraction can sometimes overcome this and allow investigators to penetrate the devices using specially developed tools.</p>

	<p>Similarly, technical deployments allow for the collection of intelligence and evidence usually with the assistance of surveillance devices, authorised by warrant. The Commission targets criminals at the upper echelons of their networks, who are aware of and take steps to circumvent traditional law enforcement surveillance methods. Investment in specialised technologies is a critical way in which the Commission can continue to access relevant material, including the location of offenders and evidence of their activities.</p>
Q3	Are there any limits on the Commissioner's power to compel individuals to attend hearings? What safeguards are in place to prevent a misuse of this power?
	<p>The NSW Crime Commission has legislative authority to hold hearings and compel evidence for the purposes of an investigation referred to it by the New South Wales Crime Commission Management Committee.</p> <p>References can only be granted if Management Committee is satisfied that:</p> <ul style="list-style-type: none">(a) the use of the Commission's powers appears to be necessary to fully investigate the relevant criminal activity, serious crime concern or criminal activity of the criminal group, and(b) the investigation of the relevant criminal activity, serious crime concern or criminal activity of the criminal group by the Commission is in the public interest, and(c) the relevant criminal activity, serious crime concern or criminal activity of the criminal group is sufficiently serious or prevalent to warrant its investigation by the Commission. <p>The Management Committee is constituted under section 49(1) of the <i>Crime Commission Act 2012</i> and its functions are listed in section 51 of the Act, which include referral (by written notice) of matters to the Commission for investigation. Management Committee membership is provided by section 50(1) and includes the following 5 members –</p> <ul style="list-style-type: none">(a) an independent Chairperson appointed by the Minister(b) the Commissioner of Police(c) the Chair of the Board of the Australian Criminal Intelligence Commission (Commissioner of the Australian Federal Police)(d) the Crime Commissioner(e) the Secretary of the Department of Justice or a senior executive of that Department nominated by the Secretary (currently delegated to the Deputy Secretary of Law Reform and Legal Services). <p>A critical safeguard on the use of the coercive hearing function is judicial oversight. The exercise of these functions is set out in the <i>Crime Commission Act 2012</i> and provides for judicial review in the Supreme Court of critical powers. For example, section 33 provides for applications to Supreme Court for review of Commission's decisions concerning entitlement to refuse to take oath or affirmation, produce documents or things or answer questions.</p>

	<p>A further safeguard is provided by section 35A of the <i>Crime Commission Act 2012</i> in respect of persons facing current criminal charges. Section 35A requires the Commission to seek leave of the Supreme Court before requiring a person who is the subject of a current charge to appear before a hearing, and in doing so protects their right to a fair trial.</p> <p>In addition, the Commission is oversighted by the Law Enforcement Conduct Commission, including oversight of conduct which may be misconduct and maladministration.</p>
Q4	<p>What opportunities exist for collaboration with other agencies and industry stakeholders in tracing, seizing and reporting on cryptocurrency assets?</p>
	<p>Almost all Commission operational activities are conducted in collaboration with our valued partners. Investigating money laundering through cryptocurrency is no exception to this.</p> <p>The Commission is a member of Taskforce Kubera, a multiagency taskforce consisting of state and Commonwealth law enforcement agencies, AUSTRAC and the ATO. Priorities of the taskforce include interagency and interjurisdictional collaboration, as well as sharing capabilities relevant to current and emerging money laundering methodologies (which includes use of cryptocurrencies).</p> <p>The Commission engages regularly with other agencies involved in tracing, seizing and restraining cryptocurrencies, in particular NSWPF. The services of expert vendors in the field are also utilised by the Commission where appropriate.</p> <p>The Commission is also a member of the Fintel Alliance, led by AUSTRAC, which brings together government agencies with the financial sector to investigate money laundering and other financial crime.</p>
Q5	<p>You noted that you have requested access to the Telecommunications and Other Legislation Amendment (TOLA) warrants from the federal Parliamentary Joint Committee on Intelligence and Security:</p> <ol style="list-style-type: none"> a. Could you clarify whether the Commission wants equivalent powers to those granted by TOLA, or does the Commission want access to information found in the execution of TOLA warrants? b. What benefits would this have for the work of the Commission? c. What are the current issues you are facing in obtaining this information? <ol style="list-style-type: none"> i. Are steps being taken to address them? ii. Could these issues be addressed in a different way – such as through Memoranda of Understanding or information sharing agreements?
	<p>Please refer to the cover letter to these supplementary question which includes a correction to evidence given.</p>

	<p>In 2022, Commissioner Barnes co-signed a joint submission to the Parliamentary Joint Committee on Intelligence and Security, along with agency heads from nine other crime and corruption agencies outlining the need for those agencies to have TOLA powers, citing challenges associated with encryption.</p> <p>With the creation of the National Anti-Corruption Commission (NACC) in 2023, the <i>National Anti-Corruption Commission (Consequential and Transition Provisions) Bill 2022</i> amended the <i>Telecommunications Act 1997</i> to extend industry assistance powers introduced under TOLA to the NACC, the NSW Crime Commission and other state-based crime and corruption commissions.</p> <p>The Commission now has, what are referred to as ‘TOLA powers’ and has worked with colleagues at NSWPF and other agencies to develop the frameworks within which they can be used.</p> <p>The Commission is also developing frameworks in preparation for its use of International Production Orders (IPOs), under the AUS-US Data Access Agreement.</p> <p>The challenges associated with encryption have increased and are expected to increase further. The Commission, like other agencies, needs to find new and innovative ways to covertly collect intelligence and evidence from serious criminals who take steps to conceal it. Industry assistance offered by TOLA, and data held by US-based service carriers and providers accessible via IPOs, will assist with the collection of mission-critical intelligence and evidence.</p> <p>The Commission is working with the Australian Designated Authority of the Commonwealth Attorney General’s Department to obtain agency accreditation for use of IPO powers, and concurrently is developing the necessary internal governance frameworks in anticipation of use of the powers.</p> <p>In addition to seeking to use both TOLA and IPO powers itself as an agency, the Commission works in partnership with NSWPF on joint investigations, in which relevant information is collected and shared for joint purposes, pursuant to the relevant legal frameworks.</p>
Q6	You mentioned concerns raised in the People Matter Employee Survey results. What specific strategies is the Commission implementing to address these concerns and improve employee satisfaction and engagement?
	<p>The Commission’s 2023 People Matter Employee Survey (PMES) returned strong results across a range of categories, including Job purpose and enrichment, Flexible working, and Job satisfaction.</p> <p>The results also showed several indicators down from 2022 levels. Closer analysis of the feedback showed that overall declines were largely the result of employee sentiment within certain functional areas following organisational changes from the redesign of the Legal Services Division.</p>

This staff feedback provides growth and collective development opportunities for driving improvements across these performance indicators. Many of these areas are already being considered by the Executive Leadership Team through review and redevelopment of the organisation's Strategic Plan, which is setting the direction and focus of the Commission towards 2029.

Since the 2023 PMES the Commission has undertaken recruitment of two Executive Directors, including for Legal and Confiscations to steward the outcomes from the recent organisational redesign. That recruitment included enhanced performance capabilities specifically related to leadership and communications principles to further drive improvements under next year's survey.

The Commission has undertaken an agency wide training needs audit and analysis to inform ongoing learning and development plans and an Investment in a People and Culture Strategy. This strategy will deliver:

- A workforce management strategy and plan
- Talent to Perform program focusing on skills and capabilities
- A refreshed performance development and agreement plan framework
- Updating of staff capability frameworks
- Review of flexible working frameworks
- A WHS strategy and plan focusing on mental health, resilience and staff wellbeing.

The Commission has introduced a Staff Consultative Committee to support and foster staff and executive communication and engagement We have commenced regular "Town Hall" staff briefing sessions that include Q&A opportunities with the Executive.