

# **The Extent of Money Laundering in and through Australia in 2004**

**AUSTRAC**

**John Walker Crime Trends Analysis**

**RMIT University**

Money Laundering in and through Australia in 2004

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## **Foreword**

It has been ten years since AUSTRAC published John Walker's seminal report "Estimates of the Extent of Money Laundering in and through Australia". Since that time, many people have commented on his work, but little has been done anywhere in the world in terms of empirical studies to determine the extent of money laundering. Clearly, aside from the changing nature of crime and those factors that facilitate crime such as technology, and the rise of terrorism, the sheer passage of time presented the opportunity to revisit the earlier work.

Michel Camdessus' 1998 estimate that global money laundering was possibly in the range of 2-5% of global GDP is not a sufficiently reliable estimate to apply at the national level. This report has therefore sought to provide a template by which estimation of money laundering can be conducted at the national level, by utilising a number of methods of collecting data, triangulating or 'intersecting' the results, and testing the reasonableness of the answers. These methods comprised a far more ambitious survey than was conducted in 1995, both in the depth of questions asked, and the intended survey audience. There has been great interest and attention to the area of money laundering globally, and this report has sought to capitalise on this.

Much has been done both internationally and in Australia to combat money laundering and the financing of terrorism. Domestically, a robust environment has been created by the preparedness of government and law enforcement, taxation, security and other agencies to tackle the issues head-on. The cooperation of the financial sector has also been instrumental. Both sides of the financial intelligence equation have contributed to the significant results that have been achieved, and the deterrent that is inherent in progressively reducing the opportunities open to criminals or financiers of terrorism to carry out their transactions.

It is not a time for rest, however. Money laundering is still a major issue of global concern, and has resulted in a re-focussing of the Forty Recommendations of the Financial Action Task Force, and the issue of the Terrorist Financing Special Recommendations. This is recognition that methods and techniques of laundering are constantly changing, and that AML efforts must also change. The support of other organisations such as the IMF, World Bank, Basel Committee and Wolfsberg Group serves to underline the importance of this effort.

It is difficult to explain the importance of a problem without quantifying it, which takes us to the point of this report: an attempt to quantify the extent of laundering in and through Australia. This has been a considerable effort, and I would like to acknowledge the work of John Walker, John Stamp, the RMIT University Criminal Justice Research Group, and all those people that have contributed to the production of this report.

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We would like to thank our survey respondents in Australia and overseas for their preparedness to assist with this study and their candour. In keeping with our commitment to respondents, we will neither name them individually nor identify particular answers as being from individual respondent jurisdictions.

Data entry assistance from Yee Man Louie and Karan Walker helped make a huge job a lot easier. A number of people from the AUSTRAC Data mining team were involved in extracting data from AUSTRAC's holdings, particularly Paul, Elizabeth, Clive, and Vijay.

We have also appreciated the assistance of some people who have reviewed the report for us: Russell Smith, John Holan, Anthony Todd-Egglestone, Ernesto Savona, John Broome, and an anonymous reviewer.

## **Executive Summary**

This Report was made possible by a grant from the Criminology Research Council (the Council). The Grant was sought to enable research to update John Walker's 1995 report *Estimates of the Extent of Money Laundering in and through Australia* (the 1995 Walker report), and to extend the analysis of the extent of money laundering to an assessment of the linkages of crime and money laundering in the Asia Pacific region, and the linkages of money laundering to terrorism in the region. The views expressed in this report are the responsibility of the authors and are not necessarily those of the Council.

Globalisation has continued to change the way the world functions. New opportunities for trans-national organised crime have emerged; international cooperation to address the problems of trans-national crime and money laundering has been enhanced; and the threat and impacts of international terrorism have increased. Money laundering (and the crime that generates the proceeds to be laundered) is undoubtedly harmful. In addition to the impacts on victims, there are also risks to institutions through which laundering takes place (and sometimes the entire financial sector in a country), and to the economies of countries as a whole.

Money laundering techniques have become increasingly sophisticated and have been used by terrorists to finance their activities around the world. Concerns over the extent of money laundering, coupled with major terrorist activities, have significantly increased the level of knowledge and interest in money laundering. However, despite this interest, few real advances have been made in the quantification of money laundering at the regional or global levels. There is much reliance on the frequently quoted 1998 Camdessus / IMF estimate of 2 – 5 % of global GDP<sup>1</sup>, but there is little evidence of the basis of this estimate. In any event, if these figures fairly reflect the true extent of global money laundering, and the proportions were valid for Australia, this would suggest a range for 2002/03 in the order of AUD 14.7 – 36.7 billion.

These “top-down” estimates far exceed the findings of both the 1995 Walker report, and this report. This report, based on questionnaires and empirical data, has found that the extent of money laundering in and through Australia is probably not significantly different to the level of money laundering in 1995. However, what is occurring now at a much greater level is the success of law enforcement agencies in seizing large quantities of drugs, which has an impact on the quantum of money required to be laundered. Law enforcement agencies in Australia have seized drugs with a ‘street value’ of over AUD 1 billion in the last 12 months alone. These seizures have therefore deprived drug dealers of street proceeds of AUD 1 billion, which would have to be laundered in order to be utilised either for reinvestment or spent on lifestyle. But for the successes of law enforcement and other agencies in Australia, the extent of laundering in Australia would have been at least AUD 1 billion greater than the estimate in this report.

In addition to these drug successes, fraud has also been a target of taxation, revenue and law enforcement agencies in Australia. In a media release on 10 June 2005, the Minister for Justice and Customs announced the cooperation of the Australian Crime Commission (ACC), the Australian Taxation Office (ATO) and the Australian Federal Police (AFP) in targeting major fraud against the Commonwealth. “Senator Ellison said that the ACC had executed 48 search warrants across 4 states (NSW, Qld, Vic. and WA) in relation to what is alleged to be highly organised efforts to defraud the Commonwealth of tax revenue estimated at more than \$300 million.”<sup>2</sup> The Australian Taxation Office has reported that “Over the past four financial years we raised assessments of \$279 million as a direct result of information obtained from AUSTRAC.”<sup>3</sup>

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<sup>1</sup> Camdessus, 1998. Michel Camdessus, the then Managing Director of the IMF observed on 10 February 1998, that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world's gross domestic product, which, using 1996 statistics, would indicate that global money laundering was in the range of USD 590 billion to USD 1.5 trillion.

<sup>2</sup> [http://www.ag.gov.au/agd/WWW/justiceministerHome.nsf/Page/Media\\_Releases\\_2005\\_2nd\\_](http://www.ag.gov.au/agd/WWW/justiceministerHome.nsf/Page/Media_Releases_2005_2nd_)

Law enforcement, revenue and taxation agencies routinely use financial intelligence in their investigations, and acknowledge the value of this type of information. After all, the profit motive of most serious crime will usually lead to reportable transactions being undertaken.

The 1995 Walker report suggested that between AUD 1.0 and AUD 4.5 billion per annum were believed to be generated by crime in Australia and laundered either in Australia or elsewhere, with a most likely figure of around AUD 3.5 billion, with the bulk of this quantum generated by fraud and then drugs.

This report has built on the 1995 Walker report, again involving surveys of Australian law enforcement officials, overseas financial intelligence units, and researchers both in Australia and overseas. We also conducted a literature review, and analysis of some official statistics, including data held by AUSTRAC. These data provided us with a range of estimates, from which we have sought to derive a likely range of the quantum of money laundering in or through Australia. In keeping with the expanded focus of this project, we had to develop a different model of money laundering relationships, to reflect the fact that funds to finance terrorism can have both legitimate and illegitimate origins.

The results of this work suggest that crime in Australia generates between AUD 2.8 billion and AUD 6.3 billion, with the most likely figure being in the vicinity of AUD 4.5 billion. The lower of these estimates is based on the results of an expert survey and considerable local knowledge of Australia and the major crimes that come to official notice. It is likely, if anything, to err on the low side, because the survey responses may have underestimated the extent or the profits of crimes that never come to public notice, including both fraud and drug crimes. The higher estimate was derived from an analysis of the costs of property crime in Australia, and the potential profits of the illicit drugs trades. It specifically addresses the issue of unrecorded crime, and is thus less susceptible to that type of error, but it may be overestimating the likelihood that those unrecorded frauds, and the illicit drug retail market in Australia, actually generate launderable amounts of proceeds. These estimates relate to money laundering estimated to be conducted either within Australia (internal ML) or from Australia (outgoing ML).

This range AUD 2.8 to 6.3 billion is clearly well below the range derived from the Camdessus / IMF estimate based on the proportion of GDP. However, in recent years, overseas researchers have identified significant areas of hard-to-quantify shadow economy and transfer pricing practices, not generally treated as criminal offences, but probably involving significant underpayment of tax. If transfer pricing (that is, the manipulation of import and export prices to launder funds between countries) affects Australia to the same extent as that reported for the USA,<sup>4</sup> it could significantly increase the estimated money laundered *through* Australia. Our overseas respondents generally do not consider Australia to be significant as a transit or destination country for the laundering of funds generated from offences in their countries. Similarly, our Australian respondents did not rate Australia highly as a transit country for the laundering of proceeds to or from other countries. However, while we sought information from our survey respondents as to their perceptions of which countries are the most significant with regard to money laundering, more information is needed to gauge the extent to which the proceeds of crime in Australia are laundered outside Australia, and the extent of laundering of proceeds of foreign crimes in Australia. Owing to a lack of research in other countries, it is not otherwise possible to estimate the extent of foreign proceeds of crime being laundered through Australia.

Having derived estimates of possible money laundering, we have endeavoured to estimate the impacts of a given amount of money laundering on the Australian economy, using economic multiplier data. Our survey suggests that criminals in Australia tend to invest in real estate, gambling and luxury goods.

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Quarter\_10\_June\_2005\_Australian\_Crime\_Commission\_uncovers\_alleged\_fraud\_against\_the\_Commonwealth

<sup>3</sup> Australian Taxation Office Annual Report 2003/04

<sup>4</sup> Zdanowicz, J (2003)



With the limited information that our survey respondents and other research findings were able to provide, we conducted some analysis of the financing of terrorism, including likely methods and extent. While the financiers of terrorism use money laundering techniques to hide their transactions from scrutiny, the amounts of money required to finance terrorist acts are comparatively small and extremely hard to detect using anti-money laundering techniques alone. While the financing of terrorism likely involves very small and hard to quantify amounts, this is no reason to lose focus. The Prime Minister of Australia recently commented that “no Australian should imagine complacently that this country is immune [to the terrorist challenge], it’s not.” Continued diligence is crucial, especially of the financial trails.

This work is not the end of the story. We have identified a few possible areas of further study, including the involvement of more respondents in surveys. As we have stated, a number of the answers we received have to be qualified due to the low number of respondents providing answers to particular questions. Further, some respondents were unsure of the accuracy or validity of their answers. Both of these factors limited the extent to which the survey can be regarded as accurately measuring the extent and nature of money laundering, and our ability to “triangulate” between the different responses.

We need to develop a model that can be adopted and accepted by other countries or regions, if we are to better understand money laundering flows between countries. If we have achieved this by preparing this report, the evidence will be that others will repeat or even improve on what we have attempted.

Other areas for work include the closer consideration of particular crime types, the nature of trade and trade pricing anomalies, the extent of the “shadow” or undeclared economy and its relationship to firstly, tax evasion, and secondly money laundering, and emerging payment technologies which may facilitate money laundering. None of these latter areas are traditional “criminologists’ business”, which means that a multi-disciplinary approach, involving economists and financial intelligence experts, is essential.

There is therefore still much to do. As long as criminals are able to profit from crime, money laundering is not going to go away, and as long as criminals are able to launder money with little risk of discovery, the rewards from criminal activities will continue to appear attractive. The continuing effective action against the proceeds of crime and money laundering, has meant that laundering is much lower than it might otherwise have been. The response to money laundering is arguably most effective when guided by an understanding of its extent and nature. There may therefore be a case for this type of analysis being conducted more frequently than once every 10 years.



## **CHAPTER 1 - INTRODUCTION**

### **CRC Grant:**

This Report was made possible by a Criminology Research Council (CRC) Grant, awarded in November 2003 to a consortium of AUSTRAC, John Walker Crime Trends Analysis and the Criminal Justice Research Group at RMIT University. The views expressed in this report are the responsibility of the authors and are not necessarily those of the Council. The balance of the cost of the project was funded by AUSTRAC. The Grant was sought to enable research to update John Walker's 1995 report *Estimates of the Extent of Money Laundering in and through Australia* (the 1995 Walker report), and to extend the analysis of the extent of money laundering to include;

- assessments of the linkages of crime and money laundering in the Asia Pacific region, and
- an examination of the linkages of money laundering to terrorism in the region.

### **The need for and scope of a review of the 1995 Walker Report**

The world, and the Asia-Pacific region in particular, has changed since the 1995 Walker report. That report suggested that between AUD 1.0 and AUD 4.5 billion were believed to be generated by crime in Australia and laundered either in Australia or elsewhere, with a most likely figure of around AUD 3.5 billion.<sup>5</sup> This figure was derived from crime statistics, surveys, interviews, AUSTRAC data, and a variety of financial reports that were reviewed and analysed.

### ***Globalisation has continued to change the way the world functions:***

- new opportunities for trans-national organised crime have arisen;
- new payment technologies have emerged, enabling money laundering;
- the threat of terrorism has emerged, and the methods used to finance terrorism have expanded; and
- international cooperation to address the problems of trans-national crime and money laundering has increased.

Money laundering techniques have become increasingly sophisticated and have been used by terrorists to finance their activities around the world. Electronic payment methods which are increasingly speedy, reliable and anonymous are emerging. Some of the less sophisticated methods of transferring money are popular due to the informality surrounding these methods, and are used for lawful and unlawful funds transfers. The traditional definition of money laundering has therefore had to change: it is no longer simply the practice of legitimising money from criminal origins, but also includes money 'dirtying'. Concerns over the extent of money laundering, coupled with major terrorist activities, have significantly increased the level of knowledge and interest in money laundering. Consequently the level of world-wide research and literature on this topic has increased markedly since 1995. There is now a great deal more general information available on the movement of money around the world with particular focus on tax havens, drug source countries and money laundering centres.

### ***The contribution of the financial sector***

Recognising the growing exploitation of the global financial system by criminal groups, the financial sector has contributed to the creation of an environment that is hostile to money laundering, with significant investment in AML capabilities.<sup>6</sup> The critical importance of investment in AML capabilities in our region was confirmed at the Bali Regional Ministerial Meeting on Counter-Terrorism in 2004, where the Ministerial delegates "recognised that the scourge of terrorism also poses a serious threat to regional economic development.... [Therefore] effective counter-terrorism measures were vital to provide

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<sup>5</sup> Walker (1995)

<sup>6</sup> KPMG (2004)

a conducive climate for business activities - essential for the attainment of peace, stability and prosperity in the region. In this regard Ministers welcomed the role and partnership of the business community in the joint campaign against terrorism within the framework of shared responsibility.”<sup>7</sup>

It is important to be able to quantify money laundering to demonstrate that the costs of compliance are commensurate with the threat posed by money laundering. However, in spite of considerable investment of research funds in the USA, and attempts by the United Nations, the FATF, the International Monetary Fund (IMF) and other international organisations, the 1995 AUSTRAC research remains the standard for quantifying money laundering at the national level, and few real advances have been made in the quantification of money laundering at the regional or global levels.

Despite the increase in the quantity and quality of available information, the debate and the literature continue to rely on dated estimates or simple assertions about the severity of the problem and its impacts on global economies and social systems. AUSTRAC's own database of suspicious transactions, cross border currency transactions, significant cash transactions and international wire transfers has increased from less than 20 million reports in 1995 to more than 68 million reports in 2005. Further, AUSTRAC now has more sophisticated monitoring and modelling capabilities than those available at the time of the 1995 research.

Noting the considerable improvements in the collection of relevant data by law enforcement agencies and Financial Intelligence Units (FIUs), both in Australia and overseas, AUSTRAC considered that an update of the 1995 research could:

- quantify changes in the extent of money laundering in and through Australia since 1995;
- identify principal methods and trends of money laundered in and through Australia since 1995, highlighting the differences;
- identify and quantify flows of money associated with money laundering between Australia and the Asia/Pacific region; and
- identify and quantify money laundering links to transnational organised crime, the financing of terrorism and revenue evasion.

This last issue, however, is made difficult by the fact that the financing of terrorism is often made up of small amounts which do not stand out, and are therefore virtually undetectable. The attacks, that they facilitate, however, are very different. They are designed to have enormous impact, both on the financial sector and the structure of society.

The results of this research are intended to inform Australian Government policies and strategies on prevention of major crimes, prevention of money laundering and the financing of terrorism, by identifying trends of significance and areas in need of internationally collaborative action. It has now been ten years since the completion of the 1995 Walker report, and an update was overdue.

This research report attempts to explore the range of new types of information developed in the last decade by the establishment of national and international agencies and networks responsible for monitoring money laundering, and to establish the extent of money laundering in and through Australia in 2005, and how it has changed since 1995.

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<sup>7</sup> [www.aseansec.org/16000.htm](http://www.aseansec.org/16000.htm)

## **CHAPTER 2 - CHANGES IN THE GLOBAL ANTI-MONEY-LAUNDERING ENVIRONMENT SINCE 1995**

### *Increasing international efforts:*

Recent years have seen a fundamental change in the legal and regulatory environment: “In the absence of effective international cooperation, there will be no realistic chance of defeating or significantly curbing money laundering.”<sup>8</sup> Driven by a growing political determination to strike against drug traffickers, participants in organised crime, and (more recently) terrorists, Australia has participated in a series of concerted international anti-money laundering initiatives. National governments and international agencies are now highly active in attempting to combat transnational crime and money laundering in this region. The activities and initiatives of the Financial Action Task Force (FATF), FATF-style regional bodies such as the Asia Pacific Group on Money Laundering (APG), the Egmont Group of Financial Intelligence Units, and international organisations such as the United Nations Office on Drugs and Crime (UNODC), the International Monetary Fund, the World Bank and the Asian Development Bank are among the main drivers of regional collaboration to combat trans-national crime and money laundering.

Prior to 1995, the key international conventions regarding Proceeds of Crime (POC), money laundering and drugs included:

- The 1988 United Nations Convention against illicit traffic in narcotic drugs and psychotropic substances which, inter alia, urged signatories to implement a series of measures designed to combat money laundering;
- The 1990 Council of Europe Convention on laundering, search, seizure and confiscation of the Proceeds from Crime;
- The European Council Directive on prevention of the use of the financial system for the purpose of money laundering (Council of European Communities, 1991)

Since 1995, the international effort regarding money laundering has greatly intensified:

“The fight against money laundering has been an essential part of the overall struggle to combat illegal narcotics trafficking, the activities of organised crime, and more recently the financing of terrorist activity. It became apparent over the years that banks and other financial institutions were an important source for information about money laundering and other financial crimes being investigated by law enforcement. Concurrently, governments around the world began to recognise the corrosive dangers that unchecked financial crimes posed to their economic and political systems.”<sup>9</sup>

Key international conventions regarding Proceeds of Crime (POC), money laundering and drugs now include:

- The 1999 UN International Convention for the Suppression of the Financing of Terrorism which, in its preamble, reflected international concerns as follows:
  - “...*Considering* that the financing of terrorism is a matter of grave concern to the international community as a whole,
  - Noting* that the number and seriousness of acts of international terrorism depend on the financing that terrorists may obtain,
  - Noting also* that existing multilateral legal instruments do not expressly address such financing,
  - Being convinced* of the urgent need to enhance international cooperation among States in devising and adopting effective measures for the prevention of the

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<sup>8</sup> Morris-Cotterill (2001)

<sup>9</sup> [www.egmontgroup.org/about\\_egmont.pdf](http://www.egmontgroup.org/about_egmont.pdf)

financing of terrorism, as well as for its suppression through the prosecution and punishment of its perpetrators ...”<sup>10</sup>

- The 2000 UN Convention against Transnational Organized Crime, of which Article 6 requires that signatories adopt “such legislative and other measures as may be necessary to establish as criminal offences,” actions that have the effect of laundering the proceeds of crime.<sup>11</sup>
- The 2003 UN Convention against Corruption which, amongst other things, criminalises the laundering of the proceeds of corruption, and addresses the “tracing, freezing, seizure and confiscation of the proceeds of corruption.”<sup>12</sup>
- The Forty Recommendations of the Financial Action Task Force, have been revised twice, and enhanced by the issue of the Special Recommendations regarding terrorist financing, in 2001 and subsequently.

Since the terrorist attacks in the USA of September 2001, a range of additional measures such as the Third EC Directive have been implemented to limit the misuse of the global financial system.

The FATE, established in 1989, is the key “inter-governmental body whose purpose is the development and promotion of policies, both at national and international levels, to combat money laundering and terrorist financing.”<sup>13</sup> The FATF initially published its “Forty Recommendations” in 1990 to provide a framework for anti-money laundering efforts, as a response to the laundering of the proceeds of illicit drugs. The Recommendations were subsequently revised in 1996, and again in 2003. The “Non-Cooperative Countries and Territories” (NCCT) process aims to encourage compliance with the Forty Recommendations, with threats of sanctions against non-compliant countries. A number of non-compliant countries have subsequently been placed on NCCT lists and have been assisted by the international community to develop regulatory regimes that satisfy the criteria underlying the “Forty Recommendations”. Upon meeting required levels of compliance, countries have been removed from the NCCT list. The FATF also has a Mutual Evaluations programme whereby the progress of member countries towards compliance with the “Forty Recommendations” is assessed by panels of representatives from other countries.

Following the September 2001 terrorist attacks in the USA, the FATF developed some additional recommendations aimed at the financing of terrorism. Eight Special Recommendations on Terrorist Financing were issued in October 2001, encouraging members to:

- Take immediate steps to ratify and implement the relevant United Nations instruments;
- Criminalise the financing of terrorism, terrorist acts and terrorist organisations;
- Freeze and confiscate terrorist assets;
- Report suspicious transactions linked to terrorism;
- Provide the widest possible range of assistance to other countries’ law enforcement and regulatory authorities for terrorist financing investigations;
- Impose anti-money laundering requirements on alternative remittance systems;
- Strengthen customer identification measures in international and domestic wire transfers; and
- Ensure that entities, in particular non-profit organisations, cannot be misused to finance terrorism.<sup>14</sup>

Special Recommendation Nine regarding Cash couriers was issued in 2004.

These recommendations have been acknowledged and supported by groups such as the IMF, World Bank, and Basel Committee, as well as the private sector, most notably represented by the Wolfsberg Group.

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<sup>10</sup> [www.un.org/law/cod/finterr.htm](http://www.un.org/law/cod/finterr.htm)

<sup>11</sup> [www.unodc.org/unodc/en/crime\\_cicp\\_convention.html](http://www.unodc.org/unodc/en/crime_cicp_convention.html)

<sup>12</sup> [www.unodc.org/unodc/en/crime\\_convention\\_corruption.html](http://www.unodc.org/unodc/en/crime_convention_corruption.html)

<sup>13</sup> [www1.oecd.org/fatf/AboutFATF\\_en.htm](http://www1.oecd.org/fatf/AboutFATF_en.htm)

<sup>14</sup> [www1.oecd.org/fatf/TerFinance\\_en.htm](http://www1.oecd.org/fatf/TerFinance_en.htm)

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Since 1995, the number of Financial Intelligence Units has grown substantially, and several FATF-style regional bodies have also been established, including the regions of Asia-Pacific (APG - established 1997), Caribbean (CFATF - established 1996), Europe (MONEYVAL - established 1997), South America (GAFISUD - established 2000), Eastern and Southern Africa (ESAAMLG - established 1999), Middle East and North Africa (MENAFATF - established 2004), and Eurasia (Eurasia Group<sup>15</sup> – established 2004). The Egmont Group of Financial Intelligence Units was established in 1995, and is an informal group of national financial intelligence units for the purpose of promoting international cooperation. As at July 2005, there are 101 members of the Egmont Group. There is strong interest in member countries “to focus on research, analysis and information exchange in order to combat money laundering, terrorist financing and other financial crimes.”<sup>16</sup>

The APG, with 29 members and 10 observer countries as at July 2005, is particularly relevant to Australia. The APG

“is an autonomous regional anti-money laundering body. The APG uses the FATF's 40 Recommendations and Special 9 Recommendations as its primary guidelines for the implementation of effective anti-money laundering and counter terrorism financing measures. The APG also uses similar mechanisms to those used by the FATF to monitor and facilitate progress.”<sup>17</sup>

The United Nations contributes to efforts to combat money laundering, illicit drugs, crime and terrorism, by working with Member States “... to strengthen the rule of law, to promote stable and viable criminal justice systems and to combat the growing threats of trans-national organized crime, corruption and trafficking in human beings.”<sup>18</sup>

The UN's Global Programme against Money Laundering

“helps Member States to introduce legislation against money laundering and to develop and maintain the mechanisms that combat this crime. The programme encourages anti-money laundering policy development, monitors and analyses the problems and responses, raises public awareness about money laundering, and acts as a coordinator of joint anti-money laundering initiatives by the United Nations with other international organizations.”<sup>19</sup>

The UN Security Council adopted Resolution 1373 on 28 September 2001, condemning the September 2001 terrorist attacks, and expressing its determination to prevent all such acts.<sup>20</sup> The UN has issued a series of terrorism-related conventions and declarations,<sup>21</sup> particularly the International Convention for the Suppression of the Financing of Terrorism (1999).<sup>22</sup>

The Basel Committee on Banking Supervision was established in 1974. The member countries “are represented by their central bank and also by the authority with formal responsibility for the prudential supervision of banking business where this is not the central bank.”<sup>23</sup> “The Committee does not possess any formal supranational supervisory authority, and its conclusions do not ...have legal force. Rather, it formulates broad supervisory standards and guidelines and recommends statements of best practice in the expectation that individual authorities will take steps to implement them through detailed arrangements -

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<sup>15</sup> The Eurasia Group comprises Russia, China, Belarus, Kazakhstan, Kyrgyzstan and Tajikistan

<sup>16</sup> [www.egmontgroup.org/about\\_egmont.pdf](http://www.egmontgroup.org/about_egmont.pdf)

<sup>17</sup> [www.apgml.org/content/relationship\\_to\\_the\\_fatf.jsp](http://www.apgml.org/content/relationship_to_the_fatf.jsp)

<sup>18</sup> [www.unodc.org/unodc/en/about.html](http://www.unodc.org/unodc/en/about.html)

<sup>19</sup> [www.unodc.org/unodc/en/money\\_laundering.html](http://www.unodc.org/unodc/en/money_laundering.html)

<sup>20</sup> [www.un.org/Docs/sc/committees/1373/mandate.html](http://www.un.org/Docs/sc/committees/1373/mandate.html)

<sup>21</sup> [untreaty.un.org/English/Terrorism.asp](http://untreaty.un.org/English/Terrorism.asp); [www.un.org/terrorism/declarations.htm](http://www.un.org/terrorism/declarations.htm)

<sup>22</sup> [untreaty.un.org/English/Terrorism/Conv12.pdf](http://untreaty.un.org/English/Terrorism/Conv12.pdf)

<sup>23</sup> [www.bis.org/bcbs/](http://www.bis.org/bcbs/)

statutory or otherwise - which are best suited to their own national systems .... the Committee encourages convergence towards common approaches and common standards ...”<sup>24</sup>

The Wolfsberg Group (an association of 12 global banks) was formed in 2000, and published its Anti-Money Laundering Principles for Private Banking. The Principles were subsequently revised in 2002. Statements have been issued regarding Terrorist Financing, Correspondent Banking, and the development of “risk-based processes for monitoring, screening and searching of transactions and customers”.<sup>25</sup>

Furthering the focus on international cooperation, AUSTRAC, Australia’s FIU, has entered into 42 exchange agreements or Memoranda of Understanding with other FIUs. Of these, 41 have been entered into since 1995. Selected other Australian agencies have similar capabilities.

**Table 1. Number of International exchanges between AUSTRAC and other FIUs, 2000-2004**

Year	In		Out	
	Requests	Disseminations	Requests	Disseminations
1/1/2000 – 31/12/2000	17	10	11	6
1/1/2001 – 31/12/2001	7	4	5	1
1/1/2002 – 31/12/2002	17	15	5	2
1/1/2003 – 31/12/2003	53	45	24	15
1/1/2004 – 31/12/2004	66	57	37	23

Note: A discrepancy between the number of requests and the number of disseminations can be due to the request being withdrawn; or no information being exchanged, and hence no dissemination.

### Australia’s regional context

A decade ago, the idea that organised crime could operate on a regional scale in Australia’s vicinity was rarely considered. In 1999, Castle and Broomhall wrote “The growth of the Asia Pacific economies, spurred by globalisation and matched by the growth of corrupt and criminal economic practices, has left vital regulatory capacity trailing. The scarce or non-existent capacity of the leading regimes in the Asia-Pacific to identify, confront and regulate against crime and corruption, in society generally but most specifically in financial markets, is as much of a threat as the activities of criminal groups themselves.”<sup>26</sup>

A study by Castle and Lee found that in the Asia Pacific region, “Some jurisdictions fare extremely well in independent assessments of corruption, ... others exhibit middling experiences, while a limited number have major problems in this area. The existence of significant criminal activity in the region, largely in the shape of the drug trade and other forms of trafficking, and the emergence of new offshore financial services centres to complement those already in existence, render the region vulnerable to money laundering activity in any event. With the overlay of significant nodes of corrupt activity, it becomes evident that moves towards greater financial transparency and public accountability are as necessary in the Asia Pacific as in any other region of the world.”<sup>27</sup>

Since these statements, the progress towards reducing corruption levels in the Asia Pacific region has been marked. Of the eighty eight countries for which the Transparency International Corruption Perceptions Index could be calculated for both 2000 and 2004, fourteen are in the Asia-Pacific region (see Table 2). Of those fourteen, seven countries made significant strides up the rankings between 2000 and 2004, meaning that the surveys had measured a reduction in perceived corruption, and the others

<sup>24</sup> [www.bis.org/bcbs/aboutbcbs.htm](http://www.bis.org/bcbs/aboutbcbs.htm)

<sup>25</sup> [www.wolfsberg-principles.com/monitoring.html](http://www.wolfsberg-principles.com/monitoring.html)

<sup>26</sup> Castle, A and Broomhall, B (1999)

<sup>27</sup> Castle, A., Lee, J. (1999)



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maintained a steady ranking. Almost all Asia-Pacific countries scored better in the 2004 survey than they had in the 2000 survey.

It is now widely recognised that unstable, weak or fail(ing/ed) states present a risk in terms of their vulnerability to exploitation by criminals and terrorists. At a presentation at the Reserve Bank of Fiji Symposium on 15-16 July 2004, the Secretary-General of the Pacific Islands Forum observed that “isolation can no longer insulate or protect the Pacific Islands from terrorism, drugs and people smuggling, or other transnational crimes.” He further noted that frauds “are being perpetrated by organized criminal groups and individuals within the region in relation to revenue, documents, identity, financial scams, money laundering, counterfeiting and intellectual property.”

**Table 2. Changes in Perceptions of Corruption, Asia Pacific Region, 2000 – 2004**<sup>28</sup>

Country	2000 Corruption Perceptions Index		2004 Corruption Perceptions Index	
	Rank out of 88	Score	Rank out of 88	Score
New Zealand	3	9.4	2	9.6
Singapore	6	9.1	5	9.3
Australia	13	8.3	9	9.2
Hong Kong	15	7.7	16	8.4
Japan	23	6.4	23	7.4
Taiwan	28	5.5	29	6.0
Malaysia	36	4.8	31	6.0
South Korea	48	4.0	38	4.8
Thailand	60	3.2	49	3.8
China	63	3.1	55	3.5
India	69	2.8	63	3.1
Philippines	69	2.8	68	2.8
Vietnam	75	2.5	68	2.8
Indonesia	84	1.7	84	2.1

In July 2004, the Acting Secretary-General of the Forum remarked that globalisation and technology had meant that “greater efficiencies in moving people, money and other commodities at the push of a button ... means that our lives may be touched, disturbed even destroyed in ways which still seem surreal to us”, and continued by saying that “[t]he reality is that transnational crime happens in our region and with it the need for those involved to legitimise the money gained from these activities .... we need to be fully aware of our roles and responsibilities ... to combat transnational organised crime and terrorism.”<sup>29</sup>

Financial and economic criminals seek out financial systems that are not well managed and or regulated, and this makes poorer countries attractive targets. The net result may well be that these criminals target the financial systems of these countries and seek to exploit them, and in particular use them for the laundering of money, due to the lack of regulatory regimes in place.

### The need to respond to crime and terrorism in our region

The Co-Chairs report from a conference held in Bali, Indonesia in December 2002 noted that:

“The world is undergoing dramatic historical change at a rapid pace. We have witnessed fundamental changes in the spread of information technology, in the nature of war, and in transnational crime, including money laundering and terrorism. This trend is introducing elements which present new threats to the international community in the twenty-first century. The growth of international trade, expansion of the global financial system, increased international travel, and the surge in the internationalization of organized crime have combined to provide opportunities for converting illegal proceeds into what appear to be legitimate funds. ... the international community

<sup>28</sup> see [www.icgg.org/corruption.cpi\\_2004.html](http://www.icgg.org/corruption.cpi_2004.html)

<sup>29</sup> Maiava, I. (2004)

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has developed over the years measures to address the problem of proceeds of crime and money laundering. These measures include the means to identify, trace, freeze and confiscate illicit funds, and now extends to most serious transnational crime, including terrorism.

Threats from transnational crime emanate not only from within the borders of a country but also from beyond. Therefore, national efforts alone will not suffice to combat transnational crime. National efforts need to be accompanied by regional and global endeavours .... [For this reason] a number of initiatives are being pursued in the Asia-Pacific region in forums such as ASEAN, ARF, APEC, ASEM as well as the Asia-Pacific Group on money laundering”.<sup>30</sup>

Further, the Bali Regional Ministerial Meeting on Counter-Terrorism recommended strengthening the assistance provided to “small island developing states to meet their international obligations in the area of counter-terrorism...”<sup>31</sup>

The establishment of the Jakarta Centre for Law Enforcement Cooperation in 2004 was a joint initiative of Australia and Indonesia responding to the threat of terrorism, and “will provide training in key counter terrorism skills such as the tracking and interception of terrorists, forensics, crime scene investigation, financial investigations, threat assessments, security support for major events and consequence management, criminal prosecution and counter terrorism legislative drafting skills. The Centre ... will be developed over time as a resource for the entire region in the fight against transnational crime, with a focus on counter-terrorism.”<sup>32</sup>

It is clear that these issues of the proceeds of crime, money laundering and the financing of terrorism are considered as key areas of concern, which have been considered in international fora and at the national level. The following chapter discusses several countries’ responses to money laundering and the financing of terrorism.

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<sup>30</sup> Co-Chairs’ Report, Australian Government and Republic of Indonesia Conference on Money Laundering 2002.

<sup>31</sup> [www.aseansec.org/16000.htm](http://www.aseansec.org/16000.htm)

<sup>32</sup> [www.dfat.gov.au/geo/indonesia/indonesia\\_brief.html](http://www.dfat.gov.au/geo/indonesia/indonesia_brief.html)

### **CHAPTER 3 - A BRIEF OVERVIEW OF NATIONAL LEGISLATIVE RESPONSES**

These international cooperative efforts have been accompanied by national-level legislative responses in many countries around the world. Australia's responses to the threat of money laundering are described here in brief.

In Australia, the most comprehensive scheme for confiscating Proceeds of Crime relating to crimes against Commonwealth of Australia laws was originally the Proceeds of Crime Act 1987 (POCA 1987), which required a conviction for the ("serious") offence which generated the property in question.<sup>33</sup> When property was restrained pursuant to the Act, POCA 1987 provided for access to restrained property to pay legal (and some living) expenses, depending on the time that the proceeding took to be finalised, this would sometimes result in wholesale dissipation of restrained assets, and a consequential reduction in the property available to be forfeited. The simple passage of time between restraint of the property and its eventual forfeiture often resulted in diminution of the value of the assets.

The Proceeds of Crime Act 2002 (POCA 2002) now provides conviction-based and civil streams of recovery action:

- a **conviction** based forfeiture order;
- a **conviction** based pecuniary penalty order;
- automatic forfeiture following **conviction**;
- a person directed **civil** based forfeiture order;
- an asset directed **civil** based forfeiture order;
- a **civil** based pecuniary penalty order; and
- a literary proceeds order.<sup>34</sup>

A civil-based action can run before there is a prosecution, after there has been a prosecution, in parallel to a prosecution, or where there is no prosecution. Automatic forfeiture is available in cases where the defendant has been convicted of a "serious offence" as defined in the Act. POCA 2002 can also be used to confiscate the proceeds of crimes committed outside the Australian jurisdiction [regardless of where the assets are located], and in some cases, the proceeds of a crime against State law.<sup>35</sup>

The investigation of money-laundering offences was further enhanced in January 2003 with the introduction of new offences in the Criminal Code Act 1995.<sup>36</sup> The Customs Act is another tool in the Commonwealth's arsenal. This legislation has contained civil forfeiture provisions since 1979, which can be used to recover forfeited goods and the profits of drug importations.<sup>37</sup>

In addition to litigation, the use of taxation laws as an alternative means of bringing those who have avoided criminal sanctions to justice has been illustrated by a matter described in AUSTRAC's 2003/04 Annual Report.<sup>38</sup> While taxation measures are ostensibly limited to the amount of tax that is due on

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<sup>33</sup> Australian Law Reform Commission [ALRC] (1999). This report traces the development of the Commonwealth and State Responses to Proceeds of Crime in some depth.

<sup>34</sup> CDPP Annual Report 2004

<sup>35</sup> *ibid.*

<sup>36</sup> "On 1 January 2003 the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002 inserted into the Criminal Code Act 1995 new money laundering offences replacing those in the Proceeds of Crime Act 1987. A matrix of 18 new offences now exists, graded according both to the level of knowledge required of the offender (intent, recklessness, negligence) and the value of the property involved in the laundering." AFP Annual Report 2002/03. The Explanatory Memorandum to the Proceeds Of Crime (Consequential Amendments and Transitional Provisions) Bill 2002 provides an overview of legislation supplementing Commonwealth Proceeds legislation.

<sup>37</sup> CDPP Submission re Proceeds of Crime Bill 2001.

<sup>38</sup> AUSTRAC Annual Report 2003/04, page 44

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assessed income, the imposition of administrative penalties can increase the level of recovery. The introduction of the Goods and Services Tax (GST) in Australia in 2001 has had an effect on the taxation 'landscape'.

The Commonwealth Director of Public Prosecutions (CDPP) noted in its 2003/04 Annual Report that "The past year has seen the DPP take on an increasing number of complex prosecutions in the areas of fraud, drug crime, money laundering and people smuggling.... terrorism cases and sexual servitude prosecutions.... We are likely to see further increases in work especially in the areas of terrorism, money laundering and fraud." The CDPP sees that their main challenges "in the coming year are to continue to prosecute difficult cases to a high standard of efficiency and to explore ways of fully using the provisions of the PoC Act."<sup>39</sup> As the CDPP and other agencies, and the judiciary, become more comfortable with utilising this and other 'new' legislation, it can be reasonably expected that there will be greater willingness to utilise these measures.

The Australian States and Territories have also enacted legislation, including the Western Australian Criminal Property Confiscation Act 2000 and the Victorian Confiscation Act (to which major changes are expected in 2004/05 with the introduction of a civil assets seizure regime).<sup>40</sup> All states and territories in Australia now have a non-conviction civil scheme for criminal property forfeiture.<sup>41</sup> The value of these regimes has been effectively stated by the New South Wales Crime Commission: "The most effective investigative work undertaken by law enforcement agencies in money laundering matters has involved the confiscation of assets under civil-based legislation such as now exists in most Australian jurisdictions."<sup>42</sup>

The 1995 Walker Report made no mention of terrorist financing, as at the time this was not considered a significant focus or activity of criminals involved in laundering money.

"Australia's first real exposure to international terrorism was probably the bombing of the Sydney Hilton Hotel in March 1978. The bombing and the subsequent 'Siege of Bowral' highlighted our relative unpreparedness, in an administrative and legislative sense, for terrorist events and the range of terrorist responses that may be required .... Australia has had experiences with related issues such as politically motivated violence, organised crime and national security. But we have had few real experiences widely accepted as terrorism per se."<sup>43</sup>

The world that we find ourselves in now, particularly post September 2001, is a vastly different place. The attacks in the United States in September 2001, Bali in October 2002, Turkey in 2003, the Spain train bombings in 2004, and the bombings in United Kingdom and Egypt in 2005, amongst others, have irrevocably changed the criminal landscape and now issues relating to terrorism and the financing of terrorist acts and individuals have become a primary focus of law enforcement agencies world-wide.

The Australian Parliament has re-examined laws relating to terrorism, including enhancing law enforcement powers relating to laundering the proceeds of crime. The focus of this legislation was to provide for agencies to identify, secure and restrain property at the earliest convenience. The Attorney-General, in introducing several proposed legislative changes, indicated that these legislative initiatives were introduced as a response to "community demands that our counter-terrorism laws are strong and certain".<sup>44</sup>

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<sup>39</sup> CDPP Annual Report 2003/04

<sup>40</sup> Victoria Office of Public Prosecutions Annual Report 2003/04

<sup>41</sup> [www.nt.gov.au/justice/docs/lawmake/forfeiture.pdf](http://www.nt.gov.au/justice/docs/lawmake/forfeiture.pdf)

<sup>42</sup> New South Wales Crime Commission Annual Report 2003/04

<sup>43</sup> Hancock, N. (2002)

<sup>44</sup> Hansard, House of Representatives, 12 December 2002 (page 10427)

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The events of 11 September 2001 and 12 October 2002 were described in the Australian Parliament as having “changed the international and domestic environment forever”.<sup>45</sup> Consequently, “Australia is under pressure from two sides to take measures to address terrorism both locally and globally. On one side is an open-ended requirement from the United Nations Security Council requiring States to take comprehensive measures to combat terrorism. On the other side are strong precedents set by the United Kingdom and United States which far exceed these requirements, particularly in the context of law enforcement powers.”<sup>46</sup>

The Suppression of the Financing of Terrorism Act 2002 establishes the offence of providing or collecting funds where the person is reckless as to whether the funds will be used to facilitate or engage in a terrorist act. This Act also made amendments to the Financial Transaction Reports Act (FTRA) to make transactions suspected to be related to the financing of terrorism reportable to AUSTRAC.

The Australian responses to money laundering and, more recently, terrorist financing, mirrors the responses of other developed countries.

### United Kingdom

“The Proceeds of Crime Act (PoCA) was passed in 2002 and has been implemented in stages.... An Assets Recovery Agency (ARA) was created under PoCA ... and came into operation in February 2003. Its functions include civil recovery, complex criminal confiscation, the production of a national assets seizure strategy .... by the beginning of May 2003, around £21 million had been seized under the new PoCA cash seizure provisions, of which it is estimated that 80 percent would not have been seized using the pre-PoCA powers.”<sup>47</sup> This, however, needs to be seen in the light of estimates of annual proceeds from crime in the UK at “anywhere between £19 billion and £48 billion, with £25 billion possibly being a realistic figure for the amount actually laundered. Based on the January 2000 International Monetary Fund estimate of undeclared economic activity in the UK representing around 13 percent of Gross Domestic Product, £25 billion would equate to roughly one fifth of all undeclared economic activity.”<sup>48</sup>

From April 2004, a share of recovered assets could be recycled to police forces.<sup>49</sup>

The UK has also enacted a range of legislative measures related to terrorism and the financing of terrorism, such as:

- The Terrorism Act 2000 which penalises fund-raising for terrorist organisations, including money laundering and financial assistance;
- Anti-Terrorism Crime and Security Act 2001; and the
- Prevention of Terrorism Act 2005

### United States

The United States has long standing legislation generally aimed at organised crime, commencing with the Omnibus Crime Control and Safe Streets Act (1968) and the Racketeer Influenced and Corrupt Organisation (RICO) Act (1970). The Bank Secrecy Act (1970) was “originally intended to aid investigations into an array of criminal activities, from income tax evasion to laundering of money by organized crime. In recent years the reports and records prescribed by the bank secrecy rules have been utilized mainly as tools for investigating individuals suspected of engaging in illegal drug activities.”<sup>50</sup>

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<sup>45</sup> *ibid.* (page 10428)

<sup>46</sup> *ibid.*

<sup>47</sup> NCIS (2003)

<sup>48</sup> *ibid.*

<sup>49</sup> Crown Prosecution Service Inspectorate (2004).

<sup>50</sup> [www.bankdetect.com/compliance.htm](http://www.bankdetect.com/compliance.htm)

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“Under the provisions of the Controlled Substances Act of 1978, the Money Laundering Control Act of 1986, and the Anti-Drug Abuse Act of 1988, real or personal property traceable to illegal drug sales or purchased with laundered money is subject to government seizure and forfeiture.”<sup>51</sup>

In response to the terrorist attacks of September 2001, the USA has enacted several pieces of legislation, which while neither international treaties or conventions, have had international reach. These include updates to the earlier Bank Secrecy Act, and the USA PATRIOT Act, the purpose of which is “To deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes”,<sup>52</sup> the latter of which was enacted in 2001. Under this Act, FinCEN, the US FIU, is empowered to make rules that prohibit U.S. financial institutions from establishing, maintaining, administering or managing any correspondent account in the United States for or on behalf of any foreign bank that is designated as a “primary money laundering concern”. This effectively gives it considerable international influence. Since its inception, a number of institutions have been named “pursuant to Section 311 of the Act for money laundering activities and financial abuse by account holders and owners”.<sup>53</sup> The Bush Administration has also taken action, pursuant to Section 311, against several foreign jurisdictions, which have been lifted only after those countries took aggressive steps to address the concerns and risks identified in the s.311 action. This is possible because of the fact that many transactions are conducted in the US currency. The PATRIOT Act is said to have “created an evolution of increased requirements leading toward the improved detection of money laundering and terrorism financing activities”.<sup>54</sup>

### Canada

The objects of Canada’s Proceeds of Crime (Money Laundering) and Terrorist Financing Act 2001 are:

- to implement specific measures to detect and deter money laundering and the financing of terrorist activities to facilitate the investigation or prosecution of money laundering and terrorist financing offences, including:
  - establishing record keeping and client identification requirements for financial services providers and other persons that engage in businesses, professions or activities that are susceptible to being used for money laundering, and the financing of terrorist activities,
  - requiring the reporting of suspicious financial transactions and of cross-border movements of currency and monetary instruments, and
  - establishing an agency that is responsible for dealing with reported and other information;
- to respond to the threat posed by organized crime by providing law enforcement officials with the information they need to investigate and prosecute money laundering or terrorist financing offences, while ensuring that appropriate safeguards are put in place to protect the privacy of persons with respect to personal information about themselves; and
- to assist in fulfilling Canada's international commitments to participate in the fight against transnational crime, particularly money laundering and the fight against terrorist activities.<sup>55</sup>

### Malaysia

Malaysia’s Anti-Money Laundering Act 2001 (AMLA) was enacted in January 2000 and criminalises money laundering in Malaysia. Malaysia’s FIU is located within Bank Negara Malaysia and became operational on 8 August 2001.

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<sup>51</sup> [www.occ.treas.gov/handbook/bsa.pdf](http://www.occ.treas.gov/handbook/bsa.pdf)

<sup>52</sup> [www.fincen.gov/hr3162.pdf](http://www.fincen.gov/hr3162.pdf)

<sup>53</sup> in particular, the Myanmar Mayflower Bank and Asia Wealth Bank, the Commercial Bank of Syria and its subsidiary Syrian Lebanese Commercial Bank, the First Merchant Bank of the "Turkish Republic of Northern Cyprus" ("TRNC"), the Infobank of Belarus, and two Latvian financial institutions, Multibanka and VEF Bank. See [www.treas.gov/press/releases/js2401.htm](http://www.treas.gov/press/releases/js2401.htm)

<sup>54</sup> [www.bankdetect.com/compliance.htm](http://www.bankdetect.com/compliance.htm)

<sup>55</sup> [www.fintrac.gc.ca/act-loi/1\\_e.asp](http://www.fintrac.gc.ca/act-loi/1_e.asp)

### Singapore

Singapore's FIU, the Suspicious Transaction Reporting Office (STRO) commenced operations on January 10, 2000. STRO operates within the Financial Investigation Division of the Commercial Affairs Department. The Financial Investigation Division is in charge of the enforcement of anti-money laundering legislation in Singapore. It is also responsible for the seizure and confiscation of the proceeds of crime. Singapore has enacted a range of measures to deal with money laundering the financing of terrorism:

- *Corruption, Drug Trafficking and Serious Crimes (Confiscation of Benefits) Act;*
- *The Terrorism (Suppression of Financing) Act;*
- *The Monetary Authority of Singapore (Anti-terrorism Measures) Regulations 2002; and the*
- *Mutual Assistance in Criminal Matters Act (MACMA) 2002.*

### Japan

In 2000, Japan expanded its money laundering law beyond narcotics trafficking to include money laundering predicate offences such as murder, aggravated assault, extortion, theft, fraud, and kidnapping through creation of the *Anti-Organised Crime Law* (AOC Law)<sup>56</sup>, which came into effect in February 2000. The AOC Law was amended again in 2003 to further expand predicate offences on criminal proceeds. The AOC Law also established Japan's FIU, the Japan Financial Intelligence Office (JAFIO). The AOC Law is now called the *Law for Punishment of Organised Crimes, Control of Crime Proceeds and Other Matters*. The 2002 Act on *Punishment of Financing of Offences of Public Intimidation* added terrorist financing to the list of predicate offences for money laundering and provided for the freezing of terrorism-related assets.

While many countries have enacted responses like these, there is still little formal estimation of money laundering at the national level.





## **CHAPTER 4 - COMMENTARY ON THE EXTENT OF MONEY LAUNDERING.**

At the global level, the most commonly quoted estimate of the extent of money laundering remains Michel Camdessus' 1998 statement that money laundering was 2-5% of global GDP. The authors have been unable to identify a demonstrated factual basis to support this estimate. Without knowing the basis for this reference point, it is impossible to determine whether subsequent developments (including on the one hand, increased effectiveness and coverage in anti-money laundering efforts, and on the other hand, increasing criminal threats, terrorist financing, and the criminal exploitation of new payment systems) have led to an increase or decrease compared to the situation in 1998. If the estimate were indeed valid for Australia, it would suggest the following estimates for Australia for 1995 and 2003.

<b>Year</b>	<b>(GDP) <sup>57</sup></b>	<b>ML as a proportion of GDP (AUD)</b>	
		2%	5%
1994/95	AUD 545.9 Bn	10.9 Bn	27.3 Bn
2002/03	AUD 734.2 Bn	14.7 Bn	36.7 Bn

Even at the lower end of the scale, these figures are considerably higher than the findings of the 1995 Walker report. This could suggest that Australia's relatively robust financial sector; the investment made by Australia in law enforcement and financial intelligence; and the nature of Australia's borders and stability have contributed to a lower than global-average extent of crime and therefore quantum of proceeds of crime requiring laundering. An alternative view is that there is a much higher amount of 'invisible' proceeds of crime in Australia, which has not yet been detected by Australian law enforcement or criminologists.

### Findings of the 1995 Walker report:

The 1995 Walker report utilised crime statistics, surveys, interviews, AUSTRAC data, and a variety of financial reports, and considered a wide range of crime categories:

- Homicide;
- Other Offences against the Person;
- Robbery and Extortion;
- Break and Enter;
- Frauds (Insurance; Business; Public Sector; Other);
- Thefts (Vehicles; Stealing; Stock; Shoplifting; Other);
- Arson/Property Damage, Environmental Offences; and
- Drugs (Import/Export; Manufacture; Dealing/Trafficking)

The results suggested that, of the likely quantum of laundered funds of around AUD 3.5 billion, "the greatest components of this quantum are sourced by fraudulent offences followed by the drugs trade - virtually nothing else matters".<sup>58</sup>

At the time of publication, this finding was not in accordance with the general international consensus, which was that the majority of laundered money was generated by drug offences. However, fraud is now increasingly recognised as a generator of criminal profits. The National Criminal Intelligence Service of the United Kingdom (NCIS), in its 2003 Threat Assessment, observed that regarding drugs as the greatest

<sup>57</sup> Source: Australian Bureau of Statistics.

<sup>58</sup> Walker (1995)

criminal threat, and according it a very high law enforcement priority, “may unconsciously have diverted attention from other areas, whose relative importance is currently less well understood as a result.”<sup>59</sup>

The 1995 Walker research included a review of the official statistics related to money laundering, followed by a survey of expert opinion. It indicated that the official statistics then available were “mostly unhelpful” and that the survey of “operational police from specialist squads, police statisticians and crime researchers ... produced a range of estimates” with some areas of “considerable variation” but also some of “consensus”. Walker noted that “Unfortunately, none of these agencies compile comprehensive statistics on the extent of money laundering in and through Australia per se; most compile no statistics at all on money laundering. Until recently, money laundering has rarely been treated as a crime in its own right, but, like receiving, has usually been regarded as an aftermath of crime – most often a fraud or drug crime.”<sup>60</sup>

While providing what has proven to be a credible estimate of the extent of money laundering in and through Australia, the report concluded that “the effects this money laundering has on the Australian economy cannot be assessed accurately with the information available”, because there was a “need for considerable improvement in the provision of appropriate data on the estimated and proven proceeds of crime and the prevalence of laundering” and “there is little systematic data on how laundered money is spent.”<sup>61</sup>

The 1995 Walker Report concluded that “Further refinement of the estimates produced in this report should go hand in hand with international collaborative efforts to quantify money laundering. The clearest area of need is for estimates of the extent of money being brought into Australia for laundering, which cannot be known without better information on the proceeds of crime and money laundering in other countries.” Another area of greyness noted was the extent to which money is expatriated from Australia for laundering, and that this could not be clarified without better information on the routes taken by hot money leaving Australia. The 1995 Walker Report suggested that, if other countries conducted exercises of this kind, it would facilitate international econometric modelling exercises on the likely extent of flows of hot money around the world, and provide consistent data on flows of hot money into and out of Australia.<sup>62</sup>

Quirk also subsequently observed that “A consistent international methodology would offer economies of scale as well as the sharing of insights across countries.”<sup>63</sup>

### Responses to the 1995 Walker report:

Following the publication of the 1995 Walker Report, various elements of its approach were used in a number of other jurisdictions. The statement that there was “a need for considerable improvement in the provision of appropriate data on the estimated and proven proceeds of crime and the prevalence of laundering”<sup>64</sup> was supported by the FATF, which stated in its 1996/97 Annual Report:

“Due to the difficulties in deriving an accurate and precise figure for the amount of money laundering which is taking place in FATF member countries, it was agreed that as part of their submissions members would endeavour to provide some rough estimate of the amount of money laundering occurring in their countries. Unfortunately, the vast majority of FATF members lack sufficient data to support any credible estimate. The most comprehensive figures remain the results

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<sup>59</sup> NCIS (2003)

<sup>60</sup> Walker (1995)

<sup>61</sup> *ibid.*

<sup>62</sup> *ibid.*

<sup>63</sup> Quirk, P. (1997)

<sup>64</sup> Walker (1995)

of the study produced by the Australian delegation for 1995 which projected the amount of money laundered in that country to be approximately AUD 3.5 billion ... during 1995.”<sup>65</sup>

The findings of the 1995 Walker Report helped to promote improvements in the data compiled on money laundering and related issues in Australia. It has been drawn upon in a wide range of Australian government statements and publications, for example, the Commonwealth Law Enforcement Board’s *Submission to the Australian Treasury’s Financial System Inquiry* in September 1996,<sup>66</sup> and the Victorian Parliamentary Inquiry into Fraud and Electronic Commerce in 2004.<sup>67</sup> The report has had some regional impact also, with the Asian Development Bank’s *Manual on Countering Money Laundering and the Financing of Terrorism* (published January 2003) reference to the work in its analysis of economic distortion.

Attempts to estimate money laundering – or at least significant components of money laundering – were also made in a range of other countries,<sup>68</sup> acknowledging the 1995 Walker report. The United Nations Office on Drugs and Crime (UNODC)<sup>69</sup> and the European Union (Euroshore project)<sup>70</sup> acknowledged the nature of the work, and have encouraged further research. Academic interest has been high, with a number of post-graduate students referring to the 1995 Walker report in their dissertations.<sup>71</sup> We are not aware of any critiques of the 1995 Walker report that dispute either the methodology or the findings. Walker’s recent work<sup>72</sup> includes global modelling of money laundering flows, which has been used by the UNODC as a basis for its index of international organised crime<sup>73</sup>, and economic modelling of the global illicit drugs trade.<sup>74</sup>

Most AML research, however, still tends to rely on analysis of legislation and an examination of case studies, or is related to single issue crime types, such as the illicit drugs trade, rather than attempting to describe the whole picture for a country.<sup>75</sup>

### Public estimates related to the size of money laundering

The international news media now regularly includes stories related to the extent of money laundering and containing estimates of the size of the problem. It is clearly regarded as an essential component in giving readers and viewers an impression of the seriousness of the issue. While the sources and authenticity of the figures are not always clear, such stories can be found relating to every continent, as this selection shows:

#### United Kingdom

- “Office crimes such as fraud, money laundering and embezzlement cost British businesses over £40billion last year - or around £110m a day”. “Economic crimes cost UK firms over £40bn.” *RSM Robson Rhodes* (2004),  
[www.rsmi.co.uk/rrweb/news.nsf/PrintPages/9679975828B8AE8280256F3100348832?OpenDocument](http://www.rsmi.co.uk/rrweb/news.nsf/PrintPages/9679975828B8AE8280256F3100348832?OpenDocument)

<sup>65</sup> FATF Annual Report 1996/97.

<sup>66</sup> see also, Australian Bureau of Criminal Intelligence [ABCI] Australian Illicit Drug Reports 1997 – 1998; 1999 – 2000; Etter, B. (2002)

<sup>67</sup> Drugs and Crime Prevention Committee, (2004)

<sup>68</sup> Canada (Porteous, Dept of Justice), Italy (Becchi, Ufficio Italiano dei Cambi), U.K. (Storey, Treasury)

<sup>69</sup> Buscaglia E and Van Dijk, J. (2003)

<sup>70</sup> Transcrime - University of Trento (2000).

<sup>71</sup> These include students in Ireland (Barry), USA (Beja), Thailand (Nguyen), Uganda (Tusingwire), Italy (de Santa), U.K (Sohal), Turkey (Sedat), Austria (Riegler), Brazil (Salgado), and Tanzania (Lone).

<sup>72</sup> Walker J. (Ed), (2003) Montano E., and Walker J., (2003) Walker, J. (2000); Walker, J. (1999a); Walker, J., (1999b)

<sup>73</sup> Buscaglia E and Van Dijk, J., (2003)

<sup>74</sup> The findings of which are reported in World Drug Report 2005, UNODC

<sup>75</sup> Even the very comprehensive Clark & Burrell (2003), which provides numerous country profiles, contained few estimates of the extent of the problem in those countries.

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- “The overall size of criminal proceeds in the UK is not known, nor is the amount that is laundered. However, HM Customs and Excise recently estimated the annual proceeds from crime in the UK at anywhere between £19 billion and £48 billion, with £25 billion possibly being a realistic figure for the amount actually laundered. Based on the January 2000 International Monetary Fund estimate of undeclared economic activity in the UK representing around 13 percent of Gross Domestic Product, £25 billion would equate to roughly one fifth of all undeclared economic activity.” [ncis.gov.uk/ukta/2003/threat06.asp](http://ncis.gov.uk/ukta/2003/threat06.asp)
- “Identity Fraud costs the UK more than £1.3 billion annually.” <http://www.identity-theft.org.uk/>
- “The British Retail Consortium’s tenth Retail Crime Survey reported that there were 3,066 crime incidents per 100 retail outlets in 2001/2002. The estimated total cost of retail crime was down to £2,200m from £2,400m in 2001.” <http://www.homeoffice.gov.uk/crime/businessretailcrime/index.html>
- A survey by the British Chambers of Commerce estimated that crime costs businesses £19 billion per year. <http://www.homeoffice.gov.uk/crime/businessretailcrime/index.html>
- “UK black economy between 7-13% of GDP” (*Sunday Telegraph*, 29 March 1998)

## Other Europe

- “Switzerland is implicated in \$US500bill of money laundering each year” (*Swiss Finance Ministry, reported on 26 Mar 1998*)
- « Le chiffre d'affaires de la mafia représente 15% du PIB italien, rapporte l'organisme Confcommercio. Le chiffre d'affaires généré par des activités illégales atteint chaque année environ 300 trillions de lires. La majeure part de ces revenus est tiré du racket et des prêts usuriers. Confcommercio précise que son étude est basée sur des informations collectées auprès de la justice, de la police, du ministère de l'intérieur et des chambres de commerce » (*L'AGEFI, Le Quotidien Suisse des Affaires et de la Finance, 14 November 2000*)
- “Bada bing, bad-a income. Crime doesn't pay? It does for the Mafia, which is raking in \$172 billion a year in Italy alone - nearly as much as General Motors does worldwide.” [www.smh.com.au/news/World/Bada-bing-bada-income/2005/01/20/1106110857998.html](http://www.smh.com.au/news/World/Bada-bing-bada-income/2005/01/20/1106110857998.html)
- “Illegal grey economy in Czech Republic about 10% of GDP” (*Hospodářské Noviny, 2 April 1998*)
- “More than \$US2bill is laundered in Poland each year” (*National Bank of Poland, reported on 15 April 1998*)
- “Share of shadow business in Russia's economy may range between 25% -50%” (*TASS 17 March 1998*)
- “In the estimate of experts from the Russian interior and economics ministries, between \$US50bn. and \$US250bn has been illegally transferred from Russia to Western banks over the past five years” (*Interfax News Agency, 23 April 1999*)
- “The amount of money laundered in Russia ranges from dozens of millions to several billion roubles, going to as much as 50-60 billion roubles”, Chief of the Federal Financial Monitoring Service, Viktor Zubkov, reported on 12 April 2005 *ITAR-TASS World Service*
- “Money laundering in Belarus about 30% of GDP” (*European Humanities University, 20 November 1998*)

## North America

- “\$US30bill illegal drugs reach the US from Mexico each year” (*Chicago Tribune, 25 March 1998*)
- “Illicit drug sales generated up to \$US48 billion a year in profits that criminals tried to put back into the mainstream economy through money laundering, a (US) Congressional hearing told.” (*Reuters, 16 April 1999*)
- International pricing schemes cost the U. S. Treasury \$45 billion in income tax revenues in 2000. “Renowned International trade pricing research team Simon Pak and John Zdanowicz awarded \$2 million grant to expand work”. Available at <http://news.fiu.edu/releases/new2001/11-27intltrade.htm>
- “Illicit funds generated and laundered in Canada per year between \$Can5 and \$Can17 billion.” *Porteous Consulting, (1998), www.sgc.gc.ca/publications/Policing/1998orgcrim\_e.asp*
- “Whether it's money laundering, car theft, human smuggling or illegal trafficking, these activities associated with organized crime come with a significant social and economic price tag,” the

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(Canadian) Solicitor-General's office says. "It is estimated that organized crime costs Canadian taxpayers well over \$100-billion each year." *Howlett K., Toronto Globe and Mail, September 12 2003.*

- "Canadian money transfers suspected of funding terrorist activities could reach up to C\$140 million (\$117 million) this fiscal year, twice the level of 2003/04, a government agency designed to crack down on terrorist financing and money laundering said on Tuesday." *22 March 2005 Reuters News*

### Central and South America

- "Narcotics-Related Corruption Cited as Threat to Caribbean States - New report studies conditions in eight island nations": U.S. Drug Enforcement Administration (DEA) in its 2003 report called "The Drug Trade in the Caribbean: A Threat Assessment." In that report, the DEA said that in early 2000, the Caribbean Financial Action Task Force, an organization of states of the Caribbean Basin established to fight money laundering, estimated that \$60 billion in drug trafficking and organized crime proceeds are laundered through the Caribbean every year.
- "Approximately \$US2.7 billion are laundered in Colombia every year" (*BBC Monitoring Service, Latin America, 25 November 1998*)
- "The market value of the drug which moved through Jamaica, according to FID, was US\$899 million; while the seizures were valued at US\$123.5 million. Privacy, client trust likely victims as money laundering laws bite", *Ann-Margaret Lim, Observer staff reporter Sunday, December 05, 2004*

### Asia-Pacific

- "Card counterfeiting in Japan is at a record high, and victims this year are likely to lose more than 5 billion yen cumulatively. According to the Japan Credit Card Association, the total value of purchases made through unauthorized or fraudulent use of credit cards last year amounted to 20.8 billion yen. Of that figure, only 2.6 billion yen involved counterfeit cards." (*Asahi Shimbun 7 December 1999*)
- "Identity fraud is at the heart of organised crime and terrorism and is one of the biggest threats facing police in the Asia-Pacific, Australia's top cop said yesterday. Australian Federal Police Commissioner Mick Keelty yesterday met police chiefs from 12 Asia-Pacific nations to discuss the AUD 2.7 trillion problem." *Alison Rehn, AAP Publication: DHS (15-10-2004).*
- "Terrorists and drug traffickers will have a harder time laundering money under new laws introduced in State Parliament yesterday. It will now be illegal to receive proceeds from criminal offences anywhere in the world. Attorney-General Bob Debus said yesterday the new laws would catch criminal organisations which fund terrorist cells. He said more than AUD 9 billion was laundered in Australia each year." *28 October 2004, Daily Telegraph*
- "According to Prof. Shao, in the past three years, China has had at least 600 billion yuan (about 73 billion US dollars) washed to other countries, of which over 500 billion yuan (about 60 billion US dollars) was gained through corruption." *english.people.com.cn/200407/19/eng20040719\_150085.html*
- The ABS estimates that AUD 8.5 billion or 1.3% of GDP is the extent of the shadow economy in Australia. *www.abs.gov.au/ausstats*

### Africa

- "South African Minister of Finance Trevor Manuel has reportedly said that while there has been no conclusive study, the government believes that between \$2-billion and \$8-billion is being laundered through South African institutions every year." *www.mg.co.za as at 11 April 2005*
- "According to the SA Institute of Chartered Accountants, laundered proceeds of unlawful activities in South Africa may be as high as R80 billion a year." "*Bank Client Freeze Looms Again*", *Sherilee Bridge 6 October 2004 LiquidAfrica Holding Limited.*
- "According to a 2002 study by a Zimbabwean think-tank, the National Economic Consultative Forum, money laundering had cost the country \$1-billion over a six-year period." *Mail & Guardian Online - Johannesburg, South Africa.*

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### Global

- “Revenues from organized crime total some \$2 trillion annually, according to U.N. figures.”  
“U.N. estimates annual money laundering profits in the trillions” *EFE News Service 2 September 2004*
- “Illegal profits total 2-5% of world GDP or \$US1-3trillion” (Dow Jones News, 12 March 1998)
- “Organized crime syndicates are estimated to gross US\$ 1.5 trillion per year. They constitute an economic power that rivals multinational corporations and governments”. ESCAP, U.N. Focus, Vol 9 Jan 2002. [www.unescap.org/unis/unfocus/unfocus9/unfocus9.pdf](http://www.unescap.org/unis/unfocus/unfocus9/unfocus9.pdf)
- “The total cost of servicing cyber warfare incidents world wide will exceed \$20 Billion in 1999 according to mi2g's Security Intelligence Products & Systems (SIPS) division.”  
[www.mi2g.com/cgi/mi2g/frameset.php?pageid=http%3A/www.mi2g.com/cgi/mi2g/press/260799.php](http://www.mi2g.com/cgi/mi2g/frameset.php?pageid=http%3A/www.mi2g.com/cgi/mi2g/press/260799.php)
- “Hailing largely from Nigeria and other West African countries, the "419" con artists - so known for a section of the Nigerian legal code - have bilked the naïve and the greedy out of .... more than \$100 million a year worldwide.” (*“Turning the Tables on E-Mail Swindlers”, New York Times, June 17 2004*)

Attempts to assess the consistency of these estimates are complicated by the fact that the estimates often relate to single issues, such as retail fraud, and ID crime. We have also not been in a position to explore the methodologies that have resulted in these estimates. More information is required if figures such as these are to be considered a useful measure of crime and money laundering.

## **CHAPTER 5 - THE CHANGING NATURE OF CRIME AND THE PROCEEDS OF CRIME**

The articles cited in Chapter 4 give a glimpse of the changing nature of crime and criminal proceeds.

### *The impact of identity crime*

In particular, the concept of “identity fraud” was virtually unknown in 1995, yet now forms the basis for a myriad of different types of fraud, sometimes with immense payoffs for the perpetrators. In combination with the world’s embracing of electronic banking and retailing, it offers the criminal access to victims anywhere in the world.

The NCIS 2003 Threat Assessment noted that “Identity fraud is another key criminal activity that underpins much serious and organised crime. One in five serious and organised crime groups is reported to produce, supply or use false personal identities, although it is likely that much activity often goes unnoticed or unreported.”<sup>76</sup> SIRCA’s report “Identity Fraud in Australia: An Evaluation of its Nature, Cost and Extent”<sup>77</sup> estimated the cost of identity fraud in Australia for 2001/02 to be in the order of AUD 1.1 Billion.

People trafficking and computer crime are both related to identity crime. People trafficking “involves highly organised transnational criminal groups. The success of trafficking groups is predicated on involvement in other criminal activities, including the production of, or access to, false documentation such as identity cards, passports and travel documents as well as knowledge of, and access to, money structuring and laundering techniques”<sup>78</sup> NCIS commented in 2003 on the “need for fraudulent or false documentation in order to facilitate immigration crime”.<sup>79</sup> The Australian focus on identity fraud has sharpened with the commencement of the Australian Identity Fraud Protection Registers (AIPR), which commenced in 2004, following on from the Identity Fraud Register Pilot which began in February 2002. “This national collection allows law enforcement agencies to detect and stop the use of fraudulent identities .... [The register has] already produced significant outcomes for law enforcement and government agencies.”<sup>80</sup>

### *Cybercrime*

While computers are now frequently used in the production of fraudulent identity documents, which assist in committing offences, many crimes committed using computers are simply ‘old crimes using new methods’. As an example, “From the law enforcement perspective, the Internet is simply a new medium used to commit traditional offences.... The on-line activity of fraudsters is as varied as in the physical world, and may also include telecommunication and telemarketing fraud, deceptive advertising, securities fraud and “carding”. Many of these activities can be deemed to be Internet-assisted crimes.”<sup>81</sup>

“[M]any of what has been referred to as the “old crimes”, may now have a Cybercrime equivalent .... Some examples of Cybercrime [are]”:

- Critical Infrastructure Attack (Hacking, cyber-terrorism and malicious programs like viruses);
- Fraud (Credit card Skimming, “page jacking”<sup>82</sup>, SPAM “Nigerian 419” letters);
- Online Money Laundering;
- Criminal use of Internet communications (Email, Instant Messaging, secure encryption);

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<sup>76</sup> NCIS (2003)

<sup>77</sup> Cuganesan, S. and Lacey, D. (2003)

<sup>78</sup> AFP Annual Report 2003/04

<sup>79</sup> NCIS (2003)

<sup>80</sup> ACC Annual Report 2003/04

<sup>81</sup> Adamski, A. (1998)

<sup>82</sup> The practice of replicating a legitimate internet website for fraudulent purposes.

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- ID Fraud (Computer-generated identification, theft of identity personal information from internet connected computers); and
- Use of computers to further traditional crimes (such as child pornography or paedophile activity)<sup>83</sup>

AUSCERT's 2005 Australian Computer Crime and Security Survey reported losses from electronic attack, computer crime, computer access misuse or abuse for 2005 of AUD 16.8 million (compared with 2004 - AUD 15.9 million, 2003 – AUD 11.8 million, 2002 – AUD 5.7 million).

### *Fraud*

Simple scams like the Nigerian email frauds, that previously could only have worked between convincing tricksters and gullible victims at street corners or shady cafes, can now be played out simultaneously to a world audience of billions. We are seeing the use by criminals of third parties who are used unwittingly to assist in the perpetration of crime. During the course of this project, the authors of this report received a “phishing” email: –intended to lure the receiver into visiting a bogus website and inadvertently downloading a virus capturing banking details.

Interestingly, NCIS found that frauds are committed by perpetrators of many other offence types: “serious and organised criminals involved in trafficking goods or armed robbery have used white collar frauds both to make money and as a way of laundering money made from these other crimes, which they have continued to commit.”<sup>84</sup> That is not to say, however, that the converse also holds true: ie that fraudsters are also involved in these other crime types.

The nature of fraud has changed significantly in response to changes in technology. Whereas the 1995 Walker report suggested that a level of complexity or sophistication was required to perpetrate frauds that would yield anything more than the means to simply enhance lifestyle,<sup>85</sup> the 2003 NCIS report found that “Some frauds may demand financial or legal expertise, while others are very simple to execute.

Technical complexity is not a reliable guide to the money to be made from a particular fraud, nor to the involvement of serious and organised criminals, and many significant frauds are the work of individuals operating alone or in small groups and who do not fit the generally accepted profile of serious and organised criminals.”<sup>86</sup>

This observation was supported by the findings of a study of 155 serious fraud files by the Australian Institute of Criminology and PricewaterhouseCoopers. The study found that 84% of these cases involved only one accused, with only 7% of cases involving more than 2 accused. Each case involved a minimum loss of AUD 100,000, with the aggregate of all cases being AUD 260.5 million.<sup>87</sup>

Ernst & Young conduct a global fraud survey every two years. Their 2003 survey found that more than half of the reported losses were “relatively small in value, at less than USD 100,000. Of concern though is that 13% of the worst losses were over 1 million US dollars in amount.... Organisations are recovering a greater proportion of their financial losses than in previous years. The amount recovered has grown from 29% to 51%.”<sup>88</sup>

The 2004 KPMG Fraud Survey<sup>89</sup> found, inter alia, that “the 221 respondents who reported at least one fraud incident lost a total of \$456.7 million to fraud (before recoveries and costs) during the survey period, an average loss of \$2.1 million for each organisation experiencing at least one fraud incident” and

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<sup>83</sup> Australian Crime Commission (2003)

<sup>84</sup> NCIS (2003)

<sup>85</sup> Walker (1995)

<sup>86</sup> NCIS (2003)

<sup>87</sup> Australian Institute of Criminology and PricewaterhouseCoopers (2003)

<sup>88</sup> Ernst and Young (2003)

<sup>89</sup> KPMG (2004)



that “the most common perpetrators of the major frauds identified by the 2004 survey respondents were non-management employees”, committing frauds for “greed and gambling”. This finding suggests that the perpetrators of most frauds against business are not particularly sophisticated and that the proceeds would be spent rather than laundered. Other findings, however, paint quite a different picture:

- “seven instances of financial statement fraud were reported, three of which involved senior executives who were motivated by a desire to gain an improper personal financial advantage by securing performance bonuses, to meet shareholder expectations or to conceal poor financial performance”;
- “nine percent of respondents had been the victim of identity fraud during the survey period”.

Of particular resonance to a study of the extent of money laundering are KPMG’s findings that:

- in 44 percent of the major frauds, there was no recovery of the amount stolen; and
- only 63 percent of major frauds discovered during the survey period were reported to the police.

### *Fraud by business*

With the twin tendencies towards decreasing formal regulation and increasing consolidation in retail trade, banking and other finance sectors, the scope for very large frauds has increased. Surveys of crimes against businesses repeatedly show that reporting of even very large frauds is low, at least in part because businesses are afraid that public exposure of their victimisation would affect their business credibility.<sup>90</sup> Crimes by businesses now also take place on a global scale. Pak and Zdanowicz<sup>91</sup> have shown how customs fraud alone matches the profits of illicit drugs traders in the USA. In both cases, what is new is probably not that these things are taking place, but, because of the transnational nature of many businesses, the scale on which they occur is far greater than it has ever been before. The immense frauds revealed in cases like WorldCom (USD 11 billion)<sup>92</sup> and ENRON (USD 1.2 billion)<sup>93</sup> are probably only the tips of the iceberg, but they have resulted in a demand for much greater vigilance by business auditors and the threat of re-regulation if that fails.

### *Tax evasion, the shadow economy and crime*

In 1995, the concepts of “undeclared economic activity”, and the “black” or “shadow” economy, were mainly of interest to taxation authorities. In 2005, the scale of some shadow economies rivals that of the legal economy in some countries, and it is recognised as a threat to the legitimate economy and a weakness commonly exploited by criminals. Schneider defines the shadow economy as including “all market-based legal production of goods and services that are deliberately concealed from public authorities for the following reasons:

- to avoid payment of income, value added or other taxes;
- to avoid payment of social security contributions;
- to avoid having to meet certain legal labor market standards, such as minimum wages, maximum working hours, safety standards, etc; and

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<sup>90</sup> See, for example: Taylor, N. (2002); Alvazzi del Frate, A. (2004)

<sup>91</sup> See <http://news.fiu.edu/releases/new2001/11-27intltrade.htm>; Zdanowicz J., (2003)

<sup>92</sup> “It is, by some accounts, the biggest fraud case in history; a case involving allegations of an \$11 billion scam that could land Ebbers [WorldCom’s CEO] in prison for the rest of his life. United States v. Ebbers represents the sum of all of those other recent cases of corporate greed and excess; a confluence of questionable accounting, Wall Street pressure, poor governmental regulation, snake-oil industries, enormous egos and salaries and suspicious motives.” CBS News January 2005.

<sup>93</sup> “In early 2000 Fortune magazine selected Enron as America’s best-managed and most innovative company, and Enron’s stock market valuation peaked at \$73 billion that August. The following March the company announced that 2000 revenues had more than doubled, to \$100 billion. The company paid its normal quarterly dividend in October 2001, announcing that regular earnings were up 26 percent and that it was “on track” to meet its full-year profit targets. Six weeks later, Enron filed for bankruptcy.” New York Times, March 24, 2005.

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- to avoid complying with certain administrative procedures, such as completing statistical questionnaires or other administrative forms.<sup>94</sup>

Schneider excluded traditional crime from his definition.

The Australian Bureau of Statistics (ABS) refers to the concept of the ‘non-observed’ economy, which it considers to include “transactions that are either underground, illegal, informal, or household production for own final use.” The ABS allows for underground activity in its estimation of GDP, however makes “no allowance for illegal production, such as the production and distribution of narcotics.”<sup>95</sup>

The existence of a large shadow or ‘non-observed’ economy, with its culture of deliberately concealed activities and non-payment of taxes, must be a factor which encourages and facilitates the activities of organized crime. This link between shadow economy and money laundering was pointed out in the NCIS report, which put these estimates in context by relating them to the estimated size of the U.K.’s shadow economy.<sup>96</sup>

### *The illicit drugs trade*

The changing nature of the global illicit drugs trades is summarised by extracts from the 2004 World Drug Report, which stated that “The spread of drug abuse may be losing momentum. There is a notable exception however: consumption of cannabis herb, the most commonly used illicit drug in the world, appears to be spreading at an accelerated pace .... Over a 10 year period, the quantities of illicit drugs seized have also increased as a whole. Ecstasy, depressants and amphetamine-type stimulants show the strongest increases .... In terms of absolute quantities, drug seizures are consistently dominated by Cannabis, followed by cocaine, opiates and the ATS [Amphetamine-Type Stimulants].”<sup>97</sup> The dominance of Cannabis is borne out in the following table and charts of drug-related arrests in Australia.

**Table 3. Trends in Australian Drug Arrests 1999/00 – 2003/04**

Drug type	Consumers					Providers				
	1999– 2000 <sup>a</sup>	2000– 2001 <sup>b</sup>	2001– 2002	2002– 2003	2003– 2004	1999– 2000 <sup>a</sup>	2000– 2001 <sup>b</sup>	2001– 2002	2002– 2003	2003– 2004
Cannabis	46,881	46,103	45,958	46,165	46,891	8370	7889	9338	9217	9235
Heroin and other opioids	8259	5151	2030	2503	2390	2951	2230	1226	1311	1299
Amphetamine-type stimulants	6252	6721	5736	5914	6734	1829	2113	2170	2340	2805
Cocaine	253	405	379	145	153	180	246	233	105	175
Hallucinogens	221	140	107	87	81	69	59	24	37	42
Steroids	68	81	93	97	82	6	9	17	12	12
Other and unknown	4098	3926	4645	4746	6498	1021	1005	1485	1731	1883
<b>Total</b>	<b>66,032</b>	<b>62,527</b>	<b>58,948</b>	<b>59,657</b>	<b>62,829</b>	<b>14,426</b>	<b>13,551</b>	<b>14,493</b>	<b>14,753</b>	<b>15,451</b>

a. 1999–2000 data exclude 493 arrests where drug type was not recorded and 1725 arrests where consumer/provider information was not recorded.

b. 2000–2001 data exclude 1543 arrests where consumer/provider information was not recorded.<sup>98</sup>

<sup>94</sup> Schneider, F. (2004b) Schneider considered that the shadow economy comprised market-based legal production which is deliberately concealed from public authorities.

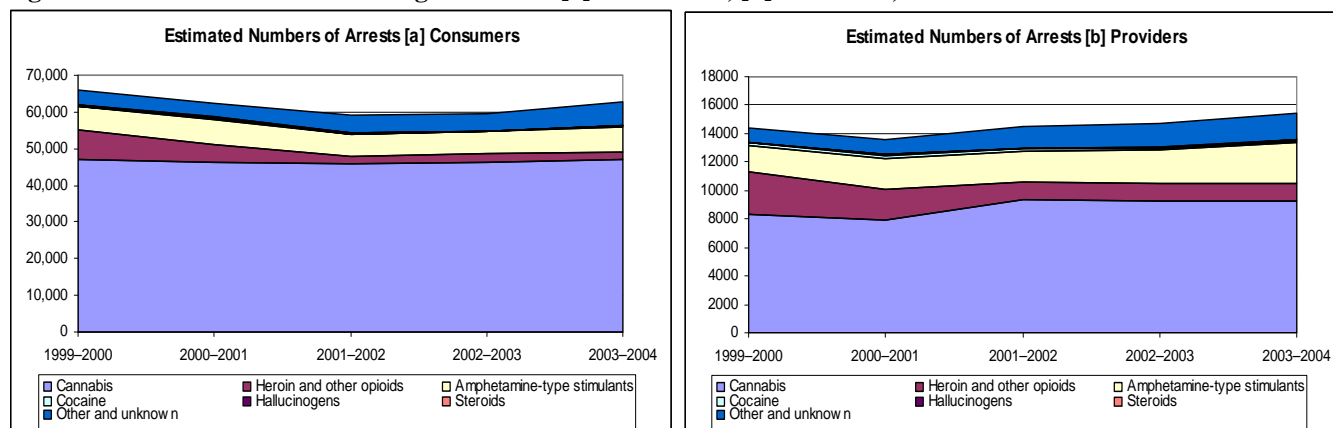
<sup>95</sup> Australian Bureau of Statistics (2003) “The Underground Economy and Australia’s GDP”

<sup>96</sup> NCIS (2003)

<sup>97</sup> UNODC (2004)

<sup>98</sup> Australian Crime Commission (2004)

**Figure 1. Trends in Arrests for Drugs Offences: [a] Consumers, [b] Providers; Australia 1999/2000 – 2003/2004**



### *Changing perceptions of the impacts of crime*

Just as the nature of crime, the means of perpetrating it, and the extent of proceeds of crime that flow from these crimes have changed markedly, so have perceptions of different crime types changed amongst law enforcement researchers. In 1998, a Canadian study (using a 3-star scale of significance) of organised crime noted perceptions regarding the relative impacts of different crime types.<sup>99</sup>

**Table 4. Law Enforcement Perceptions of the Impacts of Organised Crime Activities, Canada 1998**

OC Activity	Social-Political	Economic-Commercial	Health & Safety	Violence Generation	Environmental
Money Laundering	***	*	--	--	--
Illicit Drugs	***	***	**	***	*
Environmental Crime	*	***	***	--	***
Selected Contraband	***	**	**	*	--
Economic Crime	**	***	--	*	--
Migrant Trafficking	**	*	*	*	--
Counterfeit Products	*	**	*	*	--
Motor Vehicle Theft	--	**	--	*	--

Less than ten years after the Canadian study, but admittedly in the light of the 2001 (USA), 2002 (Bali) and 2005 (London) terrorist attacks in particular, perceptions have changed markedly. The Australian Federal Police now accords the following issues the highest priority: “terrorism, illicit drugs (heroin, cocaine and amphetamine-type stimulants), high-tech crime, people smuggling, economic crime [including money laundering], environmental crime and transnational sexual offences.”<sup>100</sup>

The ACC now considers the following criminal issues to be of the “highest priority, requiring coordinated and national law enforcement action ...

- Firearms Trafficking,
- Established Criminal Networks,
- South-East Asian Organised Crime, and
- Money Laundering and Tax Fraud.”<sup>101</sup>

The changing focus of law enforcement will obviously impact on other agencies, such as the CDPP, which noted in 2004 that “The past year has seen the DPP take on an increasing number of complex prosecutions in the areas of fraud, drug crime, money laundering and people smuggling. We have also seen a growth in terrorism cases and sexual servitude prosecutions.”<sup>102</sup>

<sup>99</sup> Porteous, S (1998)

<sup>100</sup> AFP Annual Report 2003/04

<sup>101</sup> ACC Annual Report 2003/04

<sup>102</sup> CDPP Annual Report 2003/04

In considering the relative impact of various crime types, the 1995 Walker report noted that of the likely quantum of laundered funds of around AUD 3.5 billion, “the greatest components of this quantum are sourced by fraudulent offences followed by the drugs trade - virtually nothing else matters”,<sup>103</sup> which as stated earlier, differed from international consensus. The recognition given to the relative contribution of different crime types in terms of the proceeds generated from those crimes, has changed significantly since the 1995 Walker report was published.

In 2003, Fabre<sup>104</sup> observed that drug trafficking remained the most visible part of the profits of organised crime, whereas Beare suggested that “transnational crime, ... money laundering, and corruption ... have gained and continue to gain an international and domestic profile”.<sup>105</sup>

Given the breadth of offence types involving either the laundering of the proceeds of crime, or the ‘dirtying’ of funds for the purposes of financing terrorism, this study requires a methodology that firstly, provides an appropriate definition of money laundering, and secondly, includes an adequate range of data collection techniques. These themes will be addressed in the following chapter.

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<sup>103</sup> Walker (1995)

<sup>104</sup> Fabre (2003), reviewed by Nathanson Centre for the Study of Organised Crime and Corruption, Canada

<sup>105</sup> Beare (2003), reviewed by Nathanson Centre for the Study of Organised Crime and Corruption, Canada

## **CHAPTER 6 - METHODOLOGY**

### **Defining money laundering and terrorist financing**

Money laundering was defined in the 1995 Walker report as processes “by which illicit source monies are introduced into an economy and used for legitimate purposes.”<sup>106</sup> These processes can be divided into three phases, which have been described as follows:

- Placement - the physical disposal of the bulk cash profits that are the result of criminal activity;
- Layering - the piling on of layers of complex financial transactions (e.g. wire transfer) to separate the proceeds from their illicit sources;
- Integration - the provision of legitimate looking explanations for the appearance of wealth by providing investments in the legitimate economy.

If it is accepted that the processes used to finance terrorism are similar to those used to launder proceeds of crime, then we must also include processes *by which licit or illicit source monies are diverted for the purpose of supporting terrorist acts*. This is clearly a reverse image of the above definition, and the phases of the processes are also in reverse:

- Extraction or dis-integration - the extraction of funds from both the legitimate and illegitimate economies;
- Layering - the piling on of layers of complex financial transactions (e.g. wire transfer) to hide the destinations of the monies from their possibly unsuspecting sources;
- Placement or concentration - the diversion of funds into the accounts of groups or individuals intending to commit acts of terrorism.

Indeed, a useful description of this process is that “in the majority of cases funds used for financing terrorist activities have a legal origin and therefore undergo a process of *money dirtying*”.<sup>107</sup> This requires a different methodological approach from the crime→proceeds→laundering sequence used in the 1995 Walker report.

### **Conceptual models of money laundering in Australia**

As the 1995 Walker report’s discussion of the scope of money laundering research in Australia stated, “money laundering in Australia is not restricted to the proceeds of crimes which take place in Australia; it can involve the proceeds of crimes committed elsewhere, being laundered in Australia.... Equally, the definition includes the proceeds of crimes in Australia which are sent overseas for laundering. There are thus three components to money laundering in Australia: - ... ‘internal ML’, where proceeds of crime in Australia are laundered in Australia; ‘incoming ML’, where proceeds of crime overseas is brought to Australia for laundering, and ‘outgoing ML’, where proceeds of crime in Australia are sent overseas for laundering.”<sup>108</sup> These flows are identified in the Figure below in the context of global flows of laundered money.

The 1995 Walker report discussion of what constitutes money laundering then raised the issue of the proceeds of crime - that is, the financial benefits obtained by the criminal. It said:

“Clearly, if one excludes incoming ML - i.e. the laundering of “hot” money from outside Australia, - the total amount of money being laundered in Australia or sent overseas for laundering cannot exceed the total proceeds of crime in Australia.”<sup>109</sup>

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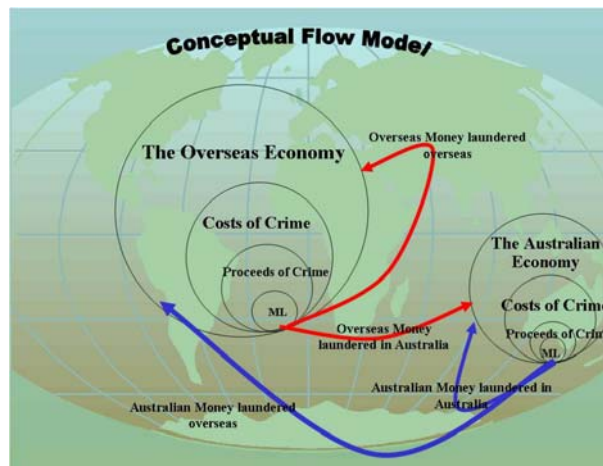
<sup>106</sup> Walker (1995)

<sup>107</sup> Provided by a FIU Survey respondent

<sup>108</sup> Walker (1995)

<sup>109</sup> *ibid.*

Figure 2. Conceptual Flow Model of Money Laundering between Australia and the Overseas Economy



Estimates have been made of the total costs of crimes in Australia, including the very significant costs imposed on victims and upon the community generally, and from these estimates we can approach an estimate of the total proceeds accruing to the offenders. There are also data on the *known* proceeds of crime, which are frequently presented in police statistical reports.

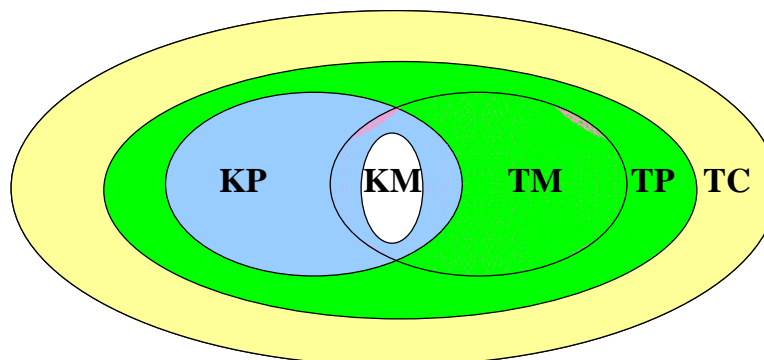
The 1995 Walker report concluded that:

“Both sets of figures can be broken down into the different types of offence, so that an understanding can be given of the contributions made to money laundering. Total costs are an overestimate of the proceeds of crime, while known proceeds are an underestimate because of the extent of unrecorded crime. The “real” figure for proceeds of crime therefore lies somewhere in between the two. But if we can narrow this down to a reasonably credible estimate of total proceeds of crime, we can then make some assessment of what proportion of that income would be laundered.”<sup>110</sup>

These concepts were described in a graphical form, in which:

- TC - The Total Costs of the Crimes - i.e. what crime costs the community
- TP - The Total Proceeds of the Crimes - i.e. what the criminals gain from crime
- KP - The Known Proceeds of Crimes - i.e. the part of total proceeds of crime which comes to official notice
- TM - Total Money Laundering - i.e. what is laundered to disguise the fact that it is the proceeds of crime
- KM - Known Money Laundering - i.e. the part of total money laundering which comes to official notice

Figure 3. Conceptual Model of the Economic Relationships between Money Laundering and Crime, 1995



<sup>110</sup> *ibid.*

The 1995 Walker report noted a number of obvious logical relationships between these elements. “Total proceeds of crime cannot exceed total costs of crime. Total money laundering cannot exceed total proceeds of crime. Known quantities of either proceeds of crime or money laundering cannot exceed the totals of these variables. Clearly, only KP and KM are known quantities. What can be guessed at is the proportion that these known figures are of the real totals. Thus, in KP we have a lower bound for TP, which is itself an upper bound for TM. KM is a lower bound for TM.”<sup>111</sup>

The research methodology was then designed to address the following questions.

1. How much crime (**TC**)?

This was determined by the classification of recorded crime (using Law Enforcement data), and the extent of unrecorded crime (eg, victim surveys, academic and commercial research, etc)

2. How much profit (**TP**)?

This was estimated by considering the extent of loss by property crime victims (such as the KPMG Fraud survey), estimates of consumption and pricing of illicit drugs, and information as to the profits generated by other offence types, enabling an estimation of the return to offenders.

3. What % is being ‘laundered’ (**TM**)?

By definition, this must be less than the proceeds of the crime, and is likely to be less than the profits of crime, which equal the total proceeds less the costs of carrying out the crime. If money laundering is to create and give the appearance of legitimate wealth, the percentage of proceeds laundered will be a residual figure after lifestyle consumption.

4. How is the ‘dirty money’ being ‘laundered’, and where is it going (**KM**)?

This considers the use of the domestic and overseas financial, business services and investment sectors, both formal and informal.

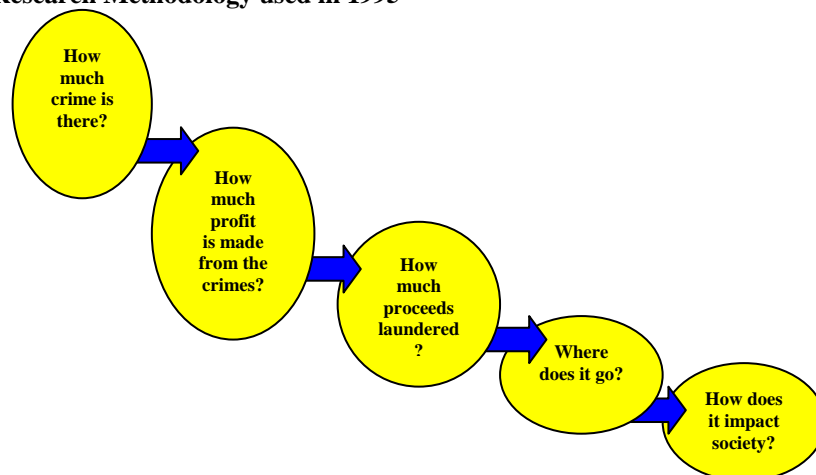
5. What are the implications of ML on society (**KM**)?

These include:

- Corruption of political and judicial institutions, law enforcement, and the private sector;
- Distortive impact on pricing by crime-subsidised businesses and unfair competition; and
- The financing of terrorism from the proceeds of crime.

This methodology can be portrayed graphically.

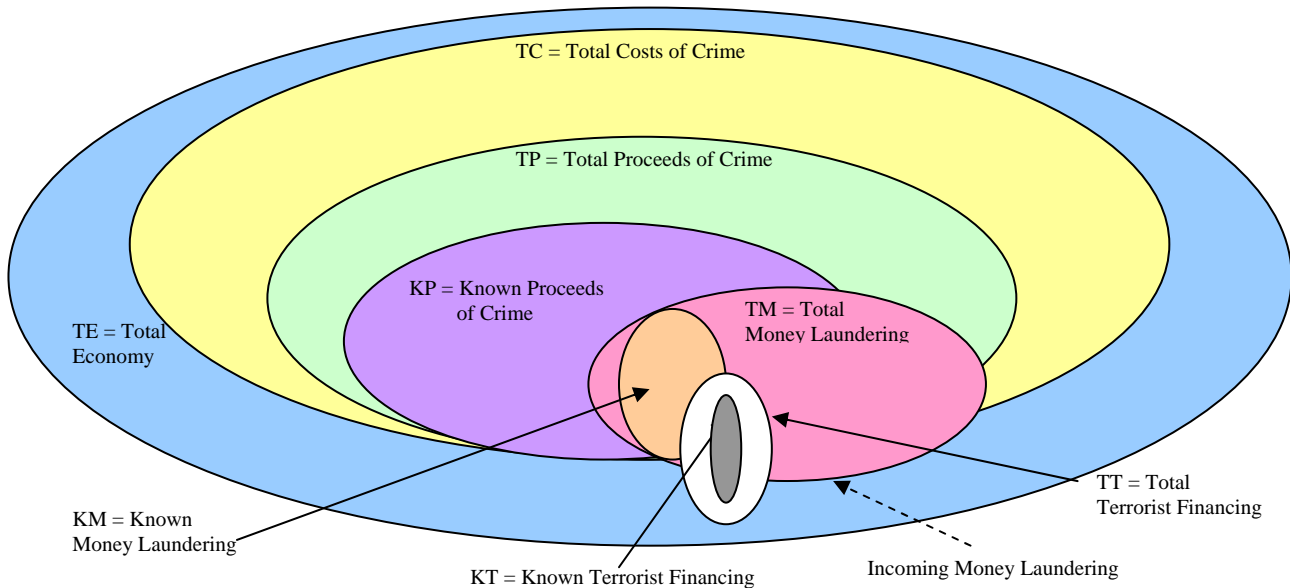
Figure 4. Conceptual Research Methodology used in 1995



<sup>111</sup> *ibid.*

The 1995 formulation of the problem was, and still is, appropriate to a definition of money laundering being a process whereby funds of criminal origin were disguised, or laundered, and re-introduced into the legitimate economy. A more complex approach is required when the financing of terrorism is also regarded as money laundering. Since “funds used in the financing of terrorism do not necessarily derive from criminal activity, which is a requisite element of most existing money laundering offences”<sup>112</sup>, it is necessary to broaden the scope of the money laundering concept. Our interpretation of this new concept of money laundering is represented graphically below.

**Figure 5. Conceptual Model of the Economic Relationships between Money Laundering and Crime, 2005**



The same symbols are used in this new graphic, with the addition of:

- TE – Total Economy – i.e. the sum of legitimate and illegitimate economic activities;
- TT – Total Terrorist Financing – i.e. the total funding destined to support terrorist acts, and
- KT – Known Terrorist Financing – i.e. the part of total terrorist financing which comes to official notice

In addition, TM – Total Money Laundering – must be redefined in recognition of the fact that legitimately-derived funds can now also be considered as being “laundered”, or perhaps more accurately, “dirtied”, in the process of financing terrorism.

Known terrorist financing (KT) therefore crosses over into the legitimate part of the total economy (TE) because it includes not only funds which are the proceeds of crime (TP), but also funds of legitimate origins, which have been diverted to fund terrorist acts. Total terrorist financing (TT) must also therefore partly occur within the legitimate part of the total economy (TE). Consequently, some proportion of KM and TM must now also fall within the legitimate economy.

The additions to the 1995 research methodology, required to cover the financing of terrorism, were designed to address the following questions.

6. To what extent are legitimate organisations (businesses, charities, etc) at risk of manipulation by terrorist financiers?  
This question may be addressed by reference to official statistics, if any exist, and by surveying law enforcement and financial intelligence agencies and experts.

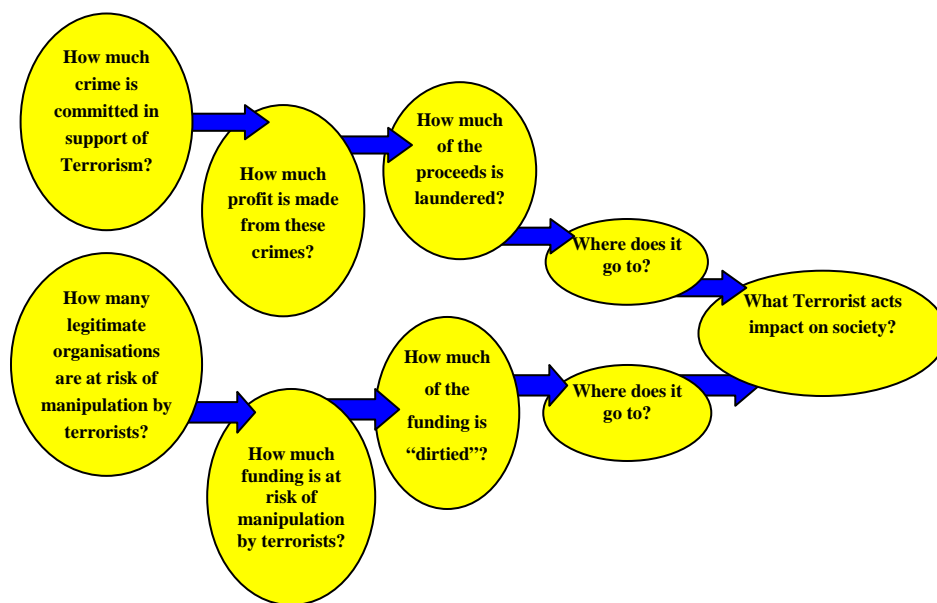
<sup>112</sup> [www.wolfsberg-principles.com/financing-terrorism.html](http://www.wolfsberg-principles.com/financing-terrorism.html)



7. How much legitimately-sourced funding is at risk of manipulation by terrorist financiers?  
This is effectively that part of the Total Economy (TE) which is not part of the criminal economy, and which falls within Total Terrorist Financing (TT). The question may be addressed by reference to official statistics, if any exist, and by surveying law enforcement and financial intelligence agencies and experts.
8. What % of Total Terrorist Financing is 'dirtied', and what methods are used?  
This question may be addressed by reference to official statistics, if any exist, and by surveying law enforcement and financial intelligence agencies and experts.

This methodology can be portrayed graphically, with the upper stream representing terrorist finances derived from crime and the lower stream representing terrorist finances derived from legitimate sources.

**Figure 6. Conceptual Research Methodology used to Address the Financing of Terrorism in 2005**



#### The approach we took

The complexity of money laundering suggests that the methodology utilised to analyse it must be equally complex. Throughout the project, we were aware that it would be extremely difficult to compile accurate statistics on money laundering, or even on the levels of the incidence of the predicate crimes, or the extent of the profits that are laundered. We are dealing with activities that are by definition deeply and carefully hidden from public view. It would be so much easier if money launderers were willing to fill in forms that say how much money they laundered last year.

Therefore, what we were aiming at was rather to determine the orders of magnitudes of the component parts of money laundering in and through Australia, which will be enough to determine what level of effort is appropriate to counter money laundering, and what key directions those efforts should take. The purposes of understanding and trying to quantify money laundering are three-fold:

- To assist in deterring criminals by attacking their enjoyment of the proceeds of crime;
- To assist in preventing acts of terrorism by attacking their sources of funding; and
- To assist in determining the actual impacts of money laundering on society and the financial system, so that counter-measures are proportionate to the actual threat.

The underlying methodology was to apply the principle of triangulation<sup>113</sup> which in effect requires the mixing of qualitative and quantitative approaches. Our triangulation approach uses a combination of methods to explore research questions and the problems related to the data gathered. Data was collected in a variety of ways, from various perspectives, and from different reference points. This enabled us to compare and contrast the findings, corroborate the understandings and interpret the data.

Specifically the methodology used, but was not limited to:

- A review of the relevant literature post 1995 including responses to the 1995 Walker report (Chapter 7);
- Perusal of relevant Annual Reports and other statistics (Chapter 8);
- A survey of Law Enforcement agencies, researchers and criminologists and Financial Intelligence Units, followed by interviews with selected individuals (Chapter 9); and
- Consideration of other research and examination of AUSTRAC data (Chapter 10).

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<sup>113</sup> Corner (1990) states that triangulation can be effective if four principles are adhered to; research questions must be clearly focussed; strength and weaknesses of each chosen method must complement each other; data collection methods should be selected according to their relevance to the nature of the phenomenon being studied; and a continual evaluation of the approach should be undertaken during the study.

## **CHAPTER 7 - SELECTED FINDINGS FROM THE LITERATURE**

Rising concerns over the extent of money laundering, coupled with the emergence of major terrorist activities, have led to an increase in research activity and literature related to money laundering since 1995. Despite this increase, much of the literature continues to be issue-based, such as analyses relating to a single crime type or criminal groups, or laundering methods, or of the effects of money laundering on economies. There still appears to be little research quantifying the extent and impact of money laundering at the national or international level, with estimates most often based on consensus unsupported by significant research.<sup>114</sup>

### **The magnitude of the proceeds of crime**

Quirk pointed out that: “to prove that money laundering is significant for the macro-economy, it is necessary to show that it involves large sums relative to overall economic activity.” He noted the links between money laundering and the shadow economy as a promising top-down approach to the quantification of money laundering, contrasting this approach with the traditional bottom-up methods used by the law enforcement community, building up from micro-level data by crime type.

However, he noted that early attempts by economists and law enforcement to measure the underground economy as a proxy for money laundering resulted in “a very wide range of estimates of the size of underground economies, as a percentage of GDP—for example, for Australia, 4–12 percent; Germany 2–11 percent; Italy, 10–33 percent; Japan, 4–15 percent; the United Kingdom, 1–15 percent; and the United States, 4–33 percent.”<sup>115</sup>

Such disparities in estimates still exist. The ABS has estimated the extent to which the underground economy is understated in calculations of Australia’s GDP as recently as 2003, with findings of 1.3% of GDP, or AUD 8.4 billion.<sup>116</sup> Schneider has written on the nature and extent of the ‘shadow economy’, assessing the extent of the shadow economies in 145 countries in 2004.<sup>117</sup> He defines the shadow economy as including “all market-based legal production of goods and services that are deliberately concealed from public authorities”.<sup>118</sup> While Schneider excluded from this definition “typical underground, economic (classical crime) activities, which are all illegal actions ...like burglary, robbery, drug dealing, etc .... the informal household economy which consists of all household services and production .... and tax evasion”, the very existence of a large shadow economy, with its culture of deliberately concealed activities and non-payment of taxes, must be a factor which encourages the activities of organized crime.

In the 1995 Report, Walker adopted a bottom-up approach to the estimation of the proceeds of crime in Australia, using previous work on the costs of crime in Australia in 1991 as a starting point. For each different type of crime, the proceeds to the offender were estimated from the results of crime victimisation surveys, which asked surveyed victims of personal and household crimes to state the extent of property loss and whether the crime was reported to police. The average property loss figures can then be married with police and insurance data to obtain a reasonable estimate of the total proceeds of household property crime. Since then, Mayhew (2003) has updated the Australian estimates of the costs of crime, using much the same methodology. The weakest part of this analysis is its treatment of crimes against businesses, which are very hard to quantify. Even though both the Walker and Mayhew measures of the costs of crime included components based on surveys of business victimisation, it is generally

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<sup>114</sup> For example, as far back as 1997, Quirk questioned the basis of the still often quoted estimate of “between 2-5% of global GDP”, for which no substantive research support has ever been provided.

<sup>115</sup> Quirk, P. (1997)

<sup>116</sup> ABS (2003)

<sup>117</sup> Schneider, F. (2004a)

<sup>118</sup> Schneider, F. (2004b)

thought that business victimisation is under-reported, even to research surveys, because of the victims' fears of loss of reputation.

The NCIS (2003) report also uses a bottom-up approach to draw together data on the extent/cost of various crime types in the U.K., and goes on to cite unreferenced Customs and Excise estimates of the extent of laundering in the United Kingdom. They put these estimates in context by relating them to the estimated size of the U.K.'s shadow economy.<sup>119</sup> Their finding that the high priority attached to the threat of drugs "may unconsciously have diverted attention from other areas, whose relative importance is currently less well understood as a result" is a significant one, and matches the findings of the 1995 Walker report.

### Factors that determine how and where the proceeds can be laundered

Recent research has shown how the issue of the magnitude of proceeds of crime can legitimately be addressed with either a top-down or a bottom-up approach, and that it is essential to capture more than just the traditional types of organised crime. Other researchers have focussed on the factors that determine how and where the proceeds can be laundered.

Quirk observed that money laundering methods have changed, "moving away from the banking system and cash and toward parallel financial markets, sophisticated non-monetary instruments (such as derivatives), and possibly barter". This may be attributed to the effective ongoing regulation of the banking sector, and the considerable investment in AML compliance made by the sector. Stuart Levey, of the United States Department of the Treasury agrees, noting that "[o]ne effect of U.S. and international action against terrorist financiers has been to push supporters of terrorism out of the formal financial system and into riskier, more expensive, and more cumbersome methods of raising and moving money".<sup>120</sup> The speed and reliability of a robust financial sector would still however be attractive to money launderers and the financiers of terrorism, necessitating ongoing and effective regulation. Quirk also cited mis-invoicing of exports, and falsification of import documentation, which "can conceal cross-border transfers of, say, the proceeds of drug trafficking".<sup>121</sup>

This latter issue has been explored by Zdanowicz, who, in identifying gaps in the response to money laundering, commented that:

"Intelligence agencies are generally doing an adequate job curtailing money laundering through the front door (financial institutions) but have, to date, largely ignored money laundering through the back door (abnormal international trade pricing) .... Overvalued import transactions may result in three crimes: customs fraud, income tax evasion, and money laundering."<sup>122</sup>

Zdanowicz gives an example of how fraud and money laundering might be effected through trade mispricing.<sup>123</sup>

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<sup>119</sup> NCIS (2003)

<sup>120</sup> Levey, S (2005)

<sup>121</sup> Quirk, P. (1997)

<sup>122</sup> Zdanowicz, J. (2004)

<sup>123</sup> *ibid.*

Assume a terrorist or criminal wants to launder \$1 million to a foreign country. He would need to have a foreign importer to collude on the transaction. The set of transactions used to launder the money would include:

1. Domestic criminal or terrorist uses his \$1 million to purchase 200 gold watches for \$5,000.00 per watch. (\$1,000,000.00) The watches would be purchased for cash.
2. Domestic exporter sells the 200 gold watches to a foreign importer for \$5.00 per watch. (\$1,000.00)
3. Foreign importer receives the 200 gold watches and is presented with an invoice for \$1,000.00, which he pays to the domestic exporter.
4. Foreign importer sells the gold watches at the market price of \$5,000.00 per watch and converts the 200 gold watches into \$1,000,000.00.
5. Outcome: The domestic exporter has moved \$1 million to the foreign country less the \$1,000.00 transactions cost of the invoice payment.

The issue of the exploitation by criminals of regulatory gaps has also been addressed by European researchers. The Euroshore report<sup>124</sup> assessed the vulnerability of the European Union (EU) to the criminal exploitation of offshore financial centres, and went to some effort “to stress the concept that it is not that the official facilities offered by these centres are criminal *per se* but that those facilities could produce opportunities for organised crime development and enrichment.” That report concluded that the principal issues were the differences in regulation between the EU countries and offshore financial centres (OFCs), and the fact that the protection of the EU’s financial system was dependent on “the level of the regulatory asymmetries existing between EU countries and offshore jurisdictions.” Some countries and OFCs may be attractive to money launderers, regardless of the extent of crime in those countries.

The Euroshore researchers designed and conducted a survey of the criminal law, banking law and company law in a wide range of countries, including European Union and other financial centres, offshore jurisdictions, and economies in transition. The data compiled from the survey can be used to derive a scale of conformity to an ‘ideal’ legislative system, and therefore measure a country’s departure from that ideal. A key conclusion is that banking secrecy, *per se*, is only one indicator of friendliness towards money launderers. Company laws that permit the names of ultimate beneficial owners or the beneficiaries of financial transactions to remain obscure are just as effective in thwarting criminal investigation and prosecution.

Building on this work in a presentation to the 10<sup>th</sup> United Nations Congress, 2000, Walker stated:

“It may be argued that, in order for a country to qualify as a haven for money laundering, two fundamental things are required. Firstly it must have legislation in place to guarantee an investor’s privacy – even against requests for information from law enforcement agencies. Secondly, it must have a financial capacity sufficient to conduct the business required. These two factors appear to be directly measurable.”<sup>125</sup>

He used World Trade Organisation annual data on the values of Imports and Exports of Services and Merchandise<sup>126</sup> to show that service industries exports, as a proportion of all exports, are a useful indicator of a country’s financial capability. Those with a high proportion of export trade in service industries, which include banking services, are likely to be capable of providing the banking services required by a money launderer. Combining these data with an index based on the Euroshore scale of legislative and regulatory compliance, together with measures of corruption, regional conflict and geographical, ethnic or trading proximities between the origin and destination countries, appears to adequately measure a country’s attractiveness to money launderers.

<sup>124</sup> Transcrime – University of Trento (2000)

<sup>125</sup> Walker, J., (2000b)

<sup>126</sup> Annual Report, International Trade Statistics, and updates on the WTO web site.

This assumes that initial flows of laundered money “favour countries that have secretive banking practices or poor government control over banking”<sup>127</sup>, “take advantage of high levels of corruption, if the corrupt behaviour favours their activities, but ... avoid those countries in which there are dangerous levels of conflict or where the corruption is of a form that might put their money at risk”, and favour “places where geographic proximity, or strong trading or community links such as linguistic or ethnic ties simplify business transactions.”

In essence, therefore, the existence of a finance sector that offers the opportunity to mingle illegitimate transactions with legitimate transactions is one factor in the relative attractiveness of one country to a launderer in another country. The capacity of the finance sector to provide these services is also required. Carroll<sup>128</sup> analysed the situation in the Asia Pacific region, and pointed out that:

“Several unique factors in the Asia/Pacific region combine to manufacture high demand for money laundering services in the area. Political and economic instability in many nations of the region creates a desire to move currency abroad to more stable economies (Interpol<sup>129</sup>; MacDonald<sup>130</sup>). Rigid national policies regulating exchange and trade can also be a contributing factor.

Illicit proceeds are further produced by criminal activity in the area. Central Asia, the Golden Triangle, and the Golden Crescent are major centers for the manufacture of heroin, opium, marijuana, and methamphetamine (DEA<sup>131</sup>). Revenue from the drug trade must be moved out of the area and laundered, or redistributed to other areas of production to cover operating costs. Criminal income is also generated by Asian-oriental organized criminal involvement in prostitution, human traffic, gambling, kidnapping, extortion, and drug trafficking (Cheng<sup>132</sup>).

In addition to the abundance of criminal proceeds, Cheng cites three aspects of the Asia/Pacific region that combine to create a money laundering boom in Asia. The first is the presence of several major financial centers, notably Hong Kong and Tokyo, which provide access to banking facilities, communications, and financial markets. Secondly, some of the territories of the region lack regulatory controls over their financial sectors and legal provisions against money laundering, allowing laundering activities to continue unhindered. Finally, a need for hard currency in countries undergoing economic reform that leads to a welcoming, “no questions asked” policy regarding foreign cash investments.”

Tan, in his paper, “Money Laundering and E-commerce”<sup>133</sup> explains that the most commonly used methods of laundering involve banks, alternative remittance / parallel banking, gold and precious stones, unique or rare items, gambling, and insurance. Money laundering today is diverse and widespread, and is “increasingly international in nature”. He goes on to state that to a large extent this is due to the new technologies which offer money launderers new, effective and efficient methods to facilitate the transfer of funds globally, and have presented significant new challenges. He made reference to the difficulties in detecting and prosecuting electronic money laundering.

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<sup>127</sup> By contrast, subsequent movements of this laundered money may be expected to favour countries with more respectable and controlled, and therefore safer, banking regimes.

<sup>128</sup> Carroll, L.

<sup>129</sup> Carroll cited [www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#interpol2000#interpol2000](http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#interpol2000#interpol2000)

<sup>130</sup> Carroll cited

[www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#macdonald1994a#macdonald1994a](http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#macdonald1994a#macdonald1994a)

<sup>131</sup> Carroll cited [www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#dea1994#dea1994](http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#dea1994#dea1994)

<sup>132</sup> Carroll cited [www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#cheng1995#cheng1995](http://www.interpol.int/Public/FinancialCrime/MoneyLaundering/EthnicMoney/default.asp#cheng1995#cheng1995)

<sup>133</sup> Tan Siong Thye (2002)

The impacts of money laundering on society and the economy

The 1995 Walker report considered some of the harmful effects of money laundering at the more micro-economic level.

“Money laundering, by its very nature, involves investing money in valuable assets such as property, works of art, gemstones and so on. Those who willingly or unwillingly provided the launderer with the cash to invest almost certainly had other things to spend it on, such as normal daily outlays or the future “rainy day”.

The perpetrator of fraud is exceedingly unlikely to spend the money in the same way. By contrast, the money might be spent on luxury real estate or other investments such as art works or jewellery. Thus the economy itself is changed when the proceeds of crime are laundered. Money which would have been spent on a given set of goods and services will instead be spent on a quite different set of goods and services. Prices for investments such as real estate may be inflated, because the money launderer's need to find a safe investment for his money over-rides his interest in paying a reasonable price.”<sup>134</sup>

In 1997, Quirk listed some of the key economic impacts of money laundering, for example:

- shifting money demand between countries can result in misleading monetary data, with consequences for interest and exchange rate volatility;
- the redirection of income from criminal activity from high savers to low savers, or from sound investments to risky, low-quality investments, can negatively impact economic growth; and
- accumulated balances of laundered assets are likely to be larger than annual flows, which increases the potential for destabilizing, economically inefficient movements, either across borders or domestically. These balances could be used to corner markets - or even small economies.<sup>135</sup>

Money laundering is increasingly being recognised for its harmful effects. In addition to the harms caused by the offences giving rise to laundered funds, money laundering has significant impacts on economies. As noted by the IMF, money laundering can also:

- cause unpredictable changes in money demand;
- pose risks to the soundness of financial institutions and financial systems; and
- contaminate legal financial transactions, and increase the volatility of international capital flows and exchange rates due to unanticipated cross-border transfers.<sup>136</sup>

Money laundering can also have a dampening effect on foreign direct investment if a country's commercial and financial sectors are perceived to be under the control and influence of organized crime.<sup>137</sup> Businesses who allow money laundering are also exposed to risks over and above financial losses or instability: “firms that do not meet the requirements ... risk criminal prosecution or enforcement action ... as well as loss of reputation if they fail to take appropriate steps to prevent the likelihood of being used as a conduit for illegal activity.”<sup>138</sup>

Bartlett noted that not only does money laundering impact on the financial institutions through which it is effected (in that there is often a correlation between money laundering and fraudulent activities undertaken by employees), the vulnerability of entire financial institutions to corruption can endanger some countries entire financial sector. Further, “money laundering has a more direct negative effect on

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<sup>134</sup> Walker (1995)

<sup>135</sup> Quirk, P. (1997)

<sup>136</sup> IMF (2004)

<sup>137</sup> *ibid.*

<sup>138</sup> UK Financial Services Authority (2001)

economic growth in the real sector by diverting resources to less productive activity, and by facilitating domestic corruption and crime, which in turn depress economic growth.”<sup>139</sup>

Recognising that many methods are used to launder criminal proceeds, Bartlett notes that “money laundered through channels other than financial institutions is often placed in what are known as sterile investments, or investments that generate little additional productivity for the broader economy, such as real estate, art, antiques, jewellery, and luxury automobiles. Of these, the FATF has noted the vulnerability of some sectors. In particular, transactions involving real estate and precious metals or stones have been contemplated in the FATF’s Recommendation 12. For developing countries, the diversion of such scarce resources to less-productive domestic assets or luxury imports is a serious detriment to economic growth.”

Morris-Cotterill found that “money laundering generally harms society by oiling the wheels of financial crime, and financial crime affects everyone. As a result of insurance fraud, we all pay more for insurance. As a result of robberies and fraud, we all receive less interest on bank deposits and pay more interest on loans. Because of fraud on social security, other benefits and in government grants for welfare, we pay more in taxes. We also pay more taxes for public works expenditures inflated by corruption. And those of us who pay taxes pay more because of those who evade taxes. So we all experience higher costs of living than we would if financial crime – including money laundering – were prevented.”<sup>140</sup>

Corruption and money laundering are considered to be inseparable. “Money laundering also facilitates crime and corruption within developing economies, which is the antithesis of sustainable economic growth .... [and] can also be associated with significant distortions to a country’s imports and exports. On the import side, criminal elements often use illicit proceeds to purchase imported luxury goods, either with laundered funds or as part of the process of laundering such funds. Such imports do not generate domestic economic activity or employment, and in some cases can artificially depress domestic prices, thus reducing the profitability of domestic enterprises.”<sup>141</sup> While there is a link between corruption and money laundering, the Transparency International Index suggests that Australia is rated favourably, and as reproduced in Table 2, achieved a significant improvement in its score between 2000 and 2004.

Castle and Broomhall have also considered the issues of corruption and money laundering. “The process of money laundering is intrinsically linked to the problem of corruption. In states where there are legal or regulatory provisions against money laundering, corruption may serve as a means of ensuring that those provisions remain ineffective. Conversely, the proceeds of official corruption require concealment and integration into the legal economy in much the same manner as other criminal proceeds. There can, in short, be no effective action against money laundering without transparency, nor can there be much optimism regarding anti-corruption measures if money can be easily laundered.”<sup>142</sup> They also discussed some critical correlations between corruption and economic health, particularly investment and economic growth and education, which are negatively correlated to corruption.<sup>143</sup>

The harm associated with drugs has an impact on society that is not generally considered in broad research. However, some studies have been done at the country level on the costs and impacts of specific crime types. The Australian Federal Police have developed a Drug Harm Index which sought to “provide a single measure that encapsulates the potential value to the Australian community of AFP drug seizures. The index represents the dollar value of harm that would have ensued had the seized drugs reached the

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<sup>139</sup> Bartlett, B.L. (2002)

<sup>140</sup> Morris-Cotterill, N. (2001) Morris-Cotterill states that “regimes operating a closed economy will drive legitimate businesspeople to operate on the fringes of the law.”

<sup>141</sup> Bartlett, B.L. (2002)

<sup>142</sup> Castle, A. and Broomhall, B. (1999).

<sup>143</sup> *ibid.*



community. The index includes both domestic drug seizures and international seizures destined for Australia where the AFP played a significant role.... In 2003, the harm associated with a kilogram of opioids was AUD 1,061,359, with cannabis AUD 24,685, and with stimulants AUD 88,357.”<sup>144</sup> In 2002, Collins and Lapsley estimated that AUD 6.07 Billion of harm occurred in 1998 as the result of the abuse of illicit drugs in Australia.<sup>145</sup>

Similarly, the U.K. report “Payback Time - Joint Review of asset recovery since the Proceeds of Crime Act 2002”<sup>146</sup> refers to research undertaken by NCIS into drug harm multipliers.

“Research ... shows that £20,000 in the hands of a drug dealer would currently purchase 1 kilogram of heroin (at wholesale prices). When distributed at street level this could be expected to generate:

- 220 burglaries, creating (at least) 220 victims;
- an average of £1,000 worth of stolen property from each offence;
- a cost of £100 per offence for each initial police response; and
- between £650 – £10,000 to prosecute each suspected burglar detected.”

“The same research further suggests that just over 1,000 crimes are committed each month by addicts; for each offending addict who subsequently proves to be HIV positive there is a cost to the public purse of £75,000 for treatment. At a purely financial level, this illustrates that removing just £20,000 of criminal assets from the system can significantly reduce victimisation, help to break the cycle of criminality and potentially save up to £500,000 of valuable resources within the community and the criminal justice system.”<sup>147</sup>

These findings highlight the importance in depriving criminals of the proceeds of their crime, in order to prevent the investment into further criminal activities which would cause additional harm. Another important point is that the efficiency (in terms of cost) with which a launderer can launder their proceeds will determine the amount of proceeds that they have to either reinvest or use for lifestyle. Bartlett notes that “an efficient money laundering channel is a key input to crime because the financial proceeds from crime are less valuable to the criminal (in a sense, an unfinished product) than are laundered funds. The less expensive the money-laundering input to crime is as a result of lax anti-money-laundering policies, the more productive (active) the criminal element will be”.<sup>148</sup> Conversely, financial transaction reporting regimes, and the consequential extra vigilance paid to transactions, impact on the cost or efficiency of laundering, serving as a deterrent to launderers, and reducing the opportunities open to them. Criminal forfeiture can be considered successful “if it destroys or seriously impairs the economic viability of criminal markets.”<sup>149</sup>

Freiberg and Fox stated (prior to the introduction of the POCA 2002) that the confiscation laws had not had a significant effect on the amount of serious profitable crime, as “they have not been effective in raising the cost of doing business.” Further, in considering the deterrent effect of forfeiture, it should be noted that “not all criminals make rational choices based on an assessment of the probable consequences of their actions.... Where exceptionally high profits are to be made, as in the illicit drug trade, the [significant benefits often seem] to outweigh an awareness of the risk that ... such activities may prove fruitless.” They conceded, however, that any confiscation action which prevents unjust enrichment of an offender will provide a social benefit, “even if a larger deterrent effect cannot be demonstrated.”<sup>150</sup>

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<sup>144</sup> McFadden, M., Mwesigye, S. (2003). The Index lists the types of social harm included in these figures.

<sup>145</sup> Collins D.J. & Lapsley H.M. (2002)

<sup>146</sup> Crown Prosecution Service Inspectorate (2004).

<sup>147</sup> *ibid.*

<sup>148</sup> Bartlett, B.L. (2002)

<sup>149</sup> Freiberg, A., Fox, R. (2000)

<sup>150</sup> *ibid.*



## **CHAPTER 8 - REVIEW OF OFFICIAL STATISTICS**

The 1995 Walker report noted the absence of comprehensive statistics, despite the large range of agencies in the State and Federal jurisdictions whose work necessarily involved consideration of money laundering and the Proceeds of Crime. This was explained in part by the fact that an instance of money laundering required the commission of a predicate offence: “money laundering has rarely been treated as a crime in its own right”.<sup>151</sup> The report assessed the annual reports of the Australian Federal Police, Commonwealth Director of Public Prosecutions, National Crime Authority and AUSTRAC, finding few quantitative references.

A similar exercise in 2005 reveals that a range of Annual Reports published by State and Federal agencies for the 2003/04 year now provides more information in relation to Money Laundering and the Proceeds of Crime. These references, together with a selection of media releases which are included at the end of this chapter, give examples of the response to the problems of crime and money laundering.

### **Commonwealth agencies**

#### *Australian Crime Commission* (formerly the National Crime Authority)

Under the MIDAS determination, the ACC and its partner agencies contributed to “the recovery of proceeds of crime and evaded tax in all ACC Determinations and carried-forward work of:

- AUD 16 million in proceeds of crime was restrained in various operations;
- AUD 2.4 million forfeited in various operations as proceeds of crime; and
- AUD 19 million in tax assessments and penalties.”<sup>152</sup>

“A significant result under the Money Laundering and Tax Fraud Determination was the finalisation of the long running Operation Spada. This involved a joint ACC/ATO investigation of an illegal tax minimisation scheme and the disallowance of tax deductions of up to AUD 26 million.”<sup>153</sup>

#### *Australian Federal Police*

The AFP Annual Report provided information about some significant money laundering investigations, including:

- The restraint and forfeiture of the equivalent of AUD 431,000 which a person failed to declare when travelling through Melbourne Airport;
- The forfeiture of money to the value of AUD 200,000, which was dealt with in the knowledge that it was the proceeds of crime;
- A joint investigation involving the AFP and the Australian Securities and Investments Commission was still before the courts, alleging that the defendants had laundered funds totalling AUD 2,500,000.<sup>154</sup>

ANAO 23 reported that under the Commonwealth Proceeds of Crime Act between 1989 and 1996 pecuniary penalty and forfeiture orders had been issued for recoveries to the value of AUD 119 million of which AUD 36 million had been recovered as a result of these orders.<sup>155</sup>

The AFP provides data on the value of orders made and recoveries achieved, and a more recent set of data appears below.<sup>156</sup>

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<sup>151</sup> Walker (1995)

<sup>152</sup> ACC Annual Report 2003/04

<sup>153</sup> *ibid.*

<sup>154</sup> AFP Annual Report 2003/04

<sup>155</sup> ANAO 23

**Table 5. Proceeds of Crime - Orders made and recoveries achieved, 1999/00 – 2003/04**

Year	Orders made (AUD)	Recoveries (AUD)
1999-2000	13.1 M	17.3 M
2000-2001	17.3 M	4.3 M
2001-2002	25.2 M	4.0 M
2002-2003	21.8 M	13.5 M
2003-2004	77.3 M	4.0 M
<b>TOTAL</b>	<b>154.7 M</b>	<b>43.1 M</b>

It is notable that from the 1<sup>st</sup> of January 2003, the civil-based confiscation scheme provided by the POCA 2002 came into effect. Therefore, it is reasonable to expect that these provisions will have a positive effect on the quantum of orders and recoveries as actions are commenced under the new confiscation scheme, in addition to their effect in deterring crime and disrupting criminal enterprise.

#### *Australian Customs Service*

The ACS Annual Report noted the following results for the 2003/04 year:

- Customs restrained just over AUD 3 million in assets including cash, a vehicle and a private residence. No assets restrained by Customs under Proceeds of Crime legislation have progressed to forfeiture at this time;
- Customs successfully prosecuted a number of fraud cases during the year, the most significant being the conviction of a person from New South Wales who was ordered to pay AUD 2.8 million in penalties plus court costs for smuggling almost seven million cigarettes and 15 kg of tobacco into Australia falsely described as plastic goods.<sup>157</sup>

#### *Commonwealth Director of Public Prosecutions*

Like the AFP, the CDPP also collect data regarding the value of orders made and recoveries achieved. The 2003/04 CDPP Annual report also mentions the results of a number of matters in relation to proceeds of crime actions. These include cases involving drugs, tax and excise evasion, theft, and FTRA offences.

#### *AUSTRAC*

Feedback from partner agencies has demonstrated that AUSTRACs FTR information and financial intelligence has proved to be of significant value in 2003/04. FTR information was used in 1,743 investigations during the year. Of these, 362 matters were reported as significant investigations. In addition, FTR information contributed to ATO Assessments of more than AUD 75 million during 2003/04.

- A report periodically provided to the Australian Taxation Office enabled an ATO analyst to note a sizeable increase in funds being sent to Australia from a small tax haven country. Investigations identified that a particular individual had been receiving a large amount of these funds and had received around AUD 18 million over the past five years. The person was found not to be an Australian resident for income tax purposes, and it was decided that information obtained should be provided to the Internal Revenue Service in the United States of America. The Internal Revenue Service conducted their own enquiries, raising assessments against the individual and collecting US\$5 million in unpaid taxes.
- A dissemination of financial transaction reports (FTR) information to a law enforcement agency resulted in the discovery of a pattern of structured transactions involving debit cards. Within two months the subjects had loaded a total of over AUD 100,000 onto two debit cards. In late 2003, one of the subjects imported approximately 5.8 kilograms of cocaine in his baggage. He was arrested and charged with importing and possessing a prohibited import; conspiracy to bring into

<sup>156</sup> AFP Annual Reports

<sup>157</sup> Australian Customs Service Annual Report 2003/04

## Money Laundering in and through Australia in 2004

Australia approximately 5.8 kilograms of cocaine; and structuring cash transactions / laundering almost AUD 400,000. He was found guilty and sentenced to seven years imprisonment.

- In December 2003 an Australian law enforcement agency arrested two people and charged them with two counts each of structuring transactions contrary to section 31(1) of the FTR Act. Approximately AUD 1.17 million was restrained pursuant to the Proceeds of Crime Act. The defendants pleaded guilty, agreed to forfeit the restrained funds, and were released on a good behaviour bond.<sup>158</sup>

### *Australian Securities and Investments Commission*

This Annual report provides information about a selection of results obtained by ASIC with regard to fraudulent behaviour within the corporate arena.

### State Law Enforcement agencies

A selection of extracts from the 2003/04 Annual reports of various State Police agencies follows:

#### *Victoria Police*

- In one operation, in excess of 40 kilos of illegal tobacco was seized. It is estimated that the offender was receiving approximately AUD 20,000 per week from the sale of the illegal tobacco.
- A serial burglar was charged for 59 offences involving over AUD 210,000 worth of stolen property, eight stolen vehicles and 15 stolen engines. A further four persons were charged with in excess of 70 offences, with the total value from the burglaries being more than AUD 300,000.
- Two containers of unprocessed tobacco valued at approximately AUD 10 million were stolen from the Docklands area. Four offenders were subsequently detained and 24 cartons of tobacco (215 kilos each), AUD 252,000 cash and a number of vehicles were seized.
- Offenders impersonated Customs officers and entered the Australian Customs secure storage facility. They stole 38 pallets containing 4,500 cartons of counterfeit-brand cigarettes worth approximately AUD 2.1 million.
- An investigation into the fraudulent manufacture and use of false identity documents found that the amount defrauded from various banks was in excess of AUD 4 million.
- An investigation resulted in the seizure of 2kg of methyl amphetamine (Ice), 5000 LSD tablets and approximately 150,000 Ecstasy tablets. The estimated street value was AUD 8.5 million.

#### *South Australia Police*

- A joint investigation with WA Police resulted in the seizure of 20 ounces (560 grams) of heroin, AUD 396,000 in cash, gems to the value of AUD 300,000, motor vehicles valued at AUD 55,000, and real estate valued at AUD 800,000.
- A raid on a property resulted in the seizure of 1.5 kilograms of amphetamine paste, 150 grams of ice amphetamine, 80 kilograms of pseudoephedrine and AUD 336,000 in cash. The seizure is estimated to equate to approximately 1,000,000 street doses.
- A joint police operation between South Australia, Victoria, New South Wales and Queensland involved simultaneously raids in all four States. Police arrested 17 people and seized 123 cannabis plants, 68 kilograms of dried cannabis, and AUD 58,000 cash, with proceedings underway to confiscate a further AUD 2.5 million of property.

#### *New South Wales Police*

- An operation led to the seizure of several large-scale cannabis plantations with a street value of over AUD 100 million.

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<sup>158</sup> AUSTRAC Annual Report 2003/04

## Money Laundering in and through Australia in 2004

### *NSW Crime Commission (NSWCC)*

The NSWCC administers the Criminal Assets Recovery Act 1990 (NSW), and during 2003/04, confiscated in excess of \$18 million in assets from criminals.

- Since late 2002, a total of 109,933 cannabis plants have been seized from outdoor plantations in NSW, with an estimated value of \$219,866,000.
- In addition, 13,293 plants have been seized from hydroponic crops, with an estimated value of \$8,862,000.
- Since commencing the Strathfield and Gladesville References, the Commission has restrained assets totalling approximately \$14.21 million from persons involved in Italian organised crime, and a further \$8.31 million from other persons involved in hydroponic cannabis cultivation.
- During 2003/04, the Commission obtained orders that property having an approximate total value of \$10,015,578 be forfeited to the Crown. The property forfeited included motor vehicles, jewellery, real property, cash and funds held in bank accounts.<sup>159</sup>

### *Queensland Police Service*

- An investigation into a series of commercial break and enters and theft of AUD 3.5M worth of property.
- In an operation to combat drug offences, police arrested 578 drug offenders in the Gold Coast District on a total of 1,658 charges and seized drugs with a total street value of more than AUD 6.6M.

### State Prosecutions agencies

A selection of extracts from the 2003/04 Annual Reports of various State Public Prosecutions authorities follows:

#### *Victoria*

- “This financial year saw a 47% increase in Restraining Orders granted over the previous year – from 128 to 188.”
- “Approximately 34% of the Restraining Orders made during the period were to secure assets to pay compensation orders made in favour of victims pursuant to the Sentencing Act 1991. This is a feature unique to the Victorian legislation, and enables victims of crime to have some ability to recover damages from persons convicted of offences against them.”<sup>160</sup>

#### *Queensland*

The Criminal Proceeds Confiscation Act 2002 strengthened the existing Crimes (Confiscation) Act 1989 and implemented an effective civil confiscation scheme. Under this new legislation assets worth approximately AUD 6.5 million are subject to pending forfeiture applications. In 2003/04, the assets restrained amounted to AUD 10.5 million.<sup>161</sup>

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<sup>159</sup> NSW Crime Commission Annual Report 2003/04

<sup>160</sup> Victoria Office of Public Prosecutions Annual Report 2003/04

<sup>161</sup> Queensland Office of Director of Public Prosecutions Annual Report 2003/04

## Money Laundering in and through Australia in 2004

### *Western Australia*

Money paid in the Confiscation Proceeds Account since the Confiscation Act commenced:

	2000/01	2001/02	2002/03	2003/04
Paid into account	AUD 417,074	AUD 779,533	AUD 1,388,500	AUD 1,170,275

The number of applications and revenue derived from applications under the Misuse of Drugs Act and the Crimes (Confiscation of Profits) Act 1988 in recent years:

	1999/00	2000/01	2001/02	2002/03	2003/04
No. Of Applications	142	137	39	49	39
Paid to Revenue	AUD 415,620	AUD 285,039	AUD 343,522	AUD 184,787	AUD 100,498

The decline in the number of applications and monies forfeited pursuant to these Acts since 2000/01 is as a result of applications now being taken under the Confiscation Act.<sup>162</sup>

### Media releases

A selection of recent media releases from the Australian Minister for Justice and Customs (MJC), Australian Customs Service (ACS), Australian Federal Police (AFP) and Australian Crime Commission (ACC) are also indicative of the successes of law enforcement agencies:

- More than 115kg of heroin has been seized in a joint operation by the AFP and Customs. The drugs have a potential street value of more than \$60 million. (ACS/AFP 13 May 2005)
- A joint operation conducted by Customs and the AFP resulted in the seizure of 91kg of MDMA (ecstasy). This was in the form of 370,000 tablets, with an estimated street value of \$18 million. (ACS/AFP 22 April 2005)
- More than one tonne of MDMA (ecstasy) tablets has been seized and four men have been arrested following a joint operation by the Australian Federal Police (AFP) and Customs in Melbourne, the Minister for Justice and Customs, Senator Chris Ellison announced. "This seizure has prevented approximately 5 million street-ready ecstasy pills from being sold and is the world's biggest ever single detection", Senator Ellison said. The seizure has an approximate street value of \$250 million. (MJC 15 April 2005)
- The Australian Federal Police (AFP) has made the largest ever seizure in Australia of what's believed to be pre-cursor chemicals, the Minister for Justice and Customs, Senator Chris Ellison, said today. AFP agents seized two tonnes of the chemical which they suspect was to be used to manufacture MDMA (ecstasy). "A conservative estimate of the MDMA pills capable of being produced from this amount of precursor is four million tablets which has an estimated street value of up to \$160 million," Senator Ellison said. (MJC 10 March 2005)
- Customs officers seized more than 23 kilograms of ephedrine, which could have been used to manufacture methylamphetamines with a street value of more than \$30 million. (ACS 2 February 2005)
- Two men were arrested in Sydney yesterday and 161kgs of ecstasy seized as part of a taskforce investigation. A shipping container "contained over 800,000 tablets of ecstasy", with a street value of approximately \$40 million. (ACC 16 December 2004)

<sup>162</sup> Western Australia Director of Public Prosecutions Annual Report 2003/04

## Money Laundering in and through Australia in 2004

- More than \$3 million worth of ecstasy tablets intercepted in a joint operation. (AFP, Queensland Police, Crime and Misconduct Commission (Qld) 11 November 2004)
- Australian Customs Service and Australian Federal Police officers have seized a massive 820kg of MDMA tablets and powder, worth around \$200 million, in Sydney and arrested two people. Previously, the biggest MDMA importation into Australia was 342kg detected in a joint operation in Sydney in a sea container from the Netherlands in June this year. (MJC 14 November 2004)
- Customs detected and seized 125kg of 'ice' methylamphetamine secreted in candles, with an estimated street value of up to \$100 million (ACS 22 October 2004). A further 1 kg of 'ice' hidden in the same way was found a few days later.
- 100 kg of cocaine seized in Western Australia, with a street value of approximately \$45 million. (AFP, ACS 8 August 2004)

These 10 seizures alone total AUD 907 million. A number of other notable matters are listed below.

- "Senator Ellison said that the ACC had executed 48 search warrants across 4 states (NSW, Qld, Vic. and WA) in relation to what is alleged to be highly organised efforts to defraud the Commonwealth of tax revenue estimated at more than \$300 million." (MJC 10 June 2005)
- The seizure of five backyard illicit drug producing laboratories and the arrest of seven people involved in their operation also resulted in the seizure of "substantial amounts of precursor chemicals, firearms and other weapons, an estimated \$100,000 worth of methylamphetamines, a small amount of ecstasy, quantities of cannabis, and significant amounts of glassware used to establish clandestine laboratories." (MJC 17 May 2005)
- A Sydney man has been arrested for alleged possession of significant quantities of forged Commonwealth and State documents and possession of equipment to create false personal identities, the Minister for Justice and Customs, Senator Chris Ellison announced today. "Identity fraud is a critical arm of organised crime because access to false identities is vital to the activities of criminal groups including drug smuggling, people trafficking and terrorism. In operations around Sydney this week, the Identity Crime Task Force (ICTF) executed a number of search warrants seizing a large quantity of items including computer equipment and identity documents. (MJC 11 May 2005)
- The AFP arrested two people and seized more than two million dollars in an ongoing investigation into an international criminal money laundering syndicate. (AFP 22 April 2005)
- A 39 year-old Belmore man accused of laundering over \$14 million into Hong Kong bank accounts remitted 1557 cash deposits totalling AUD14,545,877 through Australian banks to 23 Hong Kong bank accounts allegedly controlled by local criminal syndicates. "The Belmore man has been charged with one count of money laundering under the Australian Criminal Code Act, and one count of structuring under the Financial Transaction Reports Act (avoiding reporting of multiple significant transactions). He faces a maximum 25 years imprisonment." (MJC 2 March 2005)
- AFP officers arrested and charged two women for attempting to import in excess of 24 kilograms of heroin. (ACS 19 January 2005)



## Money Laundering in and through Australia in 2004

- Federal agencies investigating the fraudulent diversion of duty free products (cigarettes) believe they have uncovered tax and duty free fraud to the value of \$9 million. (ACS with AFP and Australian Taxation Office 12 November 2004)

While these extracts do not provide a comprehensive estimate of the total response by Australian Commonwealth and State agencies to proceeds of crime and money laundering, they endeavour to give examples of the nature of criminal activity which is being targeted by law enforcement and taxation authorities.



## **CHAPTER 9 - THE SURVEY**

### The design of our survey

The scope of our study includes extending the 1995 approach to:

- identify principal methods and trends of money laundered in and through Australia since 1995, highlighting the differences;
- identify and quantify money laundering links to transnational organised crime, the financing of terrorism and revenue evasion; and
- identify and quantify flows of money associated with money laundering between Australia and the Asia/Pacific region.

These objectives suggested a wider survey than the one conducted in 1995, which was sent only to law enforcement agencies and criminologists around Australia, and focussed exclusively on estimating the proceeds of crime and the percentages of these proceeds that were laundered. Clearly, the scope of the questionnaire had to be widened, to include questions relating to methods, trends, and links to organised crime and terrorism. But, to cover the third point in particular, the survey also had to elicit responses from overseas experts. Furthermore, in the intervening decade, a whole new class of “expert” had emerged, whose knowledge was important to obtain – i.e. financial intelligence experts. We therefore determined to seek information from:

- Australian law enforcement agencies;
- AUSTRACs counterpart FIUs in other countries;
- Researchers/criminologists in Australia; and
- Researchers/criminologists overseas.

Accordingly, four separate survey documents were formulated, with questions specifically related to what we felt that respondents from each group would be able to answer. The questions that we asked were intended to build on the steps in our methodology:

- what are the main crime types and how ‘big’ are they;
- how much proceeds/profit of crime is generated from these crimes;
- how are the proceeds laundered;
- where are the funds laundered;
- what impact does this laundering have on society; and the financing of terrorism.

The 1995 Walker report survey included the following Crime Categories:

- Homicide
- Other Crimes Offences Against the Person
- Robbery and Extortion
- Break and Enter
- Frauds (Insurance; Business; Public Sector; Other)
- Thefts (Vehicles/Vessels/Aircraft; Stealing; Stock; Shoplifting; Other)
- Arson/Property Damage
- Pollution; Flora and Fauna; Environmental Offences
- Drugs (Import/Export; Manufacture; Deal/Traffic)

The 2004/2005 Research includes all of the above and as a result of the literature review, added the following categories:

- Arms Trading/Trafficking
- Illegal Gambling

- Stock/Equity Market Fraud
- Illegal Prostitution
- Illegal Immigration
- People Trafficking
- Computer Crime
- Terrorism

In designing the questionnaire, we took into account the likelihood that other countries did not compile detailed statistics on the proceeds of crime or on money laundering, particularly disaggregated by offence type or country of origin. We therefore adopted the approach that expert knowledge was probably more reliable than official estimates. In addition to asking our respondents about the magnitude of the proceeds of crime generated by particular crime types, due to the absence of official estimates, we also asked them to estimate the proportion of proceeds laundered, based on their own expert knowledge. Some respondents were unable to provide these percentage estimates.

Many of the questions in the four survey documents were either identical or very similar, but some questions were only asked of particular groups. We developed a master question index, which was largely based on the survey to FIUs, as this survey contained the largest number of questions. According to this index, the survey questions can be divided into a number of sections.

### *Group 1 – Respondent's Agency and functions*

These introductory questions asked for information about the respondent's agency and its functions, particularly the nature and location of the respondent's employer, the type of work performed by the person or their organisation, and their area(s) of expertise.

### *Group 2 - Respondent Jurisdiction's approach to money laundering*

These questions were designed to elicit information about the respondent's jurisdiction, in order to assess that jurisdiction's approach to money laundering. The questions addressed issues such as the methods used in the respondent's jurisdiction to target money laundering; influences on these methods; aspects of the criminality of money laundering; and the use and regulation of the alternative remittance sector. Questions 10, 11 (criminalisation of money laundering), and 14 and 15 (alternative remittance sector) were only addressed to overseas respondents.

### *Group 3 – Proceeds of Crime and Estimates related to the Extent of Money Laundering*

These questions asked for information regarding the relative impact/significance of different crime types, the generation of proceeds of crime by those crime types, restraints and forfeiture statistics, and the value of items seized that are the proceeds of crime.

### *Group 4 - The Nature of Money Laundering*

These questions asked about the nature of money laundering, including the techniques and methods used to launder funds, and established money laundering connections between the jurisdiction in question and other countries. Question 28 (regarding the significance of money laundering between the respondent's country and Australia) was only addressed to FIUs and overseas researchers.

### *Group 5 - Links between Terrorist Financing and Money Laundering*

These questions sought information about the financing of terrorism. Questions seeking information as to the significance of terrorist financing flows between the respondent's country and Australia, were only addressed to overseas researchers.

## Survey results

The analysis in this section is based on the almost forty responses to the array of survey instruments which were directed to key agencies and individuals across Australia and overseas.

In Australia, we surveyed 30 law enforcement and related agencies, and achieved responses from 12 agencies (40%). Two agencies provided two responses each. The surveys were addressed to the agency heads. The responses were provided by recognised specialist officers within the agencies. Five of the Australian respondents represented State/Territory police agencies, two represented State agencies responsible for dealing with major crimes, and seven represented Federal agencies, including policing, customs and business regulation agencies. A further three agencies responded to the effect that they were either unable to assist, or did not have sufficient information to assist. Thus a fair coverage of Australia's most important law enforcement agencies was achieved. This is in itself an interesting finding, since the equivalent survey of Australian law enforcement agencies conducted for the 1995 Walker report (which was far less ambitious a survey than the 2004 version) was received unenthusiastically, with most actual respondents expressing little confidence in their data, and some potential respondents declining to participate at all, because they felt they simply had no contribution to make.

We also surveyed 20 Australian researchers, one of whom responded (5%). Our survey of overseas researchers achieved a better response rate than the Australian survey, with three out of 20 researchers (15%) responding to the study.

Overseas, of the 100 FIUs and related organisations we surveyed, 21 provided responses (21%), and two agencies responded to the effect that they were unable to assist. In 1995 there were, of course, few overseas FIUs in any position to comment on the extent of money laundering in and through Australia. Many of these responses were actually completed by senior FIU staff, if not the head of the FIU.

There were encouraging signs that respondents were keen to assist with the survey, and that they had made some significant effort to respond with as much information as they could assemble. Several respondents asked for extra time (which was granted) to ensure they could gather the necessary data.

Most questions were designed to elicit either responses from a given list or numerical responses, all of which lend themselves to tabulation. A small number of questions invited respondents to provide free-textual responses. The following analysis groups respondents depending on whether they are from Australia or another country. While the survey respondents mentioned specific countries, as "countries of origin", "transit countries", etc, providing valuable information to AUSTRAC, these have been identified in this Report only by their region. This is because [a] the survey responses represent only a sample of all FIUs, criminologists, and law enforcement agencies and therefore are subject to sampling biases; [b] identifying countries mentioned by respondents could breach respondents' confidentiality, and [c] without weighting the responses by seriousness, any country ranking implied by tabular results could be misleading.

## Respondent jurisdiction's approach to money laundering

Table 6. Which of the following measures are used in your jurisdiction to target Money Laundering:	Australian Responses			Overseas Responses		
	Yes	No	N/S	Yes	No	N/S
Legislation/Regulations	14	0	1	22	0	2
International exchange of information	10	0	5	22	0	2
Financial intelligence	13	0	2	22	0	2

**Commentary:** Not surprisingly, all respondents who ventured information in response to this question identified legislation/regulation, international exchange of information and financial intelligence as being used in Australia and in their own country.

Table 7. Has there been an appreciable difference in the use of these methods since 1995?	Australian Responses			Overseas Responses		
	Yes	No	N/S	Yes	No	N/S
	10	4	1	17	5	2

**Commentary:** Most Australian respondents and overseas respondents who ventured information in response to this question considered that there had been changes in the use of these methods since 1995, when the previous estimates were compiled. Australian respondents mentioned:

- Legislation review and update, enhanced technology, training and application, greater investigatory powers.
- Introduction of civil based confiscation legislation.
- New legislation in relation to proceeds of crime, suppression of terrorist financing.
- ML was viewed as a by-product of other offences. It is now viewed as a specific crime.
- Restructure of law enforcement agencies and creation of dedicated units.
- Greater use of financial intelligence, exchange of information; noticeable development and improvement of capacity and skills from AUSTRAC and AFP; much more international cooperation.

The overseas respondents mentioned:

- Ratification of Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (Strasbourg, 1990), European Convention on the Suppression of Terrorism, International Convention for the Suppression of the Financing of Terrorism, and the UN Convention against Transnational Organized Crime.
- Legislation covering money laundering and the proceeds of crime.
- Establishment of FIUs, technical assistance, and International exchange of information.
- New typologies uncovered, including the use of Alternative Remittance and the Internet.
- Significant increases in numbers of suspicious activity reports.
- Reporting obligations to include lawyers, auditors, real estate, dealers in valuable goods, etc.

Table 8. Which of the following changes in international jurisdictions have impacted on the response to money laundering in your jurisdiction?	Australian Responses			Overseas Responses		
	Yes	No	N/S	Yes	No	N/S
International Treaties	5	0	10	15	0	9
US PATRIOT Act	5	0	10	8	1	15
Introduction of the Euro	0	0	15	8	1	15
FATF Eight Special Recommendations on Terrorist Financing	7	0	8	21	1	2
FATF Forty Recommendations	6	0	9	22	1	1
International Agreements	4	0	10	14	0	10

**Commentary:** Of the six significant global events or activities identified in the past ten years, virtually all respondents who ventured an opinion agreed that International Treaties, the US PATRIOT Act, the FATF Eight Special recommendations on Terrorist Financing, the FATF Forty Recommendations and International Agreements generally had impacted on the response to money laundering in their jurisdiction. The Introduction of the Euro was not thought to have had any such impact in Australia, although as it replaced a number of national currencies, it could reasonably have been expected to have a

significant impact on money laundering.<sup>163</sup> NCIS noted in 2003 that the introduction of the Euro had not yet resulted in large-scale counterfeiting of the currency.<sup>164</sup> It is not yet clear the extent to which the Euro has replaced the US Dollar as the money launderer's 'currency of choice'.

One Australian respondent mentioned UN Resolution 1373 re terrorist financing, which resulted in the drawing up of a 'prescribed list' by the Australian Department of Foreign Affairs and Trade. Overseas respondents specifically mentioned European Union Conventions and Directives related to the prevention of transnational crime, money laundering and the financing of terrorism, and the UN Convention against Transnational Organized Crime. The creation of international bodies such as the regional Asia Pacific Group on Money Laundering, the Offshore Group of Banking Supervisors and the Basel Committee on Banking Supervision was also seen as significant by one respondent.

Overseas respondents were asked about the predicate offences for money laundering in their countries:

<b>Table 9. Is money laundering a specific offence in your jurisdiction?</b>	Yes – 24; No – 0; N/S - 0
<b>Does prosecution of money laundering require a separate predicate offence?</b>	Yes – 17; No – 7; N/S - 0
<b>What are the predicate offences for money laundering?</b>	All offences – 6; All serious offences – 5; Specified offences – 7; N/S – 6

**Commentary:** Money laundering is an offence in all respondent countries, but in a quarter of countries prosecution of a predicate offence is required. Countries were evenly split three ways over whether all offences, all serious offences or only specified offences could be predicate offences. In Australia, at the Commonwealth (national) level, prosecution for money laundering requires the funds to be illegal, which implies a predicate offence. However it is not necessary to prove a specific predicate offence, or even that a specific individual committed an offence regarding the property in question.<sup>165</sup>

#### Proceeds of crime and estimates related to the extent of money laundering

<b>Table 10. To the best of your knowledge, please provide an estimate of the number of cases that have been proceeded against and the number of convictions recorded for the crime of money laundering in your jurisdiction.</b>									
<b>Australian Responses</b>	<b>No of Cases</b>			<b>Total Laundered Value (AUD millions)</b>			<b>Total Laundered Value as Percentage of GDP</b>		
	Min	Average	Max	Min	Average	Max	Min	Average	Max
<i>Proceeded against</i>	0	3	7	0.375	28.7	83.1	0.00005	0.004	0.0115
<i>Convictions recorded</i>	0	2	6	n/a	n/a	n/a	n/a	n/a	n/a
<b>Overseas Responses</b>	<b>No of Cases</b>			<b>Total Laundered Value (AUD millions)</b>			<b>Total Laundered Value as Percentage of GDP</b>		
	Min	Average	Max	Min	Average	Max	Min	Average	Max
<i>Proceeded against</i>	0	395	5764	0.2	938.1	18573.5	0.0046	1.0333	5.0264
<i>Convictions recorded</i>	0	45	513	0.03	39.9	792.8	0.0001	0.0471	0.2146

<sup>163</sup> See Transcrime – University of Trento (2000) “the European financial system and market is today a reality which attracts criminal organisations operating in any part of the world, as the United States financial system has done for many years. The introduction of the Euro has accelerated the integration of national financial systems and markets into a unified European system”; Morris-Cotterill (2001) the Euro “soon will rival the U.S. dollar. It will have a domestic user base of around 300 million people, it will immediately have all the international trade (other than that denominated in U.S. dollars) of its member countries.... It will have immediate recognition in all the nations that traditionally trade with European countries in a variety of currencies.... By reasons of sheer volume usage, the euro will become a currency of choice for launderers who may have been relatively unwilling to use the individual currencies of EU member countries.”

<sup>164</sup> NCIS (2003)

<sup>165</sup> Criminal Code, S.400.13.

**Commentary:** The questionnaire indicated that data should relate to the most recent completed 12-month period, and responses reflect the fact that some respondents were representing regional (State or Territory) agencies, while others took a national perspective. While some respondents were unable to answer this question, at least seven cases of money laundering were known collectively to Australian survey respondents, six of which resulted in convictions being recorded. This is in contrast with the AFPs Annual Report, which noted that in 2003/04, 333 new cases categorised as “Money Laundering and FTRA [Financial Transactions Reports Act]” were commenced, we understand that a significant proportion of these cases represent the AFPs involvement in the investigation of breaches of the provisions of the FTRA, such as the failure to declare currency in excess of AUD 10,000 being carried or mailed into or out of Australia. There are a number of possible explanations for this discrepancy: that many of these cases either were not actually proceeded against in Court, and were therefore not relevant to the question we asked; the results of these investigations suggest that no crime, as contemplated by the survey question above, had been committed; or even that while data regarding investigations is collected and reported, it is difficult to separate sub-categories to identify which investigated cases involved criminal money laundering. The CDPP reported that 194 charges related to the FTRA were dealt with in 2003/04, however this figure cannot readily be compared to the AFPs reported figure, due to the delay between new investigations being initiated, and the resolution of those matters by the CDPP. Regarding the estimates of “total laundered value”, the minimum figure provided was AUD 375,000 and the maximum was AUD 83.1 million (for the value of cases proceeded against). This figure represents 0.0115% of the Australian GDP.

Substantial numbers of prosecutions, involving many millions of dollars, have been conducted in the other respondent countries in the past year. Convictions recorded were considerably rarer, however: less than ten per cent of the prosecutions figures. In terms of total laundered value, the ratios were even lower, the average value of convictions being less than five per cent of the average value of prosecutions. Total laundered value averaged just over one per cent of GDP in the respondent countries, but reached five per cent in one rather spectacular case. The numbers of cases brought to court in Australia are relatively low by comparison. While the Proceeds of Crime Act 2002 (which provides a more effective confiscation regime than that which was in place in 1995) may change this in future, there is still some reluctance to pursue money laundering offences that do not involve other criminality.

These results appear to confirm the impression that convictions are extremely hard to achieve in money laundering cases. If the data on laundered values proceeded against are representative of other countries, they suggest that the 1998 IMF estimate for *total* money laundering of between two and five per cent of global GDP<sup>166</sup> is a significant underestimate. Total money laundering is clearly much greater than the portion for which prosecutions are launched.

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<sup>166</sup> Camdessus (1998)



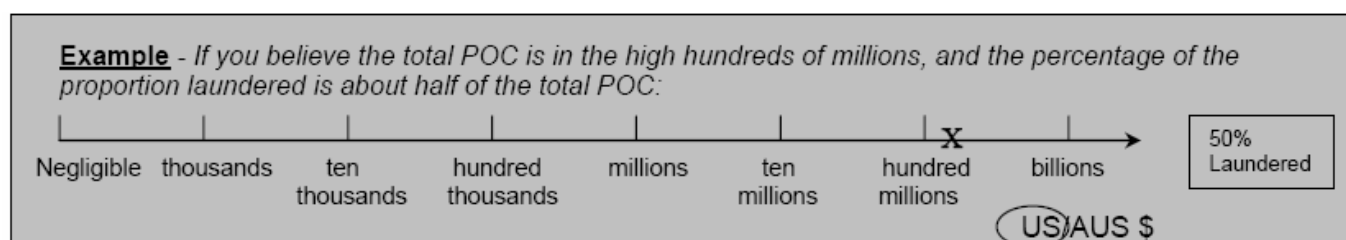
Table 11. In your professional opinion, please indicate the comparative significance in generating illegal proceeds for each of the following crimes or types of crime in your jurisdiction.	Australian Responses			Overseas Responses		
	Significant	Moderate	Insignificant	Significant	Moderate	Insignificant
Drug Trafficking	14	0	1	15	2	7
Drug Manufacture	11	2	2	12	4	8
Major fraud/Embezzlement	10	5	0	12	6	6
Tax / revenue evasion	9	3	3	9	5	10
Computer Crime	6	5	4	6	5	13
Insurance Fraud	5	5	5	6	8	10
Motor Vehicle Theft	3	8	4	6	6	12
Illegal Prostitution	1	9	5	6	3	15
Illegal Immigration	1	5	9	4	10	10
Counterfeiting/Forgery	1	5	9	2	8	14
Intellectual Property	1	4	10	2	7	15
Environmental crimes	0	5	10	2	3	19
Trafficking of Persons	0	4	11	2	8	14
Theft of Antiques/Artefacts	0	3	12	3	5	16

**Commentary:** For this question, we did not provide respondents with a definition for each crime type. Therefore, there may be some overlap in some crime types where there is some commonality of behaviour, such as intellectual property and counterfeiting; and illegal prostitution and illegal immigration. Remembering that some Australian respondents were representing regional (State or Territory) agencies, while others have a national perspective, the collective view emerging is that illicit drug trafficking and manufacturing and various forms of fraud, are the dominant forms of crime that generate funds for money laundering in Australia (reflecting the findings of the 1995 Estimates Report). Organised motor vehicle theft was seen as significant or moderately significant, while a range of other crime types were seen as of moderate significance. These include illegal prostitution, illegal immigration and (less frequently) trafficking of persons (known in Australia as “people smuggling”), which are often seen as an inter-connected group of organised crimes. Counterfeiting/forgery and intellectual property (theft) constitute another group of linked crime types that are regarded by some respondents as of moderate concern in their jurisdictions. Environmental crimes (most likely the illegal export/import of endangered species) and the theft of antiques/artefacts are also regarded by some respondents as of moderate concern in their jurisdictions.

In the other respondents’ countries, various forms of fraud and illicit drug trafficking and manufacturing, are the dominant forms of crime that generate funds for money laundering in respondent countries, as in Australia. Organised motor vehicle theft was seen as significant or moderately significant, along with a range of other crime types. These include illegal prostitution, illegal immigration and trafficking of persons (known in Australia as “people smuggling”), which are again often seen as an inter-connected group of organised crimes. Counterfeiting/forgery and intellectual property (theft) constitute another group of linked crime types that are regarded by some respondents as of moderate concern in their jurisdictions. Environmental crimes (most likely the illegal export/import of endangered species or resources) and the theft of antiques/artefacts are also regarded by some respondents as of moderate concern in their jurisdictions. These findings are very similar to those from the Australian law enforcement respondents.

Table 12. In your opinion, please indicate on the scale below, the likely order of the magnitude of Proceeds of Crime (POC) in your jurisdiction for each of the following types of crime.	Australian Responses						Overseas Responses					
	Proceeds AUD millions			% Laundered			Proceeds AUD millions			% Laundered		
	Min	Average	Max	Min	Average	Max	Min	Average	Max	Min	Average	Max
	Min	Average	Max	Min	Average	Max	Min	Average	Max	Min	Average	Max
Drug Crime	0.1	106.5	382.0	50.0	83.0	100.0	0.0	179.6	1649.7	5.0	17.5	30.0
Excise, Tax Evasion	9.2	377.7	1000.0	40.0	66.7	100.0	0.0	228.0	1649.7	50.0	50.0	50.0
Fraud	1.9	129.2	886.7	15.0	64.5	100.0	0.0	13.4	65.0	20.0	53.3	90.0
Arms Trading/Trafficking	0.0	3.9	30.6	30.0	67.5	100.0	0.0	9.7	57.6	5.0	27.5	50.0
Illegal Gambling	0.0	2.4	9.2	30.0	75.0	100.0	0.0	7.3	72.3	10.0	10.0	10.0
Theft	0.2	24.2	90.2	10.0	62.5	100.0	0.0	10.2	72.3	5.0	8.3	10.0
Extortion	0.0	4.4	11.7	30.0	73.3	100.0	0.0	0.8	6.5	5.0	47.5	90.0
Stock/Equity Market Fraud	0.0	33.4	90.2	80.0	90.0	100.0	0.0	6.9	64.1	30.0	40.0	50.0
Homicide	0.0	1.5	13.2	90.0	93.3	100.0	0.0	0.5	5.8	0.0	0.0	0.0
Arson/Property Damage	0.0	10.8	62.9	10.0	66.7	100.0	0.0	1.7	19.3	0.0	5.0	10.0
Illegal Prostitution	0.0	6.8	30.6	50.0	74.2	100.0	0.0	45.2	502.4	60.0	70.0	80.0
Environmental Crimes	0.0	1.4	4.0	60.0	83.3	100.0	0.0	3.3	39.6	0.0	5.0	10.0
Illegal Immigration/People Trafficking	0.6	8.2	30.6	20.0	73.3	100.0	0.0	8.3	45.3	5.0	42.5	80.0
Computer Crime	0.0	35.7	185.6	10.0	67.1	100.0	0.0	2.4	19.3	30.0	30.0	30.0
Other (Capital gains Tax, ID Fraud):	13.2	105.9	1000.0	80.0	85.0	90.0	N/S	N/S	N/S	N/S	N/S	N/S

**Commentary:** This question was one of several that employed a scale upon which respondents were requested to indicate their answer. This scale is depicted below, and appeared to work well as a survey device, allowing respondents to indicate their “best estimate” without requiring them to commit to a specific figure. The responses were later converted to actual numbers by reading off a prepared logarithmic scale.<sup>167</sup> As stated above, we also asked respondents to estimate the proportion of proceeds laundered, based on their own expert knowledge. Some respondents were unable to provide these percentage estimates.



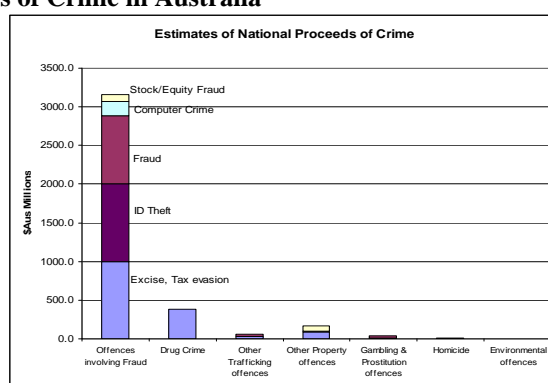
For this question, as for the previous question, we did not provide respondents with a definition for each crime type. Therefore, there may be some overlap in some crime types where there is some commonality of behaviour, such as intellectual property and counterfeiting; and illegal prostitution and illegal immigration. Indeed, the responses provided by both Australian and overseas respondents with regards to illegal prostitution and illegal immigration were identical. Again, remembering that some respondents were representing regional (State or Territory) agencies, while others have a national perspective, the collective view emerging from Question 11 is that billions of dollars are generated by crime in Australia and a very high percentage (70-90%) of the proceeds of crimes such as frauds and the production of illicit goods and services is laundered. Respondents from some jurisdictions indicated that not all crime types

<sup>167</sup> For the technically minded, if “Negligible” is taken as \$100, and the distance between the “Negligible” and “billions” marks on the scale is 134mm, then a cross drawn “x” millimetres from the left of the scale would indicate a dollar figure of  $10^{(7x/134+2)}$  [i.e. ten, to the power of ‘seven x over 134, plus 2’].

generate profits in their jurisdiction, but the general picture is that patterns of crime and money laundering are fairly consistent Australia wide. If the maximum values for estimated proceeds of crime represent the broadest perspective, they can be summed to provide an estimate of the total proceeds of crime in Australia. The total amounts to AUD 3.8 billion.

Interestingly, considering the “significance” given in the responses to Question 10, the maximum figure for drug crime is only AUD 382 million (around a quarter of the figure given in the 1995 Walker report, based largely on 1994 Australian Federal Police estimates), while the sum of the various offence types involving fraud (“Excise, tax evasion”, “fraud”, “stock/equity market fraud” and “computer crime”) amounts to over AUD 2.16 billion. This could be increased to over AUD 3.16 billion, because responses to question 11.15 “Other” included an estimate of AUD 90 million for “Capital Gains Tax fraud” (indicated by one of the major States, but probably already included in the “Excise, tax evasion” responses), and a national estimate of AUD 1 billion for “ID Crime” (Federal).

**Figure 7. Estimates of the Proceeds of Crime in Australia**



This finding for fraud is also lower than the figure given in the 1995 Walker report, but the discrepancy owes much to the absence of “Insurance Fraud” and “Fraud on the Public Sector” (e.g. fraudulent welfare payment claims) in the new figures. Both of these types of fraud are predominantly high volume/low value frauds, not considered to be major contributors to the phenomenon of money laundering, although Peppard (2005) estimates the extent of Insurance Fraud across Australia to be as high as AUD 2.1 billion. Tougher controls imposed in the meantime may also have significantly reduced the scope for these types of frauds. With these caveats, the fraud estimates generated from the 2004 survey are commensurate with those from 1995.

These findings may also be explained, at least in part, by changes in the criminal environment in Australia since 1995. For example, the destruction of the Afghan opium crops by the Taliban caused a temporary “heroin drought” worldwide, and the effects were felt in Australia from 2001 onwards.<sup>168</sup> Illicit drug users turned increasingly to cheaper drugs, including amphetamines, often locally manufactured.<sup>169</sup> It is not unlikely, therefore that the total proceeds of drugs crime in Australia have fallen dramatically since 1995. The picture is probably more complex in relation to frauds. New technology (including internet-based funds transfers) and changes in the regulatory regimes faced by businesses have both created new opportunities for fraudsters and closed off old ones. Certainly, computer-related frauds and frauds based on computer-assisted “identity theft” are the most feared new forms of fraud, but they appear to be changing the way fraudsters commit their crimes rather than increasing the extent of fraud. Similarly,

<sup>168</sup> See for example NCIS (2003) for a discussion of recent heroin availability

<sup>169</sup> South Australia Police Annual Report 2003/04 stated: “Drug offences have also declined. The level of recorded drug detections has traditionally been seen to be driven by the level of drugs in the community and police enforcement activity. There are however, several complicating factors in the drug detection paradigm, including changes in the legislative framework and the changing nature of drug types in the community”.

business regulation has gone through cycles, with de-regulation in the late 1990s, being followed by significant tightening-up in response to high profile frauds and the events of September 11, 2001.

Responses from other countries differ substantially in the extent to which different crimes generate proceeds that may be laundered. The largest single response indicated that excise/tax evasion was their greatest generator of criminal proceeds. Illegal prostitution and drug crime, of a similar magnitude, were mentioned by other respondents. The average levels of estimated criminal proceeds were, however, very much lower than these high points. Only drug offences, arms trading, prostitution and people trafficking produced estimates greater than Australian estimates for the equivalent crime types. In some countries, crime types including frauds, illegal prostitution and people trafficking, result in a very high percentage (80-90%) of the proceeds of crimes being laundered.

Where estimates of the proceeds of crime were provided, however, they were very small, none adding to more than a tenth of a per cent of the country's GDP across the whole range of crime types. When multiplied by the percentage laundered, to obtain an estimate of the total amounts laundered in the respondent countries, the highest value obtained was less than one fiftieth of a percent of that country's GDP. These figures are far lower than one would expect from the general criminological literature.

To complement these responses, overseas FIUs were asked to provide a breakdown of the types of suspected offence recorded in their suspicious transaction reports.

Table 13. What are the 5 most common suspected types of offence, as suggested by the Suspicious Transaction Reports received by your country's Financial Intelligence Unit, for the most recent completed 12-month period?		Number of Mentions
	Fraud	24
	Tax/Customs evasion	12
	Drug Trafficking	8
	Money Laundering	4
	Other trafficking	3
	Corruption	2
	Currency exchange	2
	Gambling activities	2
	Document-related crime	2
	Other	6

**Commentary:** Of the 21 FIU survey respondents, 14 FIUs responded to this question. Various forms of fraud and tax/customs evasion are mentioned over four times as often as drug trafficking. Other types of offence are much more rarely the subject of suspicious transaction reports. It is interesting to speculate whether the prominence of fraud, rather than drug offences, reflects an actual increase in its prevalence over the last decade, or is instead a consequence of an increased focus on fraud resulting from closer monitoring of suspicious financial transactions around the world, and the revelation of several high profile instances of abuse in business and commerce. Without knowing how respondents have classified these offence types, it is possible that there is some duplication, particularly where considerable numbers of suspect transactions are believed to involve multiple offence types. An alternative view is that the reporting of suspicious financial transactions inherently lends itself to a greater suspicion that fraudulent activity is involved.

### The nature of money laundering

Table 14. In your professional opinion, please estimate the percentages of the total POC expended in the following categories:	Australian Responses			Overseas Responses		
	Min	Average	Max	Min	Average	Max
Further crime activities	10.0	21.1	40.0	10	19.3	50.0
Real Estate Investment	10.0	23.2	70.0	10	12.5	20.0
Legitimate Business	3.0	12.3	25.0	5	11.2	22.2
Luxury Goods	0.0	15.1	33.0	5	13.2	25.0
Gambling	0.0	16.0	30.0	5	10.0	15.0
Other Lifestyle	3.0	8.1	15.0	10	29.2	60.0
Professional Services (eg legal, financial)	1.0	6.8	15.0	5	12.5	20.0
Other corruptive influence	1.0	3.8	5.0	10	11.7	15.0

**Commentary:** On average, real estate investment appears to be the most frequently cited destination for the proceeds of crime in Australia, according to the collective wisdom of our Australian law enforcement respondents. Roughly a fifth is invested directly into further criminal activities, while gambling and the purchase of luxury goods come next. Only an eighth of the proceeds of crime are invested in legitimate business. This observation gives credence to the FATF's recognition of the real estate sector as being vulnerable to exploitation by launderers.

Overseas FIU respondents believe, like their Australian counterparts, that the proceeds of crime are spent in a variety of ways. However, while overseas respondents reported that over 50% of laundered money was likely to be spent on lifestyle, professional services and corruptive influence, Australian respondents suggested that only 19% was likely to be spent on these categories of expenditure, with a negligible amount spent on corruption, as expected.

**Figure 8. What the Proceeds of Crime are spent on in: [a] Australia, [b] Other Countries**

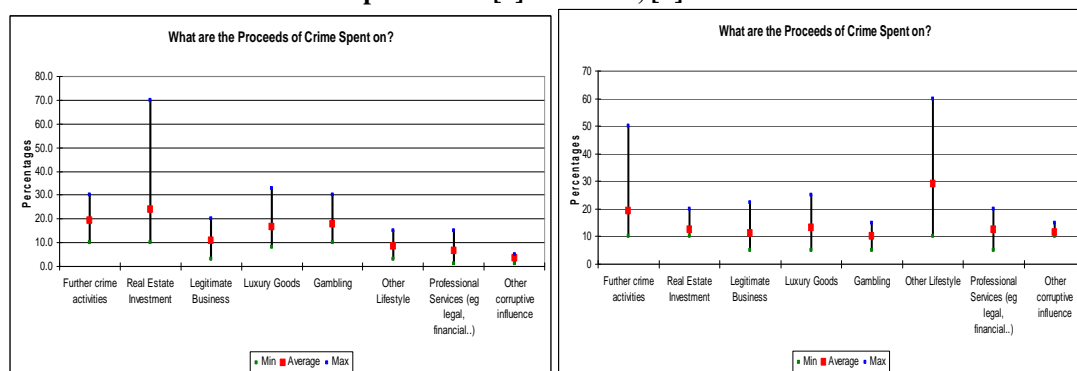


Table 15. To the best of your knowledge, please indicate the order of magnitude of POC restrained in your jurisdiction	Min	Average	Max
Australian Responses	66,206	32,130,773	101,733,196
Overseas Responses	0	30,274,187	345,392,665

**Commentary:** This question produced a minimum Australian (State/Territory) estimate of AUD 66,000 proceeds of crime restrained, and a maximum (national estimate) of almost AUD 102 million. National estimates of Proceeds of Crime restrained can be compared in the context of the countries' economies, via conversion to percentages of GDP. AUD 101 million represents only 0.014% of Australian GDP. One East European country reported that the proceeds of crime restrained amounted to 13% of their GDP,

which is comparable to estimates of the entire shadow economy in that region.<sup>170</sup> On average, however, other estimates amounted to under a quarter of a percent of GDP.

Table 16. To the best of your knowledge, please indicate the order of magnitude of POC forfeitures in your jurisdiction	Min	Average	Max
Australian Responses	66,206	5,667,395	21,298,951
Overseas Responses	0	12,801,609	240,766,851

**Commentary:** This question produced a minimum Australian (State/Territory) estimate of AUD 66,000 proceeds of crime forfeited (100% of proceeds restrained), and a maximum (national estimate) of over AUD 21 million (around a fifth of the total restrained). Again, estimates of Proceeds of Crime forfeited can be compared via conversion to percentages of GDP. The Australian estimate is equivalent to 0.003% of GDP. One East European country reported that the proceeds of crime forfeited amounted to nearly 5% of their GDP. On average, however, other countries' estimates were negligible.

Table 17. What is the "street value" of the following items seized in your jurisdiction?	Australian Responses			Overseas Responses		
	Min	Average	Max	Min	Average	Max
Illicit drugs	20,000,000	322,500,000	1,000,000,000	0	723,891	2,166,810
Weapons	500,000	833,333	1,000,000	0	0	0
Cash/Financial Instruments	5,000,000	15,375,000	40,000,000	0	19,091,322	73,865,289
Other1 (please specify): *	45,000,000	45,000,000	45,000,000	0	4,508,223	11,024,670

\* Australia - Real Estate; Overseas - Vehicles.

**Commentary:** Illicit drugs seized in Australia are believed to have a national street value of up to AUD 1 billion per annum, while real estate to the value of AUD 45 million has been seized. Cash and financial instruments to the value of AUD 40 million are also known to have been seized. With the very high estimate of the value of seized drugs, the total seizures amount to 30% of the estimated total proceeds of crime in Australia. As the CDPP notes, however, "the amount recovered can not be the sole measure of the effectiveness of the legislation. The true test is whether the Act is operating to punish and deter crime and to disrupt criminal enterprises. Unfortunately those are not as easy to measure."<sup>171</sup>

While one developed country indicated that millions of dollars of cash and other items had been seized in the last year, it amounted to only 5% of their estimated total proceeds of crime. On average, other countries' seizures amounted to only 4% of their estimated total proceeds of crime. As the overseas responses represent only a small and diverse sample of all countries, it is not possible to draw more detailed conclusions from the differences between Australian and overseas responses to this question.

<sup>170</sup> See Schneider (2004a;b)

<sup>171</sup> CDPP Annual Report 2003/04

Table 18. Which sectors or professions do you most associate with money laundering in your jurisdiction?	Australian Responses				Overseas Responses			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Banking	9	2	0	4	13	1	1	9
Legal	3	7	1	4	0	9	5	10
Accounting	6	4	1	4	3	6	5	10
Casinos	10	1	0	4	1	8	6	9
Real Estate	9	1	1	4	7	7	2	8
Other Gambling	3	5	2	5	2	3	9	10
Equity Market	3	6	2	4	1	4	10	9

**Commentary:** Our respondents most associated Casinos, the banking sector, the real estate market and the accountancy profession with money laundering in Australia. The legal profession, the equity market, and other forms of gambling (e.g. racing) are less frequently considered to be associated with money laundering. Overseas, the banking sector was associated most frequently with money laundering, ahead of the real estate and accountancy sectors. The legal profession and casinos were regarded as occasionally involved, while few respondents regarded the involvement of the equity markets and other types of gambling as frequent. Overseas respondents were also asked about the remittance sectors in their countries:

Table 19. Is the alternative remittance sector for the transmission of money/value significant in your jurisdiction?	Yes 9, No 12, N/S 3
Is the alternative remittance sector regulated in your jurisdiction?	Yes 15, No 7, N/S 2

**Commentary:** Almost half of the respondents stated that the alternative remittance sector is significant in the transmission of money or value, while two thirds said it was regulated in their country. Two of those respondents who said the sector is “unregulated” said it was illegal in their country; only one said that it was “unregulated” but “significant” in their country. Another respondent said that there is no alternative remittance sector in that country.

#### Australian respondents:

Table 20A. To the best of your knowledge, what institutions or mechanisms are used for laundering illicit proceeds involving Australia?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Banks	11	1	0	3	11	1	0	3	11	1	0	3
Shell corporations	3	3	4	5	4	2	4	5	2	4	4	5
Non-bank financial institutions	7	2	3	3	7	3	2	3	6	5	1	3
Money Exchange	7	4	1	3	8	4	0	3	4	4	4	3
Remittance services	6	2	2	5	6	4	0	5	3	3	3	6
Retail shops	0	3	5	7	0	3	5	7	1	3	5	6
Underground banking	2	2	4	7	5	4	1	5	3	2	4	6
Insurance companies	0	2	6	7	0	2	6	7	0	2	6	7
Gold & precious metal market	1	6	3	5	1	8	1	5	1	6	3	5
Casinos and gambling houses	8	1	3	3	7	2	3	3	9	3	0	3
Not-for-profit sector	0	1	8	6	2	3	4	6	0	2	7	6
Antiques dealings	0	1	9	5	0	0	10	5	0	0	9	6
Real estate	2	2	5	6	0	4	6	5	6	4	1	4

#### Overseas respondents:

## Money Laundering in and through Australia in 2004

Table 20B. To the best of your knowledge, what institutions or mechanisms are used for laundering illicit proceeds involving Australia?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Banks	2	2	2	18	2	2	2	18	1	0	1	22
Shell corporations	2	0	2	20	2	0	1	21	1	1	0	22
Non-bank financial institutions	1	2	1	20	1	1	1	21	0	0	1	23
Money Exchange	1	2	2	19	1	1	2	20	0	0	1	23
Remittance services	1	3	1	19	1	2	1	20	0	0	1	23
Retail shops	0	0	3	21	0	0	3	21	0	0	1	23
Underground banking	1	1	2	20	1	0	2	21	0	1	0	23
Insurance companies	0	0	4	20	0	0	3	21	0	0	1	23
Gold & precious metal market	0	1	3	20	0	0	3	21	0	0	1	23
Casinos and gambling houses	1	0	3	20	0	0	3	21	0	0	1	23
Not-for-profit sector	0	0	4	20	0	0	3	21	0	0	1	23
Antiques dealings	0	0	4	20	0	0	3	21	0	1	0	23
Real estate	0	0	4	20	0	0	3	21	0	0	1	23

**Commentary:** Not surprisingly, Banks are commonly believed to be frequently used to send laundered money to and from Australia and to launder money within Australia. Casinos and various forms of non-bank money services, including non-bank financial institutions, money exchanges and remittance services, appear to be next most common in all three respects, with casinos being favoured for internal laundering and the non-banks being used mainly for international laundering operations. Real estate is indicated as being a frequent mechanism for money laundering within Australia, but not at all for international operations. Shell corporations and the gold and precious metals markets are indicated as being used at least occasionally for all types of laundering. The use of retail shops, insurance companies, the not-for-profit sector and antique dealers was not considered to be as frequently used as other mechanisms.

Only five overseas respondents were able to answer this set of questions, and the results are therefore not very reliable. Those who did respond indicated that a wide range of mechanisms are used to send money to, or get money out of, Australia, including banks, shell corporations, non-bank financial institutions, money exchange and remittance services.

### Australian respondents:

Table 21A. To the best of your knowledge, what methods are used for laundering illicit proceeds?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Cash smuggling	6	2	3	4	8	4	0	3	8	2	1	4
Structuring	5	1	3	6	9	3	0	3	10	2	0	3
Commingling illicit with licit proceeds	4	3	2	6	4	4	2	5	5	5	1	4
Loan back	2	3	1	9	2	2	2	9	1	3	3	8
Trusts	1	2	4	8	1	3	3	8	2	4	2	7
Anonymous accounts	7	0	3	5	6	2	2	5	5	2	3	5
Accounts in false names	8	0	3	4	8	2	1	4	8	4	0	3



## Money Laundering in and through Australia in 2004

### Overseas respondents:

Table 21B. To the best of your knowledge, what methods are used for laundering illicit proceeds?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Cash smuggling	0	1	1	22	0	0	1	23	0	0	0	24
Structuring	0	1	1	22	0	0	1	23	0	0	0	24
Commingling illicit with licit proceeds	0	1	1	22	0	1	1	22	0	0	0	24
Loan back	0	0	2	22	0	0	1	23	0	0	0	24
Trusts	0	0	2	22	0	0	1	23	0	0	0	24
Anonymous accounts	0	0	2	22	0	0	1	23	0	0	0	24
Accounts in false names	0	0	2	22	0	0	1	23	0	0	0	24

**Commentary:** Australian respondents saw money laundering to, from or within Australia as being characterised by the frequent use of structuring and accounts in false names. While respondents did not report the frequent use of trusts, this differs with the conventional wisdom, particularly with regard to tax evasion. The most interesting part of these results is the suggested importance of anonymous accounts for laundering in, out, and even *through* Australia. These responses may suggest the frequent use of anonymous accounts in overseas banks, by Australian or overseas criminals. This might be done to hide the real sources of financial transfers into Australia, and the real destinations of transfers from Australia (including layering-type transactions that merely send money from Australia and immediately back again). These results underline the importance of the cooperation of countries that permit anonymous accounts, where the sources of the money can be positively identified as criminal.

### Australian respondents:

Table 22A. To the best of your knowledge, what instruments are used for laundering illicit proceeds?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Cash	8	3	1	3	9	3	0	3	10	2	0	3
Wire transfers	8	4	0	3	9	3	0	3	6	3	3	3
Cheques and other instruments	3	6	2	4	3	7	1	4	4	6	1	3
Gold and precious metals / stones	1	6	4	4	2	5	4	4	3	5	4	3
Electronic payments	3	5	2	5	4	4	2	5	5	3	3	4
Credit cards	5	2	3	5	5	2	3	5	5	5	1	4
Payable through accounts	3	5	1	6	3	5	1	6	3	5	2	5
Stored Value Cards	1	3	5	6	1	3	5	6	1	5	4	5

### Overseas respondents:

Table 22B. To the best of your knowledge, what instruments are used for laundering illicit proceeds?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Cash	0	1	1	22	0	0	1	23	0	0	0	24
Wire transfers	2	1	1	20	1	1	2	20	0	0	0	24
Cheques and other instruments	0	1	1	22	0	0	1	23	0	0	0	24
Gold and precious metals / stones	0	0	2	22	0	0	1	23	0	0	0	24
Electronic payments	0	0	2	22	0	0	1	23	0	0	0	24
Credit cards	0	1	2	21	0	0	1	23	0	0	0	24
Payable through accounts	0	0	2	22	0	0	1	23	0	0	0	24
Stored Value Cards	0	0	2	22	0	0	1	23	0	0	0	24

**Commentary:** According to Australian respondents, launderers frequently use cash and wire transfers to launder money into, out of or within Australia. The use of credit cards, “payable through” accounts, and other electronic payments is not unusual. They occasionally use gold and precious metals, cheques and

## Money Laundering in and through Australia in 2004

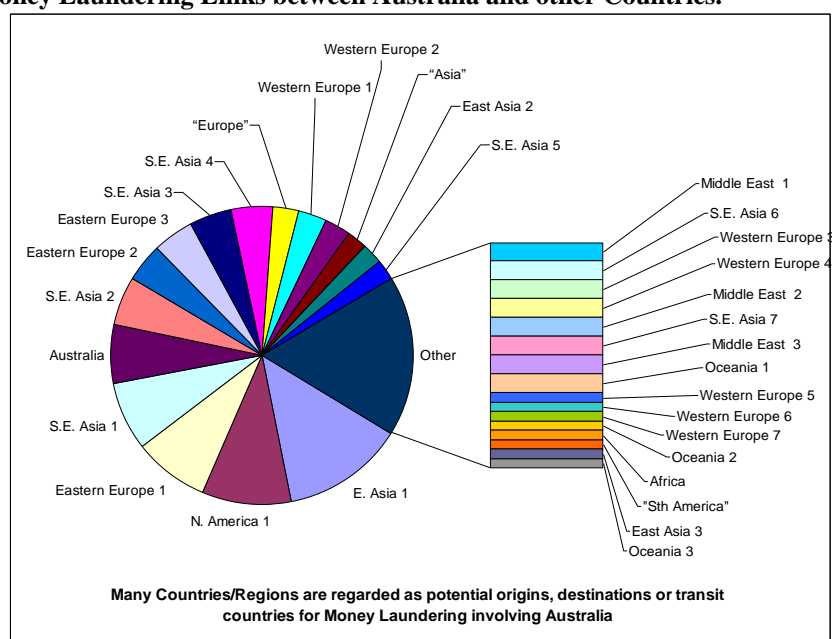
other instruments. The use of stored value cards was not noted as frequently as other instruments. Amongst the four overseas responses to this set of questions, wire transfers are the most frequently named instruments used to send money to, or get money out of, Australia for laundering.

### Australian respondents:

Table 23A. In your opinion, please list the five most important countries in terms of money laundering relevant to your jurisdiction:		Australian respondents																								
		E. Asia 1																								
		N. America 1																								
		Eastern Europe 1																								
		S.E. Asia 1																								
Australia	S.E. Asia 2	Eastern Europe 2	Eastern Europe 3	S.E. Asia 3	S.E. Asia 4	"Europe"	Western Europe 1	Western Europe 2	"Asia"	E. Asia 2	S.E. Asia 5	Middle East 1	S.E. Asia 6	Western Europe 3	Western Europe 4	Middle East 2	S.E. Asia 7	Middle East 3	Oceania 1	Others						
Top five countries where the POC were generated:	6	5	5	2	5	1	2	2	5	2	1	0	2	1	1	1	0	0	0	1	0	0	0	2		
Top five countries through which laundered money transits:	6	3	4	4	1	4	2	2	0	2	1	3	0	1	1	2	1	0	2	1	1	1	2	2	6	
Top five final destinations:	6	5	2	4	3	2	2	2	1	2	2	1	2	1	1	0	1	2	0	0	1	1	0	0	1	
Total "top five" mentions:	18	13	11	10	9	7	6	6	6	6	4	4	4	3	3	3	2	2	2	2	2	2	2	9		

**Commentary:** Australian respondents to this question, on the most important countries involved in laundering operations involving Australia, differed widely in their nominees. The most frequently cited country in respect of money laundering – in terms of overall numbers of citations – is an East Asian country. Countries from almost all major world regions appear in the list. Of these, some are major trading partners of Australia, and this may explain the choice of launderers to use those routes, but there are others whose rankings in the list are much higher than their trading levels would suggest. Some have large expatriate or migrant communities in Australia, which could provide some explanation for their rankings. Perhaps surprisingly, the traditional tax havens and off-shore centres in the Caribbean were not mentioned. Respondents distinguished clearly between countries where proceeds of crime are believed to be generated for laundering in or through Australia, those through which laundered money transits to a final destination, and countries regarded as final destinations of laundered money generated in Australia. These perceptions may however change, as demonstrated by the recent announcement of the Minister for Justice and Customs regarding tax evasion involving tax havens estimated at more than \$300 million.<sup>172</sup>

**Figure 9. Perceived Money Laundering Links between Australia and other Countries.**



<sup>172</sup> [http://www.ag.gov.au/agd/WWW/justiceministerHome.nsf/Page/Media\\_Releases\\_2005\\_2nd\\_Quarter\\_10\\_June\\_2005\\_Australian\\_Crime\\_Commission\\_uncovers\\_alleged\\_fraud\\_against\\_the\\_Commonwealth](http://www.ag.gov.au/agd/WWW/justiceministerHome.nsf/Page/Media_Releases_2005_2nd_Quarter_10_June_2005_Australian_Crime_Commission_uncovers_alleged_fraud_against_the_Commonwealth)

## Money Laundering in and through Australia in 2004

Other countries' respondents were asked a similar question in respect of their own experience of money laundering, followed by a set of questions asking specifically about their impressions of Australia as a source, destination or transit country of relevance to their jurisdiction.

### Overseas respondents:

Veritas Respondents:												
Table 23B. In your opinion, please list the five most important countries in terms of money laundering relevant to your jurisdiction:	N. America	Caribbean	S. America	Western Europe 1	Western Europe 2	Western Europe 3	Eastern Europe	Middle East	SE Asia 1	SE Asia 2	African countries	
	Top five countries where the POC were generated:											
	6	1	1	5	4	3	8	0	3	1	3	
	Top five countries through which laundered money transits:											
	5	3	2	9	2	3	1	2	2	4	0	
Top five final destinations:												
	6	3	3	3	2	3	5	2	3	7	1	
Total "top five" mentions:												
	17	7	6	17	8	9	14	4	8	12	4	
To the best of your knowledge, please indicate the relative significance of money laundering between your jurisdiction and Australia:												
	Significant			Moderate		Insignificant			N/S			
	Australia as the origin			0		2			9			13
	Australia as a transit country			0		0			10			14
	Australia as the destination			0		3			8			13

**Commentary:** Reflecting the global nature of the survey's respondents, a wide range of countries were mentioned in responses to this set of questions. When aggregated into regions, the most frequently mentioned were North American, European and South East Asian countries. Eastern European countries were most frequently named as countries where the proceeds of crime were generated, northern and central European countries were associated with transit operations, while South East Asia was mentioned most in connection with destinations of laundered money. None of the respondents regarded Australia as significant in any area of their own money laundering environment, although two respondents believed Australia was of moderate significance as an origin country, and three respondents believed Australia was of moderate significance as a destination of laundered funds from their country.

### The links between terrorist financing and money laundering

Table 24. Has your organisation contributed over the last 12 months to the investigation of the financing of terrorism?	Australian Responses			Overseas Responses		
	Yes	No	N/S	Yes	No	N/S
	5	8	1	12	3	6
If "Yes", were any links to Australia identified?	0	9	3			

**Commentary:** Five of the fourteen Australian respondent agencies had contributed to the investigation of the possible financing of terrorism in the last twelve months, including two state law enforcement agencies and three federal agencies. Twelve of the twenty one overseas FIUs that responded to the survey had contributed to the investigation of terrorism in the last twelve months. None indicated any links to Australia.

## Money Laundering in and through Australia in 2004

### Australian respondents:

Table 25A. To the best of your knowledge, what institutions/ mechanisms have been or are most likely to be used or associated with terrorist financing?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Banks	2	0	2	11	3	1	0	11	2	0	1	12
Shell corporations	0	1	2	12	0	2	1	12	0	1	2	12
Non-bank financial institutions	0	3	1	11	0	4	0	11	1	1	1	12
Money Exchange	2	1	1	11	2	2	0	11	1	0	2	12
Remittance services	0	1	1	13	0	2	0	13	0	0	1	14
Retail shops	0	0	3	12	0	1	2	12	0	0	2	13
Underground banking	0	2	2	11	1	3	0	11	0	1	2	12
Insurance companies	0	0	2	13	0	0	2	13	0	0	1	14
Gold & precious metal market	0	1	2	12	0	1	2	12	0	1	1	13
Casinos and gambling houses	1	1	1	12	1	1	1	12	1	0	1	13
Not-for-profit sector	0	1	1	13	2	0	0	13	1	0	1	13
Fundraising	0	2	1	12	2	1	0	12	1	1	1	12
Antiques dealings	0	0	2	13	0	0	2	13	0	0	1	14
Real estate	0	1	2	12	0	1	2	12	0	1	1	13

### Overseas respondents:

Table 25B. To the best of your knowledge, what institutions/ mechanisms have been or are most likely to be used or associated with terrorist financing?	To Send Money to Australia				To Get Money out of Australia				Launder Money within Australia			
	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S	Frequent	Occasional	Rare	N/S
Banks	2	2	1	19	2	2	1	19	2	2	0	20
Shell corporations	2	1	1	20	3	1	1	19	2	1	1	20
Non-bank financial institutions	2	1	1	20	3	1	1	19	3	1	0	20
Money Exchange	1	1	2	20	2	1	2	19	2	1	1	20
Remittance services	2	2	1	19	2	2	1	19	2	1	1	20
Retail shops	1	1	2	20	2	1	2	19	2	1	1	20
Underground banking	3	1	1	19	3	1	1	19	2	2	0	20
Insurance companies	0	1	2	21	2	1	2	19	2	1	1	20
Gold & precious metal market	1	2	1	20	2	2	1	19	2	1	1	20
Casinos and gambling houses	1	1	2	20	2	1	2	19	2	1	1	20
Not-for-profit sector	1	1	2	20	2	1	2	19	2	1	1	20
Fundraising	1	1	2	20	2	1	2	19	2	1	1	20
Antiques dealings	1	1	2	20	2	1	2	19	2	1	1	20
Real estate	1	1	2	20	2	1	2	19	2	1	1	20

**Commentary:** Only four Australian respondents completed this question, two being State/Territory law enforcement agencies, one Federal and one criminologist. What is most interesting about this rather sparse table is the wide range of institutions and mechanisms nominated as being – or most likely to be – used by terrorists. The responses generally reflect the patterns revealed by earlier questions relating to general money laundering in, from and through Australia. Only five overseas responses were received to this set of questions. Their responses suggested that virtually the whole range of financial and other institutions and mechanisms was at risk of abuse.

Table 26. In what order would you rank the following sources of funds for terrorism:	Australian Responses				Overseas Responses			
	Ranked 1	Ranked 2	Ranked 3	N/S	Ranked 1	Ranked 2	Ranked 3	N/S
Crime	2	1	3	9	5	1	6	12
Donations	4	2	0	9	7	7	0	10
Legitimate business	0	3	3	9	3	4	6	11

**Commentary:** Only six Australian respondents were able to complete this question, two being State/Territory law enforcement agencies, three Federal and one criminologist. Donations emerge as the most likely source of funds for terrorism, followed by crime. Legitimate business was ranked either second or third by all Australian respondents. Amongst the overseas responses, donations were again regarded as the most likely source of funds for terrorists, but legitimate business was more likely to be highly ranked than in Australia. None of these observations, however, suggest that terrorist financing is being initiated in Australia.

Finally, all respondents were asked: “In your professional opinion, what do you consider to be the main emerging area of money laundering affecting Australia?” Issues identified included:

- The fact that some crime types generate large amount of cash which need to be introduced into the financial sector, whereas the proceeds from other crime types (predominantly frauds) are not generally in the form of cash. These latter crimes are generally under-reported, and therefore not investigated. There should be greater emphasis on detecting and deterring offences generating high levels of non-cash proceeds;
- Electronic and on-line banking products, Internet banking fraud, false name bank accounts, “phishing”, the use of cash passports, and fraud on cards and institutions;
- Casino chip cash-outs;
- Civil-based confiscation regimes resulting in greater use of offshore financial centres to hold wealth outside Australia, and greater involvement of professional facilitators;
- Remittance agents and other forms of alternate/underground banking systems (i.e. hawala);
- ID crime; and
- Increasing connectivity between Australia, Oceania and South-East Asia.

### Overall conclusions from the surveys

#### The view from Australia

All Australian respondents agreed that Legislation/Regulations, International exchange of information, and financial intelligence are used in their jurisdiction to target ML, and most agree that these have changed since 1995, influenced by a range of international conventions and FATF recommendations.

An estimate of AUD 3.8 billion for the total proceeds of crime can be derived from the survey responses. Drug manufacturing and trafficking and offences involving fraud again head the list of crimes generating income for laundering, but when the amounts of money involved are compared, fraud exceeds drug crime by a significant margin. The best estimate for drug proceeds is AUD 382 million (considerably less than the estimate in the 1995 Walker report) while frauds collectively add to AUD 3.16 billion, including the ‘Other’ crime category. Respondents on average estimated that over 80% of drug proceeds were laundered, compared with only around 70% of the proceeds of fraud. The estimates of proceeds of crime and estimates of the percentages being laundered can be combined to provide an estimate of the total amounts being laundered from the proceeds of Australian crime.

## Money Laundering in and through Australia in 2004

The total amount suggested by the Australian responses as being the laundered proceeds of crime in Australia is AUD 2.8 billion. Fraud (between around AUD 1.5 billion and AUD 2.3 billion) is by far the largest component of money generated and laundered in Australia; illicit drugs are second, at less than AUD 400 million.

**Table 27. Survey-based Estimates of Money Laundering Generated from Proceeds of Crime in Australia**

Crime Type	Estimate of proceeds of Crime	% Laundered	Estimate of Money Laundered (AUD millions)
Drug Crime	382	83.0	317
Excise, Tax Evasion	1000	66.7	667
Fraud	887	64.5	572
Arms Trading/Trafficking	31	67.5	21
Illegal Gambling	9	75.0	7
Theft	90	62.5	56
Extortion	12	73.3	9
Stock/Equity Market Fraud	90	90.0	81
Homicide	13	93.3	12
Arson/Property Damage	63	66.7	42
Illegal Prostitution	31	74.2	23
Environmental Crimes	4	83.3	3
Illegal Immigration/People Trafficking	31	73.3	22
Computer Crime	186	67.1	125
ID Fraud	1000	85.0	850
<b>Total</b>	<b>3827.2</b>		<b>2806</b>

The lower contribution of drugs to the generation of profits requiring laundering, compared to the contribution of fraud, may be due to the higher visibility of drugs, and easier detection at several points in the process of import or manufacture of drugs. Fraud, however, is harder to detect, since it is often merely “value” that is being moved, rather than physical goods. While the survey questions asked for estimates of the magnitude of the proceeds of different crime types, it is probable that survey respondents considered the interdiction and seizures of drugs, thereby preventing the realisation of proceeds of sale, with the result that there are less proceeds available for laundering. If the estimated AUD 1 billion of drugs seized by law enforcement agencies in 2004-05 had been sold by criminals, these figures would be quite different. A range of preventative measures are employed in Australia to target drug and fraud offences, including suspicious transaction reporting.

Data are available for the value of laundered money involved in cases proceeded against in the most recently documented year, indicating a likely value of AUD 83 million, but no data were available for the value of convictions recorded. AUD 83 million represents three per cent of total estimated laundered money generated in Australia.

The laundered money is invested in a range of activities, including, as best estimates:

- 21.1% (AUD 600 million) on further crime activities;
- 6.8% (AUD 191 million) on professional services;
- 23.2% (AUD 651 million) on real estate investment;
- 16.0% (AUD 449 million) on gambling;
- 15.1% (AUD 424 million) on luxury goods; and
- 12.3% (AUD 345 million) on legitimate business.

The predominance of real estate as a means of laundering is also supported by the findings of the 2003 NCIS study, which found that “purchasing property in the UK was the most popular method identified, involving roughly one in three serious and organised crime groups .... Investment in front companies or

## Money Laundering in and through Australia in 2004

high cash businesses came next, followed by simply spending the criminal proceeds to fund a lifestyle, and by transferring cash overseas using bureaux de change and money transmission agencies. Roughly one in 10 groups were known to use bank accounts in the UK, and similar proportions used accounts overseas or transmitted cash through couriers. Fewer groups invested in property overseas, or in financial products, and a small percentage used gambling or alternative remittance systems”.<sup>173</sup>

For the period reported on by our respondents the Australian law enforcement response has resulted in around AUD 100 million in restrained proceeds of crime, and over AUD 21 million forfeited. Similarly, illicit drugs to the street value of around AUD 1 billion have been seized, along with real estate to the value of AUD 45 million and AUD 40 million in cash.

Our survey respondents believed casinos, the banking sector, the real estate market and the accountancy profession to be associated with money laundering in Australia, sending money overseas or receiving it from overseas. Associations with other financial professions, the equity market, and other forms of gambling (e.g. racing) were less frequently reported.

Money laundering to, from, or within Australia is characterised by the frequent use of structuring, accounts in false names and cash smuggling. Observations regarding the frequency of the use of trusts differed from the conventional wisdom. A recent example of the use of trusts for tax evasion is the joint investigation referred to by the Minister for Justice and Customs in a media release on 10 June 2005.

Launderers frequently use wire transfers to launder money into, out of or within Australia. Cash is also used, however to a lesser extent. The use of credit cards, “payable through” accounts, and other electronic payments is not unusual. They occasionally use gold and precious metals, cheques and other instruments. The use of stored value cards is not as frequent.

The most frequently cited country in respect of money laundering, in terms of overall numbers of citations, is an East Asian country. Countries from almost all major world regions appear in the list. Of these, some are major trading partners of Australia, and this may explain the choice of launderers to use those routes, but there are others whose rankings in the list are much higher than their trading levels would suggest. Some have large expatriate or migrant communities in Australia, which could provide some explanation for their rankings. Perhaps surprisingly, the traditional tax havens and off-shore centres in the Caribbean were not mentioned. Respondents distinguished clearly between countries where proceeds of crime are believed to be generated for laundering in or through Australia, those through which laundered money transits to a final destination, and countries regarded as final destinations of laundered money generated in Australia.

Suspected laundering mechanisms used by terrorists follow the general pattern. While based on a limited number of survey responses, donations emerge as the most likely source of funds for terrorism, followed by crime. Little information is available as to the quantum of possible terrorist financing, however, the small size of the amounts involved should not be discounted, since individual incidents show that even small amounts can facilitate attacks of immense impact.

### The view from Overseas

Overseas respondents agreed with Australian law enforcement respondents that legislation/ regulations, International exchange of information, and financial intelligence are used in their jurisdiction to target ML, and most agree that these have changed since 1995, influenced by a range of international conventions and FATF recommendations.

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<sup>173</sup> NCIS (2003)

Money laundering is an offence in all respondent countries, but in a quarter of countries prosecution of a predicate offence is required. Countries were evenly split three ways over whether all offences, all serious offences or only specified offences could be predicate offences.

Substantial numbers of prosecutions, involving many millions of dollars, have been conducted in the respondent countries in the past year. Convictions recorded were considerably rarer, however: less than ten per cent of the prosecutions figures. In terms of total laundered value, the ratios were even lower: the average value of convictions being less than five per cent of the average value of prosecutions. Total laundered value of prosecutions averaged just over one per cent of GDP in the respondent countries, but reached five per cent in one rather spectacular case. Assuming that this data is correct, and accepting that total laundered money must be very much greater than the value of prosecutions, the 1998 estimate for *total* money laundering of between two and five per cent of global GDP<sup>174</sup> may indeed be a valid range.

The list of predicate crimes linked to money laundering overseas is similar to the Australian law enforcement list. Frauds and drug crime are the most frequently mentioned. Motor vehicle theft and prostitution are ranked higher in overseas countries than in Australia, perhaps reflecting that Australia's island status offers some protection against offences of this type, which involve the physical transportation of vehicles or people across national borders. The counterpoint to this is that computer crime, which crosses borders without impediment, is of more concern to Australian law enforcement than to the overseas respondents.

Various forms of fraud and tax/customs evasion are mentioned in suspicious transaction reports over four times as often as drug trafficking. Other types of offence are much more rarely the subject of suspicious transaction reports. Countries differ substantially in the extent to which different crimes generate proceeds that may be laundered. The largest single response indicated that excise/tax evasion was their greatest generator of criminal proceeds. Illegal prostitution and drug crime, of a similar magnitude, were mentioned by other respondents. The average levels of criminal proceeds were, however, very much lower than these high points. In some countries, crime types including frauds, illegal prostitution and people trafficking, result in a very high percentage (80-90%) of the proceeds of crimes being laundered.

While our overseas respondents reported that over 50% of laundered money was likely to be spent on lifestyle, professional services and corruptive influence, Australian respondents suggested that only 19% was likely to be spent on these categories of expenditure, with a negligible amount spent on corruptive influence.

Reflecting the global nature of the survey's respondents, a wide range of countries were seen as linked to money laundering in one way or another; the most frequently mentioned were North American, European and South East Asian countries. Eastern European countries were most frequently named as countries where the proceeds of crime were generated, northern and central European countries were associated with transit operations, while South East Asia was mentioned most in connection with destinations of laundered money. None of the respondents regarded Australia as significant in any area of their own money laundering environment, although some believed Australia was of moderate significance as an origin country, and others saw Australia as of moderate significance as a destination of laundered funds from their country.

None of the overseas respondents identified any terrorist financing links between Australia and their country. Their assessment of potential sources of terrorist funding was similar to that of Australian

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<sup>174</sup> Camdessus (1998)



## Money Laundering in and through Australia in 2004

observers, in that they ranked donations ahead of crime and legitimate business. Legitimate business was, however, more likely to be highly ranked than in Australia.



## **CHAPTER 10 - ANALYSIS OF OTHER DATA**

### **Estimates of money laundering based on costs of crime estimates**

The 1995 Walker report's analysis commenced with estimates of the costs of crime, and then applied percentages to derive firstly estimates of the proceeds of crime, and thence the amount likely to be laundered. The percentages of costs that are estimated to accrue to the offender in the form of proceeds, and the percentages of proceeds that are laundered, were derived in 1995 by consensus amongst Australian criminologists. In the meantime, Mayhew has updated the estimates of the costs of crime in Australia, documenting the likely property losses from each crime type,<sup>175</sup> and our 2005 survey has obtained more up-to-date (and probably more statistically-based) estimates of the percentages laundered, for the most important crime types. For most crime types considered in Mayhew's costs of crime estimates, including fraud, the property losses represent the proceeds of crime to the offender. For drug crime, however, Mayhew calculates the costs of the deaths and health problems that result from addiction and losses due to lower employment prospects.

Mayhew's estimate of AUD 5.88 billion for frauds was based on survey information relating to the numbers and costs of frauds on individuals and households, frauds against businesses, frauds against the Commonwealth Government (e.g. welfare fraud), and various industry-based estimates of insurance fraud. Peppard<sup>176</sup> has more recently estimated Insurance Fraud alone at AUD 2.1 billion, which is somewhat higher than the range used by Mayhew, which may suggest that Mayhew's figure is an underestimate of the totality of the proceeds of fraud. Mayhew's estimate, however, includes a component for "lost output and intangible losses", which should not be counted as "proceeds" to the offender. In this report, we have taken the simple approach of assuming the errors up and down cancel each other out.

With respect to the problem of drug crime, fortuitously, the UNODC has very recently compiled estimates of the value of illicit drugs trades around the world,<sup>177</sup> and their data can be used to compile estimates of the proceeds of drug crime in Australia. The table below shows how their estimates for the six major drug types can be combined to determine an upper limit to the proceeds of drug crime in Australia.

**Table 28. Estimated Net Income to Drug Retailers in Australia**

Drug Type	Estimated Number of Users	Estimated Retail Price AUD/ pure gm	Average Consumption per User (pure gms/yr)	Total Income to Drug Retailers AUD millions	Wholesale price as % of retail price	Net Income to Drug Retailers AUD millions
Opiates	80,000	560	56.5	2,531	25%	1,898
Cocaine	200,000	380	35	2,660	37%	1,680
Cannabis resin	20,000	24	150	72	27%	52
Herbal Cannabis	2,000,000	9	200	3,600	34%	2,364
ATS	500,000	84	13	546	52%	260
Ecstasy	450,000	298	10	1,341	48%	698
<b>Total</b>				<b>10,750</b>	<b>Total</b>	<b>6,952</b>

These findings suggest that the maximum net income to illicit drug retailers in Australia is around AUD 7 billion per annum. This is net of the payments they made to the wholesalers, but does not include other costs such as transportation, packaging, stock losses and payments to other gang members. These are likely to be quite a high proportion of total income, but cannot be so high as to make the business

<sup>175</sup> Mayhew P (2003a; 2003b)

<sup>176</sup> Peppard, F, (2005)

<sup>177</sup> The estimates in this table are based on UNODC (2005b)

unprofitable. Retailers' mark-ups in the Australian legal drugs retail industry are of the order of 30%,<sup>178</sup> but, because of the extraordinary lengths that illicit drugs retailers have to go to in order to protect their business, this is likely to be an underestimate of on-costs they face. At the 30% rate of on-costs, we estimate that illicit drug retailers in Australia earn at most around AUD 4.9 billion (before tax!). If other costs are included (e.g. the use of professional services alone were estimated at an average of 7% from our survey responses), a calculation of 50% overhead costs could be reasonable, and would result in a "best estimate" of drug retailers' earnings at AUD 3.5 billion.

Table 29 shows how an estimate of the extent of money laundering from crime in Australia can be generated from this estimate of the proceeds of drug crime in Australia together with Mayhew's 2003 updates of the costs of crime. Mayhew's figures for Recorded Crime, Estimated Numbers of Incidents (which includes estimates of unrecorded crime incidents), the value of Property Stolen and Damaged per Incident, and the Total Property Losses, by crime type, form the first five columns of the table. Multiplying the average losses per incident by the estimated numbers of incidents for each crime type gives an estimate of total property losses for property crimes. The proportion of these property losses that are the proceeds to the offender is taken from the 1995 Walker Report, and applying these proportions to the estimated property losses gives estimates of the proceeds of crime from property crimes in Australia. Adding a row for drug crime into the table at this stage, the estimates of proceeds of crime can then be multiplied by estimates of the percentages of proceeds that are laundered (from the 1995 and 2005 surveys of Australian law enforcement agencies) to give estimates of money laundering for each crime type. These estimates of the percentages of proceeds that are laundered (column 8 in the Table) are derived by averaging the individual estimates of the expert respondents to the surveys carried out in 1994/5 and 2004/5. There are no official statistics, either in Australia or in other countries, that provide insights into the "launderability" of the proceeds of crime, but we assume that the survey respondents' collective knowledge and expertise will approach the "true" picture.

**Table 29. Costs-of-Crime-based Estimates of Money Laundering Generated from Proceeds of Crime in Australia**<sup>179</sup>

Crime Type	Recorded Crime 2001 * (000s)	Estimated Number of Incidents 2001 * (000s)	Property Stolen & Damaged * AUD/Incident	Total Property Losses * AUD million	Estimated % Proceeds (from 1995 Survey)	Estimated Proceeds AUD million	% Laundered <sup>180</sup> (a= 1995 Survey b=2005 survey)	Implied Money Laundering AUD million
Robbery	27	168	800	134	80.0	107	30.0 <sup>a</sup>	32
Residential Burglary	275	819	1,100	901	80.0	721	10.0 <sup>a</sup>	72
Non-Res Burglary	160	176	2,400	422	80.0	338	10.0 <sup>a</sup>	34
Theft of Motor Vehicles	140	147	4,000	588	80.0	470	35.0 <sup>a</sup>	165
Shoplifting	73	7,304	100	730	80.0	584	5.0 <sup>a</sup>	29
Theft from Motor vehicles	266	956	270	258	80.0	206	5.0 <sup>a</sup>	10
Other Theft and Handling	390	1,769	200	354	80.0	283	5.0 <sup>a</sup>	14
Criminal Damage	319	1,914	350	670	1.0	7	0 <sup>a</sup>	0
Arson				1,350	1.0	14	0 <sup>a</sup>	0
Fraud				5,880	75.0 – 90.0	4,851	69.4 <sup>b</sup>	3,367
Drugs						3,500**	83.3 <sup>b</sup>	2,915
Total Offences				11,287		11,081		<b>6,282</b>

\* from Mayhew (2003)

\*\* from above calculations.

The money laundering implied by these estimates, from criminal proceeds generated in Australia, therefore could be around AUD 6.3 billion dollars, of which frauds slightly outweigh drug offences in the total. Again, "virtually nothing else matters".

<sup>178</sup> See, for example, [http://www.cfes.com/documents/pharma/19-Review\\_Findings\\_Aust\\_Pharma\\_Pricing\\_Sweeny.pdf](http://www.cfes.com/documents/pharma/19-Review_Findings_Aust_Pharma_Pricing_Sweeny.pdf).

<sup>179</sup> Source of Columns 1-5, Mayhew, P. (2003)

<sup>180</sup> These individual proportions noted [a] have been determined from estimations within the 1995 Walker report, as the individual theft categories were aggregated in the 2005 Report survey.

Comparing these estimates against the survey-based estimate of only AUD 2.8 billion, it is clear that they represent two very different views of the size of the problem. These estimates both address crime-related money laundering conducted either within Australia (internal ML) or from Australia (outgoing ML). The survey-based estimates suggest that the total proceeds of crime is around AUD 4.8 billion, and are founded on considerable local knowledge of Australia and the major crimes that come to official notice. The survey results may underestimate the extent or the profits of crimes that never come to official notice, including both fraud and drug crimes, particularly due to the fact that they are based on the knowledge and impressions of a small number of respondents. The other approach (Table 29) estimates the proceeds of crime at AUD 11.081 billion, specifically addresses estimates of unrecorded crime, including the issue of unrecorded frauds, and may be less susceptible to that type of error, but relies significantly on very tentative estimates of the operational costs faced by illicit drug retailers in Australia.

The key differences between the two are therefore [a] the estimation of the profitability of the illicit drugs market, and [b] the extent to which unrecorded crime contributes to the proceeds of crime and thence to the extent of money laundering. In the authors' professional judgement, it is likely that the survey-based estimate is underestimating the profitability of the illicit drugs sector (this appears to be likely in view of the significantly higher figures preferred by the UNODC) but that the crime-costs-based estimate significantly overestimates the launderability of the proceeds of unreported crime, much of which is unreported precisely because it does not involve significant proceeds. In support of this contention, it is clear that, in recent years, the illicit drugs distribution network within Australia has changed from being one in which a relatively small number of top-level importers distributed through a fairly narrow "pyramid sales" operation, and made significant profits which they subsequently laundered. In response to increasingly successful police operations, the way some drugs syndicates operate in Australia has changed, with a more broadly based pyramid of dealers being the most common distributors of the drug, often users themselves dealing to support their own habit, and tending to deal in relatively small quantities. The proportion of drugs proceeds that are laundered is probably, therefore, lower than it used to be only a few years ago.

### Estimates based on reports of suspect financial transactions (SUSTRs)

The existence of a Suspect Transaction Report is not evidence of the commission of a crime, nor is the dollar value of that report a measure of the proceeds of crime or an amount of laundered money. Further, the reporting of a SUSTR can not always be taken to mean that the underlying transaction has taken place: the transaction could have simply been proposed by a client, but subsequently not completed. It is therefore the nature of the transaction, rather than the fact that it has occurred, that is suspicious. Nevertheless, both the existence and the face value of a report may be treated as indicators of significance in the estimation of the extent of money laundering. In 1995, the financial sector's reporting patterns, and AUSTRAC's database on suspicious transactions, reflected their limited experience in investigating transactions, and some uncertainty of what constituted a suspicious transaction. Trends were short, erratic, and extremely difficult to interpret. Ten years on, and both the financial sector and the financial intelligence unit are more certain of what constitutes a suspicious transaction, assisted by better training in what to look for, and a range of high-tech data-mining techniques that systematically identify anomalous transactions.

**Table 30. Numbers of Suspect Transaction Reports 1998/99 – 2003/04, by Source of report** <sup>181</sup>

<sup>181</sup> These data have been extracted using data mining techniques, which result in slightly different results to those given in other AUSTRAC publications. For a discussion of the use of data mining techniques in financial transaction reports analysis, see Jensen (2005).

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	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Grand Total
Banks and non-banks *	5,796	6,597	6,485	6,839	7,150	9,710	42,577
Gaming, incl. Casinos and Betting Agencies	455	375	840	954	1,322	1,378	5,324
Insurance, Bullion, and Securities and Futures	184	114	53	79	58	37	526
Other & Unknown **	37	57	27	38	116	85	359
Grand Total	6,472	7,143	7,405	7,910	8,646	11,210	48,786

\* Includes Credit Unions/Building Societies, Foreign Exchange, Mortgage and Finance

\*\* Includes Motor Vehicle Dealer, Travel Agents, AUSTRAC as Coordinator, Cash carriers, and Solicitor.

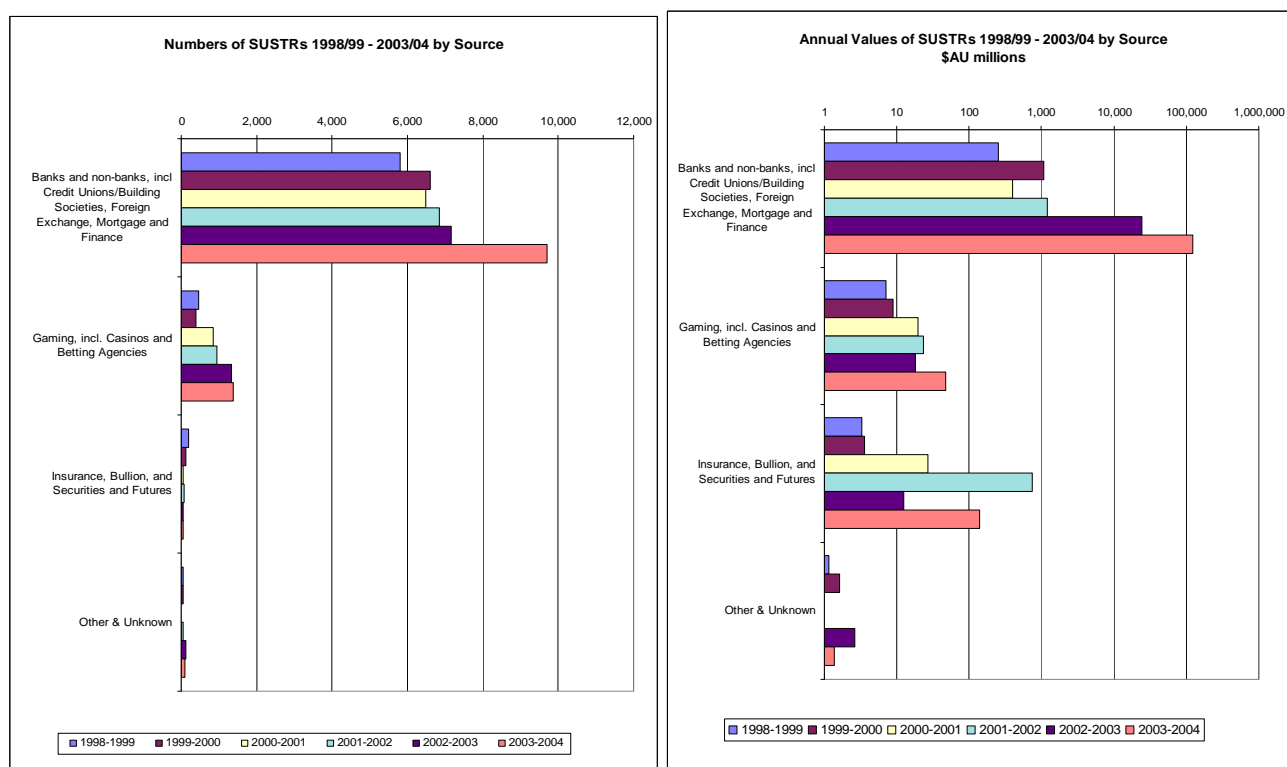
**Table 31. Total Values of Suspect Transaction Reports 1998/99 – 2003/04, by Source of report**

AUD millions	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	Grand Total
Banks and non-banks *	250	313	394	1,190	24,591	123,389	150,127
Gaming, incl. Casinos and Betting Agencies	7	9	20	24	18	47	124
Insurance, Bullion, and Securities and Futures	3	4	27	735	12	140	921
Other & Unknown **	1	752	1	1	3	1	759
Grand Total	262	1,078	443	1,951	24,626	123,579	151,931

\* Includes Credit Unions/Building Societies, Foreign Exchange, Mortgage and Finance

\*\* Includes Motor Vehicle Dealer, Unit Trust, Travel Agents, AUSTRAC as Coordinator, Cash carriers, and Solicitor.

**Figure 10. Numbers and Values of Suspect Transaction Reports 1998/99 – 2003/04, by Source of report**



The scope of suspicious transaction reporting includes banks, casinos, non-bank financial organisations, securities dealers, insurance brokers, and even businesses such as motor vehicle dealers, travel agents, and betting agencies. Over the period 1998/99 to 2003/04, a significant majority of these reports have been filed by financial institutions and gaming businesses. This generally accords with the views of Australian respondents to our survey question “which sectors or professions are most associated with money laundering in your jurisdiction”, which ranked banking services and casinos as the top 2 sectors

## Money Laundering in and through Australia in 2004

considered attractive to launderers. Our overseas respondents suggested that the banking and real estate sectors were most attractive to launderers.

By value, however, a different picture emerges. While financial institutions are still the highest reporting 'dealer' type, the next highest type is the insurance, bullion, and securities and futures broker grouping, followed by gaming.

The trends show increases in both the numbers and values of SUSTRs by source of report, but it is difficult to know to what extent the increases are indicative of improving accuracy in identifying suspicious transactions, or actual increases in numbers of suspicious transactions. It is also difficult to ascertain the extent (if any) to which reporting institutions are over-reporting suspicious transactions ("defensive reporting"), so as to avoid criticism by authorities, or corroborate allegations that institutions are facilitating money laundering by remaining silent.

Dollar values of these reports have been increasing dramatically in the past three years. Over the last two years in particular, a 'Pareto' type of observation can be made, where 97% of the face value of transaction reports has been reported in less than 0.05% of the number of reports.

However, while in 2003/04, SUSTRs with a face value of AUD 123.6 Billion were received by AUSTRAC, this figure includes 7 SUSTRs each of which had a value in excess of AUD 100 million, totalling AUD 122.6 billion. As none of these proposed transactions were apparently completed, they could reasonably be excluded from an estimation of the extent to which SUSTRs reflect actual money laundering. One such transaction report accounted for AUD 120 billion, and was described as involving behaviour that bore the hallmarks of 'Prime Bank Guarantee' frauds. This, then, suggests a more 'normal' amount for 2003/04 of AUD 1 billion.

Further, of the total face value of SUSTRs received in 2002/03 of AUD 24.6 billion, 10 SUSTRs each had a face value in excess of AUD 100 million, representing a total of AUD 22.1 billion. One of these transaction reports described a proposed transaction involving gold bullion of a value exceeding AUD 17.8 billion. Again, none of these proposed transactions were apparently completed, and could therefore reasonably be excluded from an estimation of a 'normal' amount, which would be AUD 2.5 billion.

These figures of 1 billion and 2.5 billion are more consistent with the trend from 1998/99 to 2001/02.

This, then, leaves us with a choice of conclusions: that either the financial sector is now reporting more unusual behaviour by their clientele, whether proposed transactions are completed or not (which may have previously gone unreported); or alternatively, that the 'normal' level of reporting is somewhere in the order of AUD 1.0 - 2.5 billion per annum, with a small number of very high value abnormal transactions that skew the statistics. We have not determined the extent to which behaviour that is the subject of other SUSTRs actually involved completed transactions.

Clearly even a very few transaction reports can make one year's figure very different from the previous or the next. Until 2002/03, SUSTRs were averaging just under AUD 1 billion per year, which is commensurate with, although less than, what the Survey (almost AUD 3 billion) and the Costs of Crime (AUD 6.3 billion) approaches suggest is the total extent of money laundering. Excluding the very high value SUSTRs in 2002/03 and 2003/04 would suggest that this is still a reasonable conclusion.

In considering these figures, it must be recognized that the face value may be:

- over-representative of the level of suspicious behaviour, as no offence might have occurred in relation to a particular disclosure; or

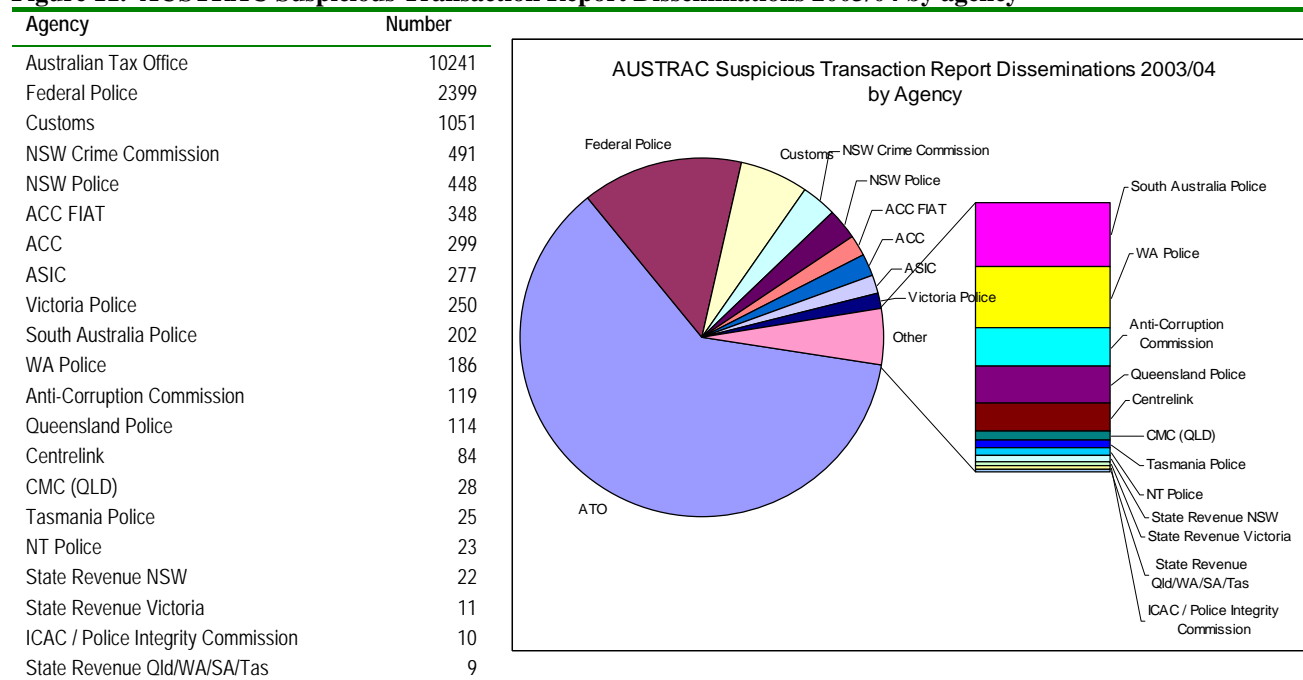
## Money Laundering in and through Australia in 2004

- under-representative, in that the report is only made for that part of the subjects behaviour which has come to the notice of, and been reported by, the particular institution at that time.

SUSTRs are, of course, “suspicious transactions” – no more and no less. They are indications of unusual transaction activity. If they correctly identify all criminal transactions, and pick up some additional transactions that are not, in fact, criminal even though they look suspicious, they *should* over-estimate total money laundering. Interestingly, the 1995 Walker report observed SUSTRs with a face value of AUD 51 million, which was far *less* than the finding that the quantum of money laundering in Australia was in the vicinity of AUD 3.5 billion.

The table and chart below show the agencies to which SUSTRs have been disseminated by AUSTRAC in 2003/04. It should be noted that not only are some reports disseminated to multiple agencies; some reports disseminated in 2003/04 were received in earlier years, with secondary disseminations being made in 2003/04. Nearly all reports received are believed to involve tax evasion to at least some degree (regardless of any other criminality), and are therefore referred to the Australian Taxation Office as a matter of course. Of the 11,210 reports received in 2003/04, 91% were disseminated to the ATO.

**Figure 11. AUSTRAC Suspicious Transaction Report Disseminations 2003/04 by agency**

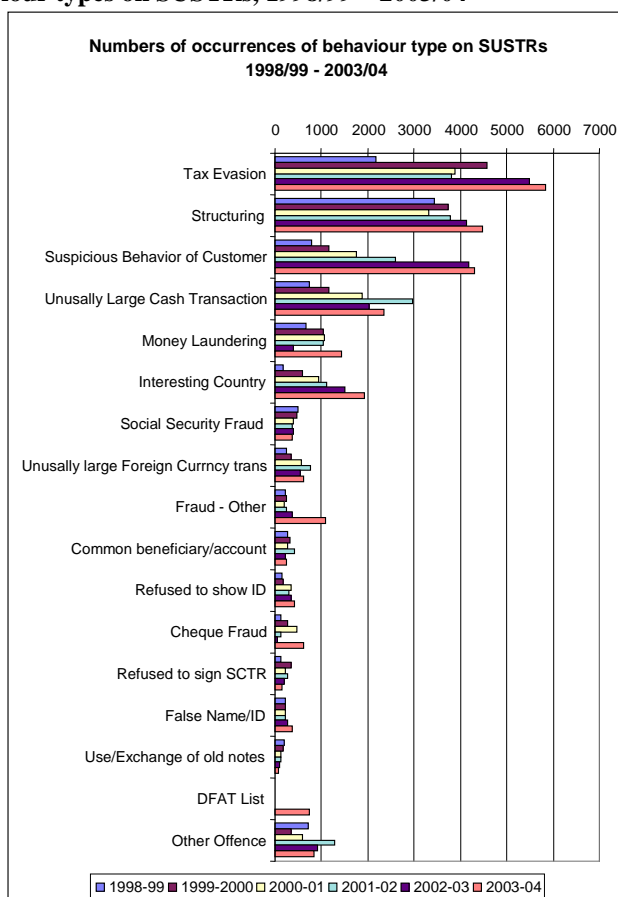


Other SUSTR data show the nature of behaviour (as assessed by AUSTRAC analysts from the information provided) involved in particular reports. The totals do not reflect the total number of SUSTRs received by AUSTRAC, as some reports are believed to involve multiple offence types. For 2003/04, the 11,210 reports received involved over 25,000 suspected offence type occurrences.

It is particularly interesting to compare the types of behaviour recorded by AUSTRAC in its SUSTRs and those identified by FIU respondents to our surveys. Whereas our overseas respondents mentioned various forms of fraud and tax/customs evasion over four times as often as drug trafficking, AUSTRACs analysts can usually only assess the nature of the behaviour from the financial information provided, which often does not suggest drug-related offences. Consequently, AUSTRAC chooses not to assess reports as being linked to drug offences. Further information is sometimes used to assist dissemination decisions.



**Figure 12. Occurrence of behaviour types on SUSTRs, 1998/99 – 2003/04** <sup>182</sup>



On the other hand, these figures, placed in the context of traditional crime statistics, may be indicative that the extent of tax evasion has historically been overlooked by law enforcement agencies and is only now, as a side-effect of greater surveillance of financial transactions, being revealed to its full extent. It has always been regarded as ironic that the infamous American gang leader Al Capone was brought to justice not for the drug crimes, gang-related extortions, and murders he allegedly committed, but for tax evasion. These data may be telling us that the hiding of ill-gotten wealth is very much more common than previously considered.

## Estimates based on international flows of funds through the Australian financial sector

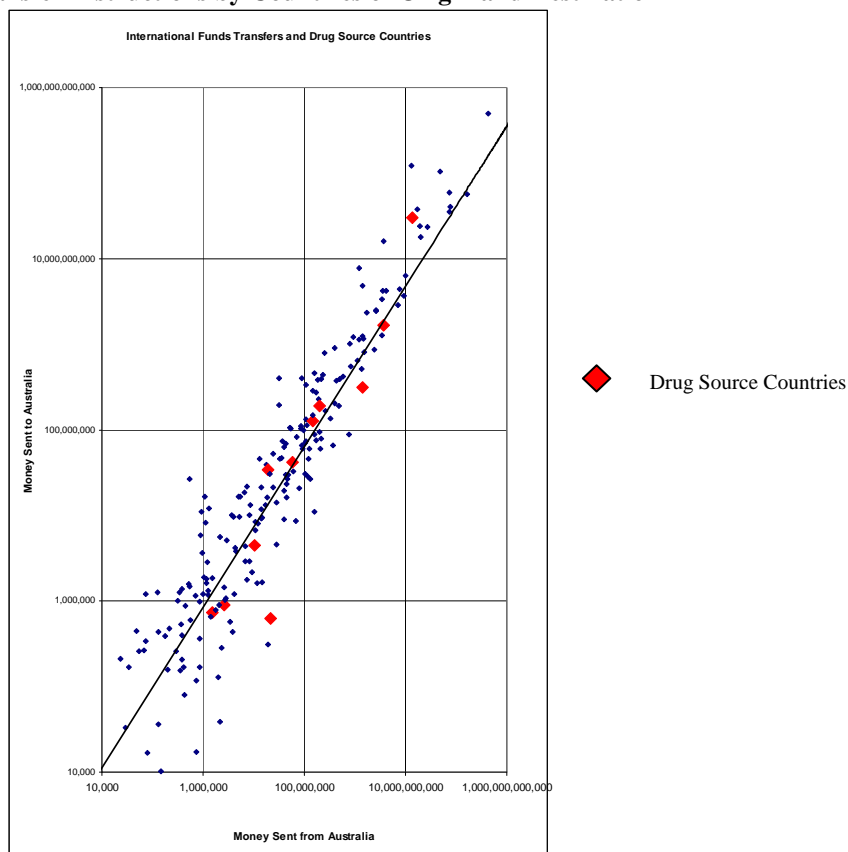
Another initially promising approach to the measurement of money laundering is an examination of international funds transfer instructions (IFTIs). These instructions relate to the sending value from Australia via the banking system and are recorded by AUSTRAC, including data on the amount of value involved, the destination country and the location in which the transaction took place. IFTIs are not suspicious transactions, but the data are collected to obtain a more complete picture for financial intelligence monitoring. Analysis of these transactions is complicated by the fact that some informal value-transfer systems are not conducted via the banking system, but instead, involve transactions between parties who represent the transaction in the form of a 'chit' or other document, without any payment actually taking place between the parties. We are not able to measure the extent of the use of these informal value-transfer systems, let alone the extent to which they are used for laundering the proceeds of crime.

<sup>182</sup> The fact that a name matches the DFAT list does not mean that the name reported is actually the person of interest.

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One might hypothesise, for example, that importers of illicit drugs into Australia would send payments to the drug producing or transit countries to pay for their imported produce, and that these payments might be detectable as “outliers” in an analysis of IFTIs. Unfortunately, as the chart below shows clearly, this turns out to be a needle-in-a-haystack exercise. In the chart, the main countries in which illicit drugs are produced, or through which they are transited, (according to the UNODC’s World Drug Reports) are identified amongst the general data on around two hundred countries identified in IFTIs. If illicit drugs payments were significant enough to become identifiable in the data, we would expect that more money would be sent to drug producer countries than is received from them, and all the drug producer countries would tend to be above the line in the chart. This is clearly not true. Similar non-findings emerge if “known tax havens” are selected from the chart.

**Figure 13. International Funds Transfer Instructions by Countries of Origin and Destination**



One can identify “interesting” patterns in the data by looking at time series data on flows of funds to and from Australia, but it falls very far short of proof of money laundering. In seeking instances of money laundering among this sort of data, it is worth remembering that:

“In essence, the rule in successful money-laundering is always to approximate, as closely as possible, legal transactions. As a result, the actual devices used are themselves minor variations on methods employed routinely by legitimate businesses. In the hands of criminals, transfer-pricing between affiliates of transnational corporations turns into phony invoicing; inter-affiliate real estate transactions become reverse-flip property deals; back-to-back loans turn into loan-back scams; hedge or insurance trading in stocks or options becomes matched- or cross-trading; and compensating balances develop into the so-called underground banking schemes. On the surface it may be impossible to differentiate between the legal and illegal variants; the distinction becomes

clear only once a particular criminal act has been targeted and the authorities subsequently begin to unravel the money trail.”<sup>183</sup>

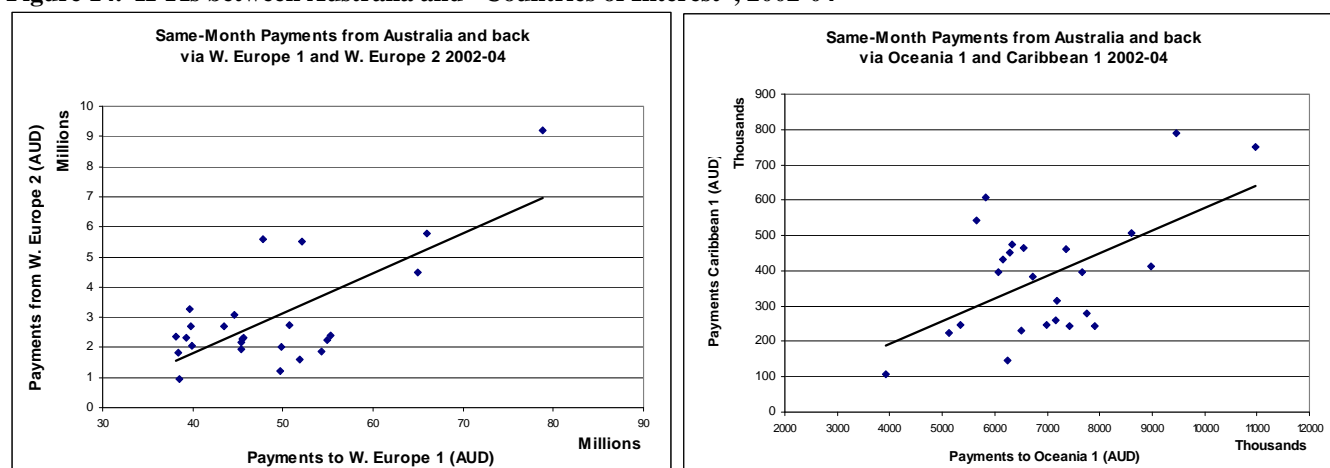
The problem is therefore that, while analysis may provide interesting examples which may be indicative of ML activities involving Australia, [a] they cannot be regarded as proof that money laundering is going on along these paths, and [b] they do not identify how much of the flow is laundered money and how much is not.

For example, the first two charts below show that payments *from* Australia to countries believed to be used by launderers were often accompanied during 2002-04 by payments *to* Australia in the same month from a different country (which is also believed to be a money laundering transit country).

The left-hand chart shows that when flows of funds from Australia to one particular Western European country are high, it is common to find high levels of payments from a second Western European country in the same month. One conclusion could be that the three countries may be utilised by launderers in Australia sending their funds via these two countries for laundering. The right-hand chart shows similar patterns suggesting a route from Australia via an Oceania country and back via the Caribbean.

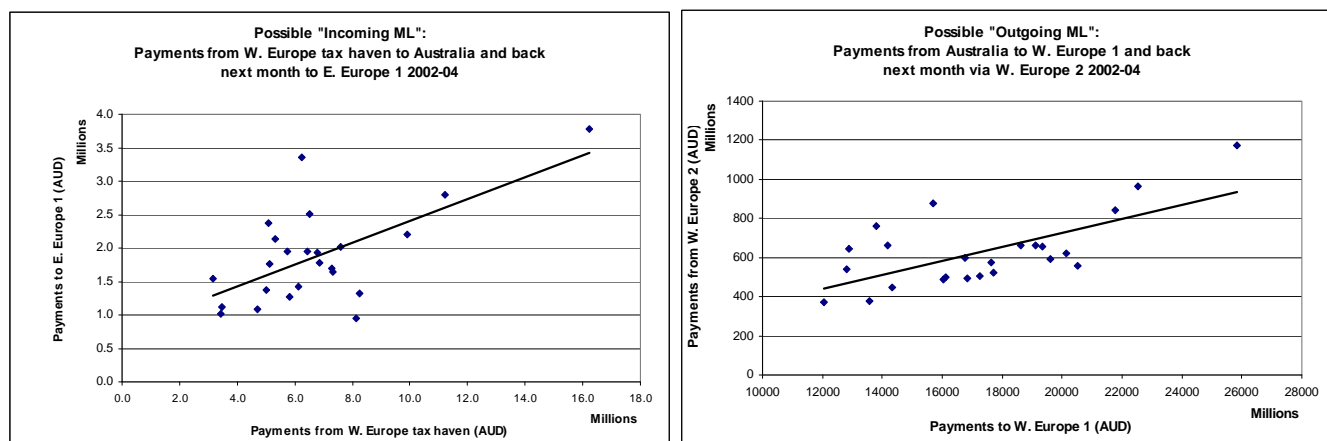
While internet banking might make such rapid laundering processes possible, it is likely that other laundering circuits take more than a month to return to the launderer. The second pair of charts show examples where payments to one country correlated highly with payments received from another *in the following month*. Money flowing from country A to Australia, followed by a flow from Australia to country B, could be indicative of Australia being used to launder money for overseas launderers (“incoming ML”); money leaving Australia, followed by a flow back to Australia from a third country could indicate laundering by Australian criminals (“outgoing ML”). The left-hand chart may indicate an incoming ML loop from a West European tax haven, via Australian institutions, and back to an East European country, while the right-hand chart might suggest an outgoing ML loop from Australia via a couple of neighbouring West European countries.

**Figure 14. IFTIs between Australia and “Countries of Interest”, 2002-04**



<sup>183</sup> UNODC (1998)

## Money Laundering in and through Australia in 2004



Analysis that looks at both the origin and destination of an international financial transaction is a little more revealing, although again quite difficult to interpret. An analysis of the postcodes in Australia from which international transactions have been made during 2003/04 has been conducted. Most postcodes have a pattern of destination countries that is not unlike the overall Australian pattern. Some, however, have quite anomalous patterns of destinations, in the sense that disproportionately large amounts of money have been sent to “countries of interest” compared to the other transactions conducted from that postcode.

**Table 32. Values of International Funds Transfers from “anomalous” Australian postcodes to “countries of interest”, 2003/04 AUD ‘000s**

Destination Country	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	Total
E. Asia 1	2,814,664	1,333,011	55,404	3,354	45,739	81	3,070	0	4,255,322
Western Europe 1	782,351	1,448,086	43,441	50,131	44,344	282	50	23	2,368,708
S.E. Asia 1	1,008,625	421,513	16,701	75,305	14,595	890	797	1,188	1,539,614
Western Europe 2	149,089	202,093	19,906	11,293	3,010	660	1,466	125	387,642
S.E. Asia 2	199,962	123,268	15,610	12,628	21,420	0	782	527	374,198
S.E. Asia 3	120,606	47,342	42,473	95,794	5,187	1,345	8,276	7,558	328,581
S.E. Asia 4	194,198	84,550	10,265	424	467	259	259	1,689	292,113
S.E. Asia 5	135,355	61,835	35,856	39,316	4,825	1,511	3,555	1,593	283,846
S. Asia 1	74,486	51,989	12,395	14,269	6,669	694	3,705	204	164,410
Oceania 1	73,780	5,028	61,564	493	4,166	106	587	361	146,086
Middle East 1	121,722	20,745	260	69	893	22	291	0	144,003
S. Asia 2	51,653	9,670	2,754	1,598	608	67	517	129	66,995
Western Europe 3	37,797	5,668	3,697	2,318	2,016	80	805	1	52,383
Eastern Europe 1	17,178	7,472	2,577	2,970	3,306	388	1,254	19	35,165
S.E. Asia 6	6,559	6,058	702	579	18,894	18	415	70	33,296
Eastern Europe 2	15,669	4,143	2,029	722	1,264	79	346	10	24,262
Middle East 2	19,507	1,966	296	385	308	0	621	0	23,082
Middle East 3	10,568	5,523	615	958	569	52	69	8	18,364
Eastern Europe 3	3,812	2,131	2,736	897	596	67	6,366	24	16,630
Eastern Europe 4	4,112	6,359	989	3,153	767	165	169	34	15,748
C. America 1	8,988	719	973	341	294	7	54	22	11,398
Eastern Europe 5	5,967	1,669	1,153	292	598	214	156	19	10,066
Eastern Europe 6	3,131	2,268	2,140	574	878	1	114	7	9,114
S. America 1	3,590	1,646	2,291	856	207	20	43	1	8,654
S. Asia 3	3,739	2,236	1,528	333	431	30	207	57	8,561
Eastern Europe 7	4,535	1,036	216	541	200	8	52	15	6,604
N. Africa 1	2,006	1,213	145	265	231	1	54	0	3,915
S. America 2	1,159	387	453	1,285	76	38	46	11	3,455
S.E. Asia 7	1,071	1,035	588	17	225	33	312	1	3,282
E. Europe 8	339	698	525	18	1,311	24	202	0	3,119
C. Asia 1	2,580	0	0	0	0	0	0	0	2,580
C. Asia 2	590	1,269	169	95	27	3	8	0	2,160
Caribbean 1	1,213	79	464	57	7	89	9	26	1,944
C. Asia 3	1,283	307	36	112	50	0	3	12	1,802
E. Europe 8	1,491	79	51	25	16	0	0	0	1,662
S.E. Asia 8	0	4	0	1,412	0	0	0	0	1,415
S. America 3	791	252	18	286	32	0	10	8	1,398
C. Asia 4	75	527	199	134	3	0	1	3	942
Eastern Europe 8	279	75	75	27	158	0	12	0	625
S. America 4	161	325	20	0	13	0	1	0	520
C. Asia 5	96	119	69	32	11	0	0	0	327

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C. Asia 6	130	18	10	0	0	0	43	0	201
C. Asia 7	61	26	17	11	2	0	0	0	117
Total	5,884,969	3,864,437	341,409	323,371	184,413	7,235	34,728	13,747	10,654,309

Looking in particular at these “countries of interest”, the analysis finds over AUD 10 billion in payments from Australian postal locations that have atypical trading patterns. This does not mean, however, that they are necessarily suspicious or illegal transactions. These transactions can include legitimate purchases (e.g. carpets and heroin come from similar parts of the world; transit countries are often popular tourist destinations), remittances from migrants in Australia to their families in less-developed countries, or even government funds in aid to development projects. At the sender’s end of the transaction, a postcode may be anomalous simply because it is the home of a substantial business specialising in products from specific suppliers overseas. Finally, it is to be expected that sophisticated money launderers would take care to conduct their business from major financial centres in Australia, and use non-suspicious countries as intermediaries, so as to avoid drawing attention to their activities. The huge volumes of transactions between Australia and major trading partner countries such as the UK, the USA, the Netherlands and Switzerland make it impossible to identify anomalous transactions from aggregate statistics alone, and these data could be hiding significantly more than the AUD 10 billion identified in the table here.

This analysis has not focussed on particular countries of interest, but rather sought to develop an analysis technique where consideration was given to Australian postcodes that appeared unusual. For this type of analysis, the logical conclusion is that the most valuable approach is a combination of “bottom-up” and “top-down” approaches, which use ‘countries of interest’ as a starting point.

Perhaps the most reliable conclusion that can be drawn from this table is that the other estimates that we have made, including those related to illicit drugs importation, are not inconsistent with levels of financial payments from Australia, since the aggregate estimates fall well inside the total figures produced by this analysis of IFTIs and anomalous postcodes.

The preceding two sections have only considered SUSTRs and ‘outbound’ IFTIs involving unusual postcode locations, however there are also obligations on transacting parties to disclose information on cash transactions for amounts greater than or equal to AUD 10,000 (or its foreign equivalent), and cross-border movements of currency of amounts greater than or equal to AUD 10,000 (or its foreign equivalent). The evasion of these obligations is an offence. Just as we have not analysed the entire holdings of IFTIs held by AUSTRAC, we have not considered the cash or cross-border transactions in this analysis. While these report types cover transactions that have no suggestion of unusual or unlawful behaviour, this additional data is valuable in building up pictures of financial behaviour. Some particular patterns / methodologies of behaviour are specifically of interest to AUSTRAC and its partner agencies, and occurrences of these behaviours are developed for dissemination. During 2003/04, AUSTRAC disseminated 1021 such reports to partner agencies.<sup>184</sup>

The results of this work would be significantly enriched if the FIUs of other countries also had access to data regarding international wire transfers.<sup>185</sup>

<sup>184</sup> AUSTRAC Annual Report 2003/04

<sup>185</sup> See Jensen (2005)



## **CHAPTER 11 - TRIANGULATION BY REFERENCE TO OTHER RESEARCH**

In order to ‘test’ the data we have accumulated from our survey, our review of work on the costs of crime, and consideration of AUSTRAC data, and in light of the results of our literature review, we considered that there would be value in utilising other data to fill in some gaps. In particular, we saw value in considering the extent to which trade prices could be manipulated, and the extent of the shadow economy, which at least, would provide a substitute figure for tax evasion, if not money laundering.

### *Analysis of transfer pricing*

John Zdanowicz has considered money laundering in the context of trade mis-pricing, focusing on both traditional money laundering and the financing of terrorism. This mechanism is just another technique used by criminals to hide their transactions in amongst legitimate business activity. He has considered both abnormal weights per unit, and abnormal values per unit. By assessing price discrepancies for exported and imported goods, Zdanowicz determined which commodities had involved over- or under-valuation, for imports and exports respectively. Of the estimate of USD156.2 Billion which was moved out of the United States by way of these pricing discrepancies during 2001, USD 4.27 Billion involved countries which are listed on the United States State Department ‘Al Qaeda watch-list’. For the same period of time, it was estimated that misuse of trade pricing resulted in USD 213 Billion being moved into the United States.<sup>186</sup>

Zdanowicz found that of the total amount of trade, USD1.84 Billion involved Australia. This is around 7% of total imports and exports between Australia and the USA.<sup>187</sup> Other countries in our region also were mentioned (Japan – USD 35.9 billion; China – USD 7.1 billion; the Philippines, Taiwan and Korea – USD 4+ billion; and Singapore USD 3.1 billion). While this model has not been utilised in Australia, such a model could be used to determine transactions (and shipments) of interest, with a view to detecting criminal money laundering, or apparently ‘legitimate’ business transactions intended to finance terrorism. This would allow a focus that is not limited to countries that are already of interest, such as tax havens, drug sources, or countries of concern for their role in the financing of terrorism.<sup>188</sup>

### *Analysis of shadow economy*

The 1995 Walker report assumed that criminals generally do not declare their income to the taxation authorities, and therefore considered the understatement of income as being an indicator of money laundering. While the terms of ‘shadow’, cash, or underground economy are interchangeable, not all underground economic activity involves proceeds of crime, whereas most proceeds of crime will spend at least some time in the underground economy. It is therefore valuable to look at the extent of the underground economy, to try to consider its relationship, if any, to money laundering.

Friedrich Schneider’s study of the extent of the shadow economy in 145 countries (refer Chapter 5) provides estimates as to the proportion of GDP that is comprised by the shadow economy. The results for a selection of the countries he studied, including Australia, have been charted below. The validity of this analysis has been demonstrated by NCIS’ interpretation of the relationship between the extent of the shadow, or undeclared economy, and money laundering. As discussed earlier, NCIS stated that if the size of their shadow economy was approximately 13% of the United Kingdom’s GDP (which accorded with a study by the International Monetary Fund in 2000), and the extent of money laundering were estimated at

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<sup>186</sup> Zdanowicz, J (2003)

<sup>187</sup> ABS estimate Australia’s imports from the USA for 2002-03 at AUD 22.5 billion and exports to the USA at 10.4 billion, from total imports and exports of AUD 133 billion and AUD 115 billion, respectively.

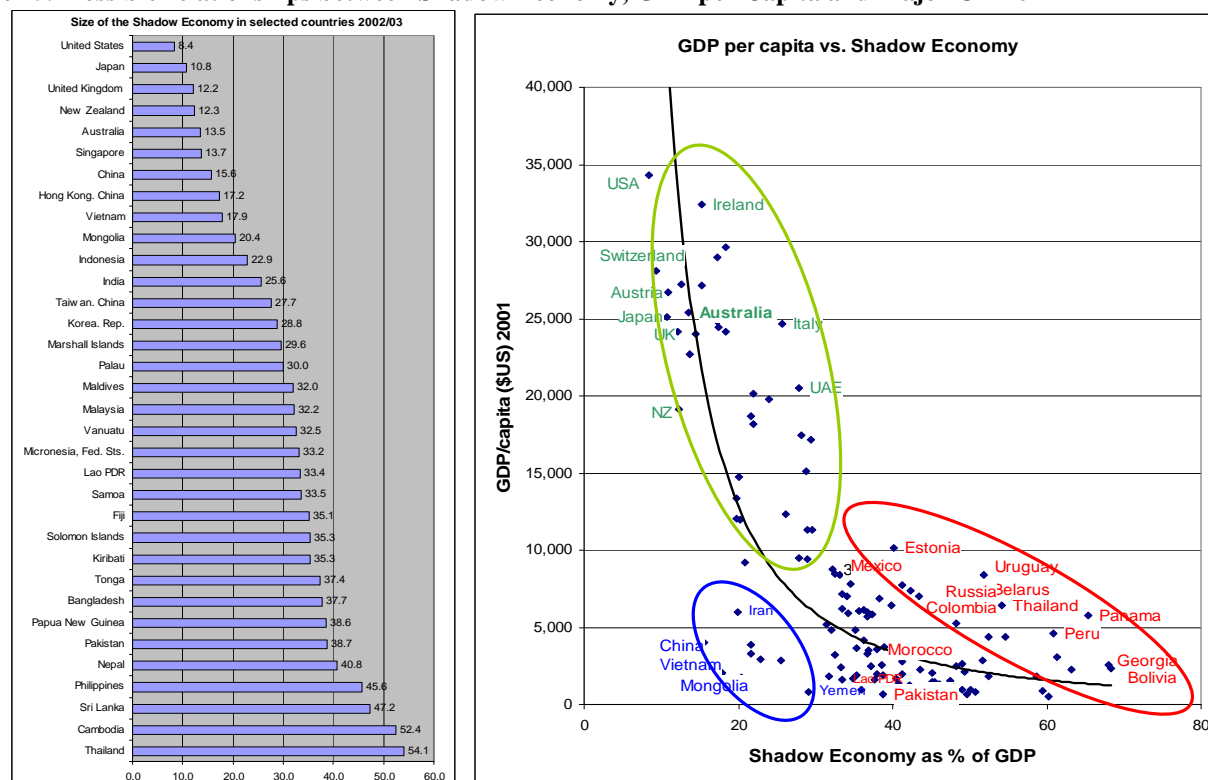
<sup>188</sup> For example, if transfer pricing is used in other countries’ to the extent identified by Zdanowicz in the USA, then as much as seven per cent of Australia’s 2003-04 total trade of AUD 258 billion, or about AUD 18 billion per year, might involve fraudulent transfer pricing. Merchandise trade figure from <http://www.df.at.gov.au/geo/fs/aust.pdf>

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about £25 billion per annum, this latter figure would approximate one-fifth of all undeclared economic activity.<sup>189</sup>

The significance of particular countries (with significant shadow economies) in terms of their relationship with Australia may be worthy of further analysis. As shown below, some of the countries in our region have been estimated to have very significant shadow economies.

**Figure 15. Possible relationships between Shadow Economy, GDP per Capita and Major Crime**



Source of basic data: Schneider, F.<sup>190</sup>

Exploring Schneider's work further, and considering the relationship between GDP per capita and his estimates of the size of the shadow economy, by country, we find an interesting negative exponential relationship that might be summarised as:

- All rich countries have low % shadow economies;
- The few poor countries that have low % shadow economies are mostly "command economies";
- Many of the richest of the countries with high % shadow economies are commonly regarded as having significant problems of transnational crime, including illicit drug production and corrupt business practices.

While Schneider does not claim that there is any close link between the size of the shadow economy and the extent of the proceeds of crime or even money laundering in a country, it is tempting to imagine that such a relationship may exist, and that therefore further analysis could lead to credible estimates of the proceeds of crime. These, in turn, could become a useful basis for identifying the potential of each country to be the source of laundered money.

However, the ABS has also considered the extent of the shadow, or underground economy, and found that for the 2000/01 year, adjustments to GDP to reflect the underground economy in the order of AUD 8.4 billion, or 1.3 % were appropriate. While this was likely to be conservative, the extent of understatement

<sup>189</sup> NCIS (2003)

<sup>190</sup> Schneider, F., (2004a)



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was unlikely to exceed 2% of GDP.<sup>191</sup> If the same adjustment were warranted for the 2003/04 year, based on GDP of AUD 734.2 billion, this would suggest underground economic activity of AUD 9.54 billion. The ABS does not contemplate illegal production activity in their definition of the underground economy. Considering, therefore, that narcotics activity is not included, that it is considered significant, and recognising that the primary motivation for participating in the shadow economy is the avoidance of taxation, the estimate of 1.3% of GDP may be a valid proportion to utilise to determine a bound for money laundering in Australia.

### *Other international comparisons*

Another approach is to focus on what is known about each significant type of offence, and compare individual estimates in different countries, using the percentages of gross domestic product to standardise the figures. The assumption is not necessarily that similar offences must have similar effects in all countries, but that differences between countries should make sense, in relation to other facts known about the countries. For example, it would be surprising if a country with low internet usage would be impacted by “West-African-style” advance-fee frauds to the same extent as a country with very high internet usage, unless, for example, these frauds were conducted by a different method. This form of “triangulation” has proven difficult, owing to the small number of countries that we have been able to identify in the research. There are undoubtedly others that we have not discovered, due, perhaps to limiting our search to English-language sources. The following table attempts to offer some comparisons of different magnitudes of loss in different countries, with a view to comparing the relative impacts of various crime types.

**Table 33. A Comparison of Research-based Estimates of the Economic Impacts of Crime**

Harm type	AUSTRALIA		UK		USA		REGIONAL
	Estimate	% of GDP	Estimate	% of GDP	Estimate	% of GDP	
Illegal brand duplication, piracy, etc	AUD 692 M <sup>192</sup>	0.960			USD 23 Bn <sup>193</sup>	0.172	USD 450 Bn <sup>194</sup>
W. African style Advance fee frauds			£8M + <sup>195</sup>	0.000	USD 100M <sup>193</sup>	0.001	
Fraud losses	AUD 5.90 Bn <sup>196</sup>	0.818	£40 Bn + <sup>197</sup>	1.991	USD 200 Bn <sup>193</sup>	1.496	
Excise and VAT evasion			£6.7 Bn <sup>195</sup>	0.333			AUD \$2 Tn <sup>201</sup>
Drug expenditure	AUD 10.75 Bn <sup>198</sup>	1.491	£6.6 Bn + <sup>195</sup>	0.329	USD 57 Bn <sup>193</sup>	0.426	
ID fraud	AUD 2.00 Bn + <sup>199</sup>	0.277	£1.3 Bn + <sup>200</sup>	0.065			
Retail crime	AUD 730 M <sup>202</sup>	0.101	£2.2 Bn + <sup>203</sup>	0.110			
Trade pricing fraud					USD \$45 Bn <sup>204</sup>	0.337	USD 5 Bn <sup>193</sup>
Vehicle theft and re-birthing	AUD 294 M + <sup>205</sup>	0.041	£1 Bn <sup>195</sup>	0.050			
Trafficking in exotic species							
Computer attack losses	AUD 17 M <sup>206</sup>	0.002					

<sup>191</sup> ABS (2003)

<sup>192</sup> Figures cited in House of Representatives Standing Committee on Legal and Constitutional Affairs (2000)

<sup>193</sup> Kouri, J. (2004)

<sup>194</sup> Noble, R., (2003)

<sup>195</sup> NCIS (2003)

<sup>196</sup> Mayhew P (2003)

<sup>197</sup> [www.rsmi.co.uk/rrweb/news.nsf/PrintPages/9679975828B8AE8280256F3100348832?OpenDocument](http://www.rsmi.co.uk/rrweb/news.nsf/PrintPages/9679975828B8AE8280256F3100348832?OpenDocument)

<sup>198</sup> UNODC (2005b)

<sup>199</sup> Adam Graycar, of the Australian Institute of Criminology. “In Australia alone we have estimated identity theft to cost in excess of \$2 billion per year.” See [www.aic.gov.au/conferences/other/graycar\\_adam/2002-04-idfraud.pdf](http://www.aic.gov.au/conferences/other/graycar_adam/2002-04-idfraud.pdf)

<sup>200</sup> <http://www.identity-theft.org.uk/>

<sup>201</sup> NSW Crime Commission Annual Report 2002/03

<sup>202</sup> Mayhew P (2003)

<sup>203</sup> <http://www.homeoffice.gov.uk/crime/businessretailcrime/index.html>

<sup>204</sup> Pak S. and Zdanowicz J., see <http://news.fiu.edu/releases/new2001/11-27intltrade.htm>

<sup>205</sup> National Motor Vehicle Theft Reduction Council (2005)

<sup>206</sup> Australian Institute of Criminology (2005)

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Used with caution, this form of comparative research can bring rewards in the form of risk analysis – identifying the distinct features in each country’s cultural, socio-economic and regulatory environments that either protect against, or encourage, particular types of crime and their profitability. For example, the estimates for Australian fraud losses (0.8% of GDP), although the most significant component in money laundering in Australia, are significantly lower, as a percentage of GDP, than the estimates we have found for either the UK (2% of GDP) or the USA (1.5% of GDP). This may suggest that the Australian estimates are indeed too low, that the USA and UK estimates are too high, or, if the estimates are indeed statistically comparable, that Australia may experience a lower incidence of frauds.

Conversely, Australia’s estimated illicit drug markets (1.5% of GDP) appear to be considerably greater than those of either the UK (0.3% of GDP) or the USA (0.4% of GDP). Comparisons of this type can, however, only be made meaningful if the data collection methodologies and definitions used in the different studies are equivalent or similar. Much more in-depth study of these types of research findings is needed to allow firmly-based conclusions to be reached.

Used with care, international comparisons can also help to identify the degree of harm caused by crime and money laundering. For example, in Australia, the work of law enforcement agencies in 2004-05 has resulted in seizures of drugs with a street value of approximately AUD 1 Billion. Aside from the health-related harms prevented through interdiction of these drugs, it is clear that depriving drug dealers of proceeds of this magnitude will severely curtail their ability to engage in further criminal activity, enjoy the profits of their crime, or engage in financial activities that distort the economy.

If the relationship identified in the United Kingdom study<sup>207</sup> between the seizure of £20,000 of criminal proceeds, and the consequential prevention of harm in the order of £500,000 is valid and can be applied in Australia, this would suggest that the seizure of AUD 1 Billion of drugs, and the consequential denial of that amount of proceeds to dealers, could result in savings to the Australian economy of up to AUD 25 billion. While this may provide an “upper bound” measure, a fairer and more conservative estimate could be derived by considering the following table which builds on the AFP’s Drug Harm Index 2003.<sup>208</sup>

**Table 34. Harm avoided through the seizure of AUD 1 billion of illicit drugs**

Rough Street value		Kilograms		AFP Harm Index		Average Harm
Price/gm				Harm/kg	Harm avoided	
Cannabis	Low	20	50,000	\$24,685	\$1,234,250,000	\$863,975,000
	High	50	20,000	\$24,685	\$493,700,000	
Stimulants	Low	90	11,111	\$88,357	\$981,744,444	\$579,229,222
	High	500	2,000	\$88,357	\$176,714,000	
Cocaine	Low	150	6,667	\$88,357	\$589,046,667	\$420,747,619
	High	350	2,857	\$88,357	\$252,448,571	
Heroin	Low	300	3,333	\$1,061,359	\$3,537,863,333	\$2,585,361,667
	High	650	1,538	\$1,061,359	\$1,632,860,000	

This table uses as a starting point an estimation of the seizure of AUD 1 billion of drugs over a given period. The length of the period is immaterial. For a given value (in this case, AUD 1 billion), by referring to the range of low and high street prices<sup>209</sup>, we can determine quantities for each type of drug in isolation. The result of multiplying this quantity by the AFP model quantum of harm per kilogram gives an estimate of the harm avoided by that amount of drugs not being available to users. In the absence of information as to the composition of the value in terms of drug type, it is not possible to apportion the value over different drug types, and it is also unrealistic to assume that the total amount of seizures represent only one drug type. However, the point that this table makes is

<sup>207</sup> Crown Prosecution Service Inspectorate (2004)

<sup>208</sup> McFadden, M, Mwesigye, S. (2003)

<sup>209</sup> Drug street prices published in the Illicit Drug Data Report 2003-04, Australian Crime Commission (2004)

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that for the seizure of AUD 1 billion worth of any of these drugs, the minimum amount of average harm avoided will be AUD 420.7 million, and the maximum amount of average harm avoided would be AUD 2.585 billion. In absolute terms, however, the highest amount of harm avoided could be achieved when there was a plentiful supply of 'cheap' heroin, when the harm avoided from seizures could be as high as AUD 3.5 billion.

Although organisations such as UNODC have attempted, over the years, to develop databases of comparable criminal justice statistics from around the world and conducted international crime surveys to comparable standards across countries, more needs to be done to provide useful comparative findings for major economic crime.



## **CHAPTER 12 - EFFECTS ON THE AUSTRALIAN ECONOMY**

The 1995 Walker report considered the effects of money laundering on Australia's economy. Much of the discussion in the earlier report is still valid, and has been developed further by more recent literature.<sup>210</sup> The report noted that there are three significant types of effect of money laundering:

- The losses suffered by victims of crime;
- The fact that criminals profit and are able to enjoy the proceeds of their behaviour; and
- The damage to (or distortion of) the economy as a whole.

In relation to this last point, the report pointed out that whatever the origin of the proceeds of crime, whether burglary, theft, fraud or the sale of illicit drugs, the use made of the money by the offender "will probably be different to the use which would have been made of it by the victim or drug user, had the transfer not taken place .... Money which would have been spent on a given set of goods and services will instead be spent on a quite different set of goods and services."<sup>211</sup> Earlier in this report (Chapter 6), we suggested that money laundering can be considered in light of 3 components: "internal"; "incoming"; and "outgoing" money laundering. It is logical to consider these components in this analysis. In Chapter 9, we presented some survey-based information on what the proceeds of crime are spent on and a range of estimates of the extent of money laundering generated by crime in Australia. If we take, for the sake of simplicity, a figure of AUD 4.5 billion as the estimate of the extent of "internal" laundered money, and we divide it pro-rata over those survey estimates of expenditure, we obtain the following estimates. For example, following this logic, the greatest share of the laundered money, as much as AUD 984 million, is spent on real estate investments.

**Table 35. Potential Direct Financial Impacts on the Australian Economy from Spending the Proceeds of Crime**

<b>In your professional opinion, please estimate the percentages of the total POC expended in the following categories:</b>	<b>Average percentage (from Survey) *</b>	<b>AUD million, assuming ML=AUD4.5 bn. **</b>
Further crime activities	21.1	893
Real Estate Investment	23.2	984
Legitimate Business	12.3	518
Luxury Goods	15.1	641
Gambling	16.0	677
Other Lifestyle	8.1	342
Professional Services (eg legal, financial)	6.8	283
Other corruptive influence	3.8	162
<b>Total</b>	<b>106.4</b>	<b>4,500</b>

\* Adds to more than 100.0, but this may indicate overlapping between categories of expenditure.

\*\* Using percentages scaled to sum to 100%.

The 1995 Report considered the use of Input-Output models as an aid to analysing the impacts of a shift in expenditure from one sector to another. These models demonstrate that where one industry requires the outputs of another industry in its production, measurements can be made of the effects of the use of these inputs on the economy. As the demand for the products of industry 'x' increases, so will the demand increase for the outputs of those industries which provide inputs into the production of industry 'x'. This will mean that these industries can also increase production, requiring additional inputs. To the extent that these inputs comprise labour, workers will earn income as a result of the additional demand for their service, resulting in further spending. These effects are measured by 'multipliers', which can show the results of growth in a particular industry or sector.

<sup>210</sup> For example Quirk (1997), Bartlett (2002), Morris-Cotterill (2001), IMF (2004)

<sup>211</sup> Walker (1995)

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Using the multiplier data, as was done in the 1995 Walker report, we can quantify the likely effects of a reallocation of money from, for example, a balanced set of industries to the real estate sector, reflecting the different uses that would be made by the victims of crime and the launderers, respectively. The effect of such a shift in investment or expenditure can be considered by determining the difference in the multipliers for the different sectors, for a given investment.

**Table 36. Input-Output Multipliers by Sector of Industry, 1996-97** <sup>212</sup>

Industry	Output AUD million	Income AUD million	Imports AUD million	Employment # jobs
AUD 1 million increase in demand for industry in column 1 produces the indicated total change in output, income, imports and jobs.				
Agriculture; hunting and trapping	2.411	0.425	0.128	25
Forestry and fishing	2.741	0.566	0.261	21
Mining	2.380	0.465	0.139	12
Meat and dairy products	3.312	0.612	0.145	24
Other food products	3.186	0.641	0.180	22
Beverages, tobacco products	2.943	0.534	0.157	19
Textiles	3.126	0.672	0.210	25
Clothing and footwear	2.938	0.674	0.349	28
Wood and wood products	2.984	0.695	0.215	23
Paper, printing and publishing	2.720	0.641	0.253	21
Petroleum and coal products	2.131	0.263	0.510	7
Chemicals	2.845	0.558	0.302	17
Rubber and plastic products	2.743	0.611	0.301	19
Non-metallic mineral products	3.010	0.641	0.168	20
Basic metals and products	3.098	0.564	0.198	16
Fabricated metal products	3.184	0.736	0.218	24
Transport equipment	2.715	0.573	0.352	18
Other machinery and equipment	2.826	0.649	0.320	20
Miscellaneous manufacturing	3.045	0.727	0.241	28
Electricity, gas and water	2.346	0.446	0.110	12
Construction	2.866	0.663	0.168	24
Wholesale trade	3.230	0.846	0.154	26
Retail trade	3.245	0.948	0.155	42
Repairs	2.269	0.549	0.149	21
Accommodation, cafes and restaurants	2.991	0.723	0.160	30
Transport and storage	2.819	0.704	0.165	21
Communication services	2.537	0.636	0.137	19
Finance and insurance	2.636	0.757	0.089	20
<i>Ownership of dwellings</i>	<i>1.381</i>	<i>0.096</i>	<i>0.028</i>	<i>3</i>
Property and business services	2.986	0.781	0.146	24
Government administration	3.228	1.037	0.172	29
Education	3.034	1.276	0.124	39
Health and community services	3.002	1.120	0.139	37
Cultural and recreational services	2.797	0.725	0.172	26
Personal and other services	2.891	0.975	0.145	35
Average	2.817	0.672	0.196	23
Average minus "Ownership of Dwellings"	1.436	0.576	0.168	20
Impact of AUD 1 million diverted to Ownership of Dwellings	AUD 1.436m	AUD 576,000	AUD 168,000	20 jobs
Maximum minus "Ownership of Dwellings"	1.931	1.180	0.482	39
Impact of AUD 1 million diverted to Ownership of Dwellings	AUD 1.931m	AUD 1.18m	AUD 482,000	39 jobs

The table shows that real estate investment, tabulated as "Ownership in dwellings", has a very low (the lowest) multiplier in all four dimensions. Investment of one million dollars in Ownership of Dwellings

<sup>212</sup> Source: Australian Bureau of Statistics, latest estimates available, provided in spreadsheet form.

results in a net benefit to the economy of AUD 1.381 million in total output, compared to AUD 2.817 million in total output if it were invested in the “average” sector, and AUD 3.312 million if it were invested in “Meat and Dairy Products”. One million dollars invested in Ownership of Dwellings produces a total of only three full-time-equivalent jobs, compared to the “average” sector’s 23 jobs, and the Retail Trade sector’s 42 jobs. The Education sector produces the second highest amount of employment for a given investment. If the proceeds of crime were used by criminals to fund lifestyle in the form of expensive education for their children, a shift in investment from any sector except Retail to Education would result in a net increase in output.

Every million dollars taken from an “average” set of industries and invested in the “ownership of dwellings” would result in net losses to the economy of AUD 1.436 million in output, AUD 576,000 in income and 20 jobs. A “worst-case” scenario is estimated where the proceeds of crime are taken from the sectors of the economy with the highest multipliers and invested in real estate. In this case, the result is net losses to the economy of AUD 1.931 million in output, AUD 1.18 million in income and 39 jobs.

Launderers often invest their funds into valuable assets such as property; art, antiques, and other luxuries; gemstones, gold and diamonds; and luxury vehicles.<sup>213</sup> However, these are generally considered to be as sterile an investment as property, and would have similarly adverse effects on the economy in the form of lower output and employment. There may be benefits to society where funds are reallocated to a more productive sector of the economy. However, whatever the effects of a given investment decision by a launderer, the fact remains that the economy is distorted.

In addition to the changes in the nature of expenditure, and the consequential impact on economic productivity, the launderer’s need to launder his funds can result in distortive effects on the prices of investments such as real estate, “because the money launderer’s need to find a safe investment for his money over-rides his interest in paying a reasonable price.” Launderers may also seek to legitimise their earnings by mingling the illicit funds with proceeds from legitimate businesses (generally those with high cash turnover). Again, this method of laundering is often done “at any cost”, even to the extent of operating a business at a loss and subsidising the business operations with contributions from criminal earnings to top up the business’ revenues. This has downwards pressures on prices, which often tends to crowd out legitimate business competitors. The expenditure of the proceeds of crime on imported luxury goods can also affect the profitability or even viability of domestic production of similar items.

Further, money laundering has wider implications on the economy, including:

- Misleading monetary data;
- Changes in savings patterns;
- The risk of corruption to institutions and some entire financial sectors; and
- The losses to the financial and government sectors are recovered from the community in the forms of higher prices for their services.<sup>214</sup>

### The effects of overseas money laundering on Australia

The discussion above generally relates to laundering where both the loss to a victim, and the gain to an offender, occur in Australia. The same style of analysis as above, using multipliers, can be used to estimate the effects on the Australian economy where either the victim or the offender are outside Australia. Where money derived from crime in Australia is laundered overseas, the multiplier effect is the loss of the victims’ purchasing power in Australia, without any compensatory purchasing effects in

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<sup>213</sup> see, for example, Bartlett (2002)

<sup>214</sup> see Quirk (1997); Bartlett (2002); Morris-Cotterill (2001)

Australia. Conversely, when the proceeds from crimes overseas are laundered in Australia, losses to victims are incurred in the other countries, not Australia. On the face of it, then, the Australian economy benefits from the multiplier effects of that investment. “The money is either invested directly into the economy, with obvious benefits, or if it is merely in transit through the country destined eventually for some other country’s economy, it will incur the usual transaction charges paid to the financial institutions it passes through and the taxes and fees paid to the government.”<sup>215</sup> However, the investment of these funds does have adverse consequences, not only in terms of the broader macroeconomic level, but also the effect of unfair competition on legitimate businesses.

“In developing countries, where incoming laundered money may be used to set up new businesses in sectors which were previously not viable, the downside may not be significant, because the businesses may contribute significantly to the economy even though they are foreign owned. In developed countries such as Australia, however, it would be rare for incoming hot money to avoid competing with local money. In these instances, legitimate local businesses may very well be driven out by the effects of the incoming money, with a resulting loss of local control of trade to persons who are, effectively, undesirable aliens.”<sup>216</sup>

Survey respondents were asked to comment on the 5 countries they most associated with money laundering as a source of the proceeds of crime, as a transit country, and as the destination of laundered funds. Australian respondents ranked Australia equal 2<sup>nd</sup> out of twenty as a source country of laundered funds, equal 2<sup>nd</sup> last out of 26 as a transit country, and 4<sup>th</sup> out of 22 as a destination country. Overall, Australian respondents ranked Australia 5<sup>th</sup> out of 32 countries mentioned. This suggests that Australian respondents think that the proceeds of crime are generally laundered overseas, and that outgoing money laundering is therefore quite significant. While the laundering of the proceeds of Australian crime undoubtedly starts here in Australia, it often involves other countries, underlining the need for those countries to collect data that reveals laundering.

Overseas respondents were asked to name the top 5 countries they identified as being money laundering source, transit or destination countries, and were also asked to indicate the significance of money laundering between their country and Australia. These respondents did not demonstrate that Australia was highly significant as either a source, transit or destination country, with regard to laundering, which suggested that incoming money laundering, from those countries at least, is either quite low, or has not been identified.

This could suggest that either there could be a net loss to the Australian economy due to this apparent outgoing money laundering, or that funds actually are being returned to Australia, but that this repatriation is not being detected, perhaps due to less obvious money-laundering transit countries being utilised.

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<sup>215</sup> Walker (1995)

<sup>216</sup> *ibid.*



## **CHAPTER 13 - THE EMERGENCE OF TERRORIST FINANCING**

One of the key elements of combating terrorists is to attack the sources of funds which enable their activities. The 2004 Department of Foreign Affairs and Trade White Paper commented that “Terrorist groups need money to operate, so disrupting the flow of funds to terrorists is a priority.”<sup>217</sup> The seizures of terrorist assets will have a significant impact. Even very small amounts can facilitate devastating terrorist attacks. For example, the Bali bombings cost less than \$35,000 to plan and execute, but cost 202 lives and resulted in an estimated loss to the Indonesian economy of more than \$1Bn in tourist revenue.<sup>218</sup>

“The terrorist threat we are now facing will only be defeated by a global response. Since the 11 September 2001 attacks, the global coalition against terrorism, comprising Muslim and non-Muslim countries alike, has achieved some major successes against Al Qaida, its affiliates and their supporters.

- In Afghanistan the repressive Taliban regime has been removed from power, Al Qaida's terrorist bases destroyed and its operations disrupted.
- Three-quarters of Al Qaida's senior leadership has been captured or killed.
- Around 3400 terrorist operatives and associates have been detained or killed in over 100 countries.
- Entire Al Qaida cells have been dismantled around the world and plots disrupted.
- Around \$285 million in terrorist assets have been frozen.
- In our region, over 300 Jemaah Islamiyah suspects have been detained.
- Most of those responsible for the Bali bombings have been captured and convicted.”<sup>219</sup>

Of the achievements mentioned above, the one of most interest to us in this report is that relating to the millions of dollars in terrorist assets that have been frozen.

### **Motivations of the financiers of terrorism**

Although the laundering of the proceeds of crime and the financing of terrorism may utilise similar laundering techniques, we need to understand the different motivations of the launderers and terrorism financiers. Launderers generally wish to maximise the return from their efforts, as their motivation is profit. Financiers of terrorism, however, generally intend to support a philosophy or ideology, and may be unaware or indifferent that their intended legitimate charitable donations or business contributions may be destined to support terrorism. Indeed, “Money laundering activities undertake to remove the proceeds of crime from the jurisdiction in which they were obtained, thus disguising their origins. Terrorist financing, on the other hand, can generate funds from criminal activity and also through legal means. Both money laundering and terrorist financing frequently involve the international movement of funds, which is facilitated by the increasingly international character of business and financial activity.”<sup>220</sup>

Baldwin noted that “organized terrorism’s illicit activities ostensibly focus on power or power sharing. Organized crime’s activities seem to focus upon profit; though corruption of power must in many instances be factored in.”<sup>221</sup>

### **Methods used to finance terrorism**

“Terrorist financing operates somewhat differently from money laundering but no less insidiously. While terrorist groups do generate funds from criminal activities such as drug trafficking and arms smuggling, they also frequently obtain revenue through legal means. Supporters of terrorist causes may, for example, raise funds from their local communities by hosting events or membership drives. In addition, some

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<sup>217</sup> Department of Foreign Affairs and Trade (2004) White Paper

<sup>218</sup> Abuza (2003) Abuza’s paper discusses money laundering and financing techniques employed by Jemaah Islamiyah, Abu Sayyaf, M.I.L.F., and Al Qaeda, amongst others

<sup>219</sup> Department of Foreign Affairs and Trade (2004)

<sup>220</sup> [http://www.fintrac.gc.ca/publications/nr/2003-02-05-1\\_e.asp](http://www.fintrac.gc.ca/publications/nr/2003-02-05-1_e.asp)

<sup>221</sup> Baldwin, F.N. (2002)

charity or relief organizations may unwittingly become the conduit through which donors contribute funds that may eventually be used to commit a terrorist act. The funds are then routed to the recipient terrorist organizations through both informal networks and the formal financial system.”<sup>222</sup>

Countering the financing of terrorism is complicated by the fact that “terrorist organisations use myriad ways to fund their operations, both legal and illegal, overt and covert, some with paper trails, and some without.”<sup>223</sup> These include:

- Cash brought into [a] country on person;
- Funds skimmed from charities;
- Corporate entities (legitimate business, and front companies for terrorist activities);
- Proceeds from *hawala* (underground banking) shops;
- Gold and gem smuggling;
- Contributions from members and supporters; and
- Proceeds from petty crime.<sup>224</sup>

The use of these methods is not limited to fundraising, however. According to the General Accounting Office of the United States of America,

“Terrorists use a variety of alternative financing mechanisms to earn, move, and store their assets based on common factors that make these mechanisms attractive to terrorist and criminal groups alike. For all three purposes--earning, moving, and storing--terrorists aim to operate in relative obscurity, using mechanisms involving close knit networks and industries lacking transparency. More specifically, **first, terrorists earn funds** through highly profitable crimes involving commodities such as contraband cigarettes, counterfeit goods, and illicit drugs.... Terrorists also earned funds using systems such as charitable organizations that collect large sums in donations from both witting and unwitting donors. **Second, to move assets**, terrorists seek out mechanisms that enable them to conceal or launder their assets through nontransparent trade or financial transactions such as the use of charities, informal banking systems, bulk cash, and commodities that may serve as forms of currency, such as precious stones and metals. **Third, to store assets**, terrorists may use similar commodities, because they are likely to maintain value over a longer period of time and are easy to buy and sell outside the formal banking system.” [emphasis added]<sup>225</sup>

### The misuse of charities

Charities benefit from expectations that people donate a proportion of their income to charity. Unfortunately, some charities have been infiltrated by terrorist organisations. Abuza notes that the exploitation of charities by Jemaah Islamiyah (JI) was made possible “because JI and Al Qaeda inserted top operatives into leadership positions in several Islamic charities in Southeast Asia in the late 1990s.”<sup>226</sup> Citing the results of interviews, Abuza mentions Indonesian estimates that 15-20% of Islamic charity funds are diverted to politically-motivated and terrorist groups, while estimates in the Philippines range from 50-60%.<sup>227</sup> “Terrorism engulfs many unsuspecting and well-intentioned individuals who support relief efforts for refugees through various charitable organizations. Unbeknownst to the donors, their monies may be diverted, ultimately ending up in the coffers of al-Qaeda.”<sup>228</sup>

<sup>222</sup> [http://www.fintrac.gc.ca/publications/brochure/may-2003/pamphlet3\\_e.asp](http://www.fintrac.gc.ca/publications/brochure/may-2003/pamphlet3_e.asp)

<sup>223</sup> Abuza, Z. (2003)

<sup>224</sup> *ibid.*

<sup>225</sup> USA General Accounting Office (2003)

<sup>226</sup> Abuza, Z. (2003)

<sup>227</sup> Abuza also cites an article referring to the misuse of charities by ASG and M.I.L.F., where it was stated that “only 10 to 30 percent of the foreign funding goes to the legitimate relief and livelihood projects and the rest go to terrorist operations.”

<sup>228</sup> Baldwin (2002). See also FATF 2002-03 Report on Money Laundering Typologies.

Further, “the sheer volume of funds and other assets held by the NPO sector means that the diversion of even a very small percentage of these funds to support terrorism would constitute a grave problem. Therefore, the limited knowledge about the extent to which terrorists may be exploiting the sector should be considered a matter of serious concern for the whole international community.”<sup>229</sup>

### Wire transfers

FINTRAC reports that money laundering cases tend to involve large transactions that move quickly through domestic and international financial networks and that terrorist financing cases tend to involve smaller amounts of money channelled through international financial centres.<sup>230</sup>

The 2003/04 FATF Report on Money Laundering and Terrorist Financing Typologies commented, with regard to wire transfers to finance terrorism, that

“other than the generally small size of such transactions, the value of individual transfer was generally not a distinctive feature when carried out for terrorist financing purposes. Indeed, the low value of the transfers when compared with the high overall volume of such transactions is an additional factor that further complicates detection of terrorist use of the financial system.... one delegation reported observing transfers as low as the range of USD 25 to USD 500.”<sup>231</sup>

### Informal Funds Transfer (IFT)

IFT differs from the use of wire transfers, in that there is usually no flow of funds between parties, making it difficult to follow the money trail. In addition, there is often little in the way of documentation.

“The uses of IFT systems may be legitimate or illegitimate .... Legitimate IFT flows include the remittances of migrant workers, small personal remittances (where the transaction is legal), small-business transactions (where the transaction is legal), or sending aid to war-torn jurisdictions with weak financial institutions. Illegitimate IFT flows include money laundering, terrorist financing, evading controls on capital and foreign exchange ...”<sup>232</sup>

Remittances by migrant workers are “believed to be the major component of aggregated global remittances”.<sup>233</sup> Further, in addition to the significant value of these remittances, “Formal worker remittances also appear to be the most stable form of capital flow to developing countries, outstripping official development assistance in total in many economies. Consequently, economies are increasingly interested in worker remittances.”<sup>234</sup> In some countries, however, IFT is illegal or highly regulated.<sup>235</sup> While Abuza believes that IFT or alternative remittance is “the primary conduit for terrorist financial transfers”<sup>236</sup>, it is likely that (as was the case with the financing of the September 2001 terrorist attacks in the United States) the use of the formal banking system and wire transfers remain a prime mechanism for making funds available to terrorists, despite the increased regulatory focus on these mechanisms.

Gems, gold and diamonds are also attractive both as methods of generating income (through trade or smuggling), and laundering. These items have high value, are durable, and highly convertible.<sup>237</sup> The

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<sup>229</sup> FATF 2003-04 Report on Money Laundering and Terrorist Financing Typologies. Further, “The extent of terrorists’ use of alternative financing mechanisms is unknown, owing to the criminal nature of terrorists’ use of alternative financing mechanisms and the lack of systematic data collection and analysis of case information.” General Accounting Office (2003)

<sup>230</sup> [http://www.fintrac.gc.ca/publications/annualreport/2003/highlight\\_e.asp](http://www.fintrac.gc.ca/publications/annualreport/2003/highlight_e.asp)

<sup>231</sup> FATF 2003-04 Report on Money Laundering and Terrorist Financing Typologies. See also Jensen (2005) re wire transfers and the use of technology to assist in the detection and analysis of transactions.

<sup>232</sup> World Bank (2003)

<sup>233</sup> *ibid.*

<sup>234</sup> *ibid.*

<sup>235</sup> Carroll; survey respondents; World Bank (2003)

<sup>236</sup> Abuza (2003)

<sup>237</sup> see also Tailby, R., (2002) regarding the manipulation of diamond valuations.

publication by the Australian Institute of Criminology (AIC), “The Illicit Market in Diamonds”<sup>238</sup> reported that diamonds have a number of features that make them attractive to money launderers, such as size, durability, high value, ready exchangeability, untraceability, and the fact that value is determined on an individual basis. Diamonds are also considered to be an increasingly important means of both generating income and laundering funds. Due in part, no doubt, to the increased and “enhanced focus on following criminal money trails since the terrorist attacks in the United States on 11 September 2001, there may be a move by [terrorist] groups to increase their use of commodities other than cash; diamonds may provide an attractive alternative.”<sup>239</sup> However, the National Commission on Terrorist Attacks upon the United States report “911 Terrorist Financing Monograph” (2004) concluded that allegations of the use of diamonds, inter alia, to fund these attacks could not be confirmed.<sup>240</sup> The analysis of the use of gold and gems, and the use of the alternative remittance sector in the financing of terrorism, would be a part of the role of the proposed network of “Trade Transparency Units”,<sup>241</sup> which would provide a practical implementation of Zdanowicz’s work.

Among other means of raising funds for terrorism is that of intellectual property crime. Ronald Noble, the Secretary-General of Interpol, has stated that intellectual property crime may become a more important source of illicit financing for terrorist groups, as:

- It is a low priority for law enforcement agencies and investigations are poorly resourced when compared to illicit narcotics or counter-terrorism investigations;
- There is a lack of generalised expertise among law enforcement agencies in recognising and investigating counterfeit and pirated goods;
- The size of the informal economy and the demand for inexpensive consumer goods means that a wide-range of products are vulnerable to counterfeiting and piracy;
- The demand for counterfeit or pirated goods is widespread due to perceptions that purchasing these goods is not criminal; and
- There is a large illicit market for persons seeking to engage in low risk criminal activity.<sup>242</sup>

“Trafficking in counterfeit goods is a relatively easy criminal activity. A terrorist could make profit solely from the sale of counterfeit or pirated goods and does not need to be involved in the actual production or fabrication. Thus, there are relatively low entry costs and the illicit profit margins are high.”

Noble cited estimates that the return on investment with compact discs can be as high as 22500%, whereas the return on investment with cannabis could be 789%.<sup>243</sup>

### The connection between organised criminal groups and terrorist organisations

There are a variety of views regarding the perceived links between organised crime groups and terrorist organisations. Arlacchi noted that:

“Organized criminal organizations not only maintain links with some legitimate businesses and some sectors of governments. They at times also thrive from terrorism and civil war. In some 30 countries, groups engaged in armed rebellion against the government finance their guerrilla or terrorist campaigns, in whole or in part, with income generated by taxing the production of drugs or by being directly involved in trafficking.”<sup>244</sup>

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<sup>238</sup> Tailby, R. (2002)

<sup>239</sup> *ibid.*

<sup>240</sup> National Commission on Terrorist Attacks Upon the United States (2004)

<sup>241</sup> Bureau for International Narcotics and Law Enforcement Affairs. (2005)

<sup>242</sup> Noble, R. (2003)

<sup>243</sup> Noble, R. (2003). Noble referred to comments that a computer game costs €0.20 to produce and sells at €45 while cannabis costs €1.52 a gram and sells at €12.

<sup>244</sup> Arlacchi, P. (2001)

Arlacchi's view is supported by the admittedly small number of Australian responses to our survey question regarding the relative order of the sources of funds to support terrorism. Respondents generally felt that whatever the quantum of terrorist financing, the highest proportion of terrorist funding was likely to come from donations, followed by the proceeds of crime and then business contributions, most of which would be transferred via the formal financial sector. As stated earlier, these observations do not suggest that terrorist financing has been initiated in Australia.

A contrasting view is that of the responses from AUSTRACs overseas counterpart FIUs to the survey question, where respondents generally felt that the highest proportion of terrorist funding came from donations, followed by business contributions and then the proceeds of crime. Interestingly, one overseas respondent specifically identified illicit diamond trading as a means of financing terrorism, while another noted the misuse of import and export pricing.

As noted in Chapter 7, Carroll (citing Cheng) identified some issues contributing to the prevalence of money laundering in the Asia-Pacific region, namely the presence of major financial centres, and the issue of regulatory gaps.

Baldwin observed that the sophistication required of financial markets; the complexity of off-shore banking and correspondent accounts; the underground banking systems; and the fact that half of the United States currency in existence is in the hands of foreigners, and further, that 90 percent of all \$100 bills in circulation are held in foreign hands; mean that the tracing of terrorist money is an increasingly difficult task requiring intense and complex management.<sup>245</sup>

### International consensus

As stated above, the FATF's 40 Recommendations, and the 9 Special recommendations reflect the global 'best practice' standard. Countries that are committed to Anti-money laundering and counter terrorist financing measures are taking their obligations seriously, and working towards implementation of the recommendations.

At the 2004 Bali Regional Ministerial Meeting on Counter-Terrorism, attending Ministers "affirmed that terrorism, irrespective of its origins, motivations or objectives, continues to constitute a threat to all peoples and countries", noting "the close connection between international terrorism and transnational organized crime, illicit drugs, money laundering ...." This meeting also resulted in an agreement to establish a working group to share operational experiences, formulate best practice models for fighting terrorism, develop a more effective information base, and facilitate a more effective flow of criminal intelligence, including financial intelligence, between regional agencies.<sup>246</sup>

Specifically, the value of suspicious transactions reported by financial institutions, and the subsequent analysis by FIUs or law enforcement also play an important role in bringing certain cases of suspected terrorist abuse of institutions to the surface.<sup>247</sup>

### What do we know about amounts of terrorist financing?

We know that there are very few formal statistics about terrorist financing. A number of our survey respondents did not answer, some citing confidentiality as a reason for not answering. Other invited respondents did not reply to our survey at all. Some FIUs have issued public statements: FINTRAC, the Canadian FIU, has provided information on their work to combat the financing of terrorism. "Last year we made 197 case disclosures of financial intelligence on suspected money laundering and terrorist

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<sup>245</sup> Baldwin (2002)

<sup>246</sup> [www.aseansec.org/16000.htm](http://www.aseansec.org/16000.htm)

<sup>247</sup> see FATF 2003-04 Report on Money Laundering and Terrorist Financing Typologies; Jensen (2005)

activity financing, up from 103 the previous year.... Of these case disclosures, 48, involving \$70 million in transactions, related to suspected terrorist activity financing and other threats to the security of Canada.”<sup>248</sup>

In 2003/04, although AUSTRAC received Suspect Transaction reports where persons named in the reports matched the DFAT Consolidated List, these reports cannot be considered to accurately reflect instances of terrorist financing. **Caution should be shown** in considering the reports, as the fact that a person reported in a SUSTR has a name which matches a name in the DFAT list does not mean that the person reported in the SUSTR is actually the person of interest. This should in no way be read as questioning the effectiveness of the listings.

In the absence of conclusive survey data as to instances of the financing of terrorism, we cannot estimate its quantum with reference to either Australia or the region. It would be naïve, however, to assume that no financing of terrorism has occurred from funds generated in Australia. Whatever the quantum, we must remain vigilant with regard to any amounts that are destined to finance terrorism, as even very small amounts can cause immense harm, as evidenced particularly by the September 11, 2001 (USA) and October 12, 2002 (Bali) attacks.

As discussed in Chapter 5, of the 5 Australian respondents that stated their agencies had been involved in investigation of the financing of terrorism, three provided answers to the questions regarding magnitude of the financing of terrorism in Australia. While the bulk of our overseas respondents had been involved in the investigation of the financing of terrorism, none reported any terrorist financing flows between their jurisdiction and Australia. Few respondents provided information as to the frequency with which particular types of institutions were exploited for the financing of terrorism.

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<sup>248</sup> FINTRAC (2005)

## **CHAPTER 14 - WHAT DO THE NUMBERS TELL US?**

This report has endeavoured to build on the 1995 Walker report by using similar data sources, and adding or substituting other data sources that complement the style of analysis. Triangulation with other data has provided us with different perspectives, such as the size of the shadow economy in Australia (some of which no doubt involves elements of criminality, but involves tax evasion to some degree), estimates of the cost of crime and the relative significance of different crime types, statistics from annual reports, and analysis of financial transaction data.

Without doubt, our principal point of reference has been the survey we conducted, during which our intention was to collect data on the significance of various crime types that result in the generation of criminal proceeds, the magnitude of proceeds that are generated, and the means by which these funds are laundered, including countries through which laundering is effected. We have confirmed that the crime types that generate the highest profits in Australia requiring laundering are the various types of fraud, followed by illicit drugs crimes.

Since 1998, pecuniary penalty and forfeiture orders have been issued under the Commonwealth Proceeds of Crime Act for around AUD 10 million per annum, and around AUD 6 million per annum<sup>249</sup> has been recovered. While these figures can be taken as measures of proven internal money laundering, they are clearly not measuring the totality of money laundering in and through Australia.

In contrast, our survey was designed specifically to help us measure the totality of money laundering in and through Australia. The total amount suggested by these survey responses as being the laundered proceeds of crime in Australia is AUD 2.8 billion. Fraud (between around AUD 1.5 billion and AUD 2.4 billion) is by far the largest component of money generated and laundered in Australia; illicit drugs are second, at less than AUD 400 million. Laundering the proceeds of crimes committed in Australia can involve either laundering within Australia (internal ML) or sending money overseas for laundering (outgoing ML).

Comparable estimates, based on the costs of crime data, together with UNODC estimates of the value of illicit drugs in Australia, present a somewhat different picture, with a total of around AUD 6.3 billion generated and laundered by Australian criminals, of which the contribution of fraud only slightly exceeds that of illicit drugs.

Comparing these two sets of estimates, the survey estimates are based on considerable local knowledge of Australia and the major crimes that come to official notice. The survey results may, however, underestimate the extent or the profits of crimes that never come to public notice, including both fraud and drug crimes, particularly as they are based on a small number of respondents to the survey. The other approach specifically addresses estimates of unrecorded crime, and may be less susceptible to that type of error, but relies significantly on estimates of the extent to which the proceeds of illicit drug retailing in Australia are laundered. These estimates relate to money laundering estimated to be conducted either within Australia (internal ML) or from Australia (outgoing ML). We have therefore concluded that money laundering from the proceeds of crime in Australia must be within the range AUD 2.8 – 6.3 billion per annum. If we take, as our best estimate, the mid-point of this range (AUD 4.5 billion), we note that this does not necessarily represent an actual increase from the AUD 3.5 billion that was the conclusion of the 1995 Walker Report, owing in part to the different methodologies used. The higher figure also probably reflects a growing realisation, amongst law enforcement agencies and criminological

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<sup>249</sup> as advised by the CDPP – See Chapter 8

researchers, of the actual extent and profitability of fraud, which has previously been hidden by low detection and reporting rates.

An alternative top-down approach to estimating internal and outgoing money laundering, beginning with an assessment of the size of the shadow economy in Australia, appears to have some value as a counterpoint to the crime-focussed bottom-up approaches discussed above. Schneider's estimate suggests a very high proportion of GDP, which differs markedly from the ABS estimate for 2001, i.e. 1.3% of GDP (AUD 8.4 billion). This is still lower than the 1998 Camdessus/IMF contention that money laundering is 2-5% of global GDP. If the IMF estimate were valid for Australian-generated laundering, it would suggest a figure between AUD 14.7 and 36.7 billion in 2002/03.

The values of Suspect Transaction reports are a fair, but not the best basis for estimating the extent of money laundering, although in theory they could identify all three types of laundering: internal ML, outgoing ML and incoming ML. They may overstate the extent of money laundering by incorrectly identifying unusual but legitimate transactions, and they may underestimate money laundering because the proceeds of crime are not, per se, identifiable, and the transactions may not appear at all suspicious. In addition, the face values of the reports may not correctly measure the actual quantum of laundered money. Clearly, in 1995, when the face value of SUSTRs was estimated at only AUD 51.5 million per annum, they were not measuring money laundering in its totality. Since then, with greatly increased coverage of transactions, including many significant non-bank activities, the occasional inclusion of proposed transactions that are never actually completed, and the possibility of some "defensive reporting" by the reporting organisations, it is quite feasible that SUSTRs are now identifying *more* than the totality of money laundering in and through Australia. It is impossible to determine whether SUSTRs actually under- or over-estimate the extent of money laundering.

Looking at international funds transfers between "anomalous" Australian postcodes and "countries of interest", we have identified total potentially suspicious transactions of AUD 10 billion in 2003/04, but we have to concede that an unknowable amount of laundered money could be hidden in the large volumes of other, apparently "normal", international funds transfers. It exceeds our earlier estimates of money generated from crime in Australia for laundering, but is lower than the shadow-economy assessment. IFTIs logically measure a combination of money being laundered overseas, by Australian-based launderers (outgoing ML) and money being laundered through Australia by overseas launderers (incoming ML), by actual transfer of funds, in addition to the entirely legitimate business and private transactions.

Zdanowicz has pointed out that an alternative way of laundering money between countries is to manipulate the prices of imports and exports, so that the difference between the "true" prices and the actual prices paid serve the purpose of transferring the requisite amount of funds. This, too, addresses the combination of outgoing ML and incoming ML, so the estimated AUD 18 billion of transfer pricing between Australia and other trading partners, derived from a logical extension of Zdanowicz's American work, may at least be a very useful triangulation point. Without an equivalent "bottom-up" look at trade pricing, we cannot know to what extent the AUD 10 billion of anomalous IFTIs and the AUD 18 billion of transfer pricing are complementary or overlap.

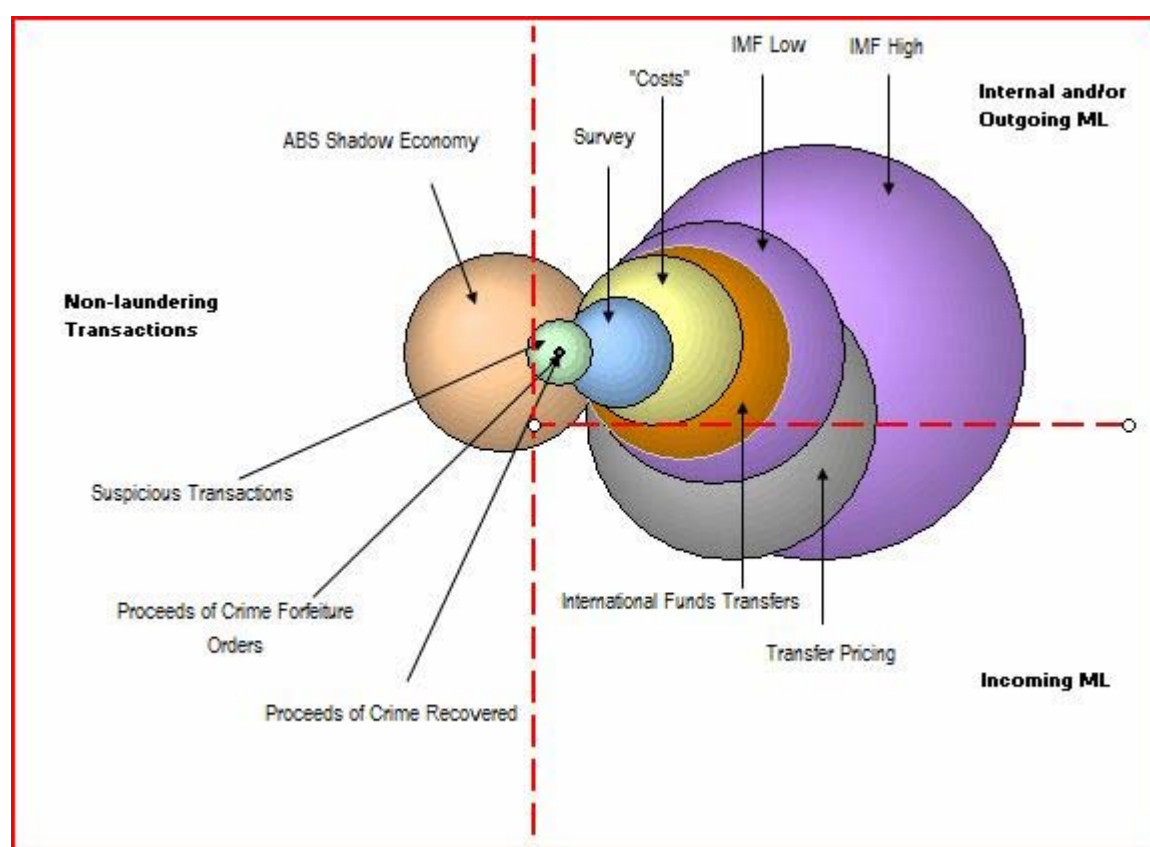
All these estimates are compared graphically in the figure below, which is similar to a figure presented in the 1995 Report and which attracted considerable comment. The figure enables us to visualise that some of the estimates we have included in this Report include transactions that are not necessarily the laundering of either criminal proceeds or funds destined to finance terrorism. In the figure, this is indicated by the vertical partition. A proportion of both shadow economy and suspicious transactions are not money laundering. Another dimension in the figure is whether the estimate includes money laundered through Australia by overseas launderers ("incoming ML"). Estimates based on the extent of



crime in Australia, including both the survey-based estimate and the “costs of crime” based estimate, relate to both internal and outgoing ML, whereas estimates based on outgoing international funds transfers focus exclusively on outgoing ML. In the figure, the representation of IFTIs does not equal the total of all IFTIs, but rather, the AUD 10 billion of transfers leaving Australia that involved unusual postcodes here in Australia. Estimates from transfer pricing studies logically include both incoming and outgoing ML, but exclude internal ML. While the figure below shows a representation of the relative magnitude of POC forfeiture orders and recoveries, the provisions of the POCA 2002, and provisions in other legislation, should have a positive impact on the magnitude of orders and recoveries in the coming years. Nonetheless, the CDPP has commented that

“the amount recovered can not be the sole measure of the effectiveness of the legislation. The true test is whether the Act is operating to punish and deter crime and to disrupt criminal enterprises. Unfortunately those are not as easy to measure.”<sup>250</sup>

**Figure 16. Money Laundering Estimates derived from the Study**



We believe that the best summary of the results we have obtained in the course of this project is as follows:

- Crime in Australia generates between AUD 2.8 billion and AUD 6.3 billion, with the most likely figure being AUD 4.5 billion.
- However, in addition to this, using a variety of data sources and analyses we have identified significant areas of hard-to-quantify shadow economy and transfer pricing practices (not generally treated as criminal offences) that involve significant underpayment of tax.

<sup>250</sup> CDPP Annual Report 2003/04

- Owing to a lack of research in other countries, it is not possible to estimate the extent of foreign money being laundered through Australia, but there are indications that it could be at least of a similar magnitude to laundered money generated in Australia.

Not surprisingly, the literature; the results of our surveys; and other research all inform us that the key methods of laundering are banks, the alternative remittance or informal funds transfer sector; casinos and precious items such as gold, gems and diamonds, with the highest percentage of proceeds being invested in real estate (Australia), or on lifestyle (overseas).

We have endeavoured to assess the extent to which the Australian proceeds of crime are laundered overseas, and the proceeds of crime in other countries are laundered here. While our Australian respondents rank Australia highly as a source of laundered funds, they consider that Australia is ranked equal 4th as a destination, which suggests that a considerable amount of laundered funds are destined for, and actually stay, overseas. However, this could also mean that while the process of sending funds out of Australia is highly visible to law enforcement and other agencies, the return flows of these funds are either not sufficiently visible, or not well understood. This, as noted by Quirk,<sup>251</sup> will clearly have implications on the law enforcement response to money laundering.

While the survey methodology has considerable room for improvement, particularly in its reliance on “expert” estimation of the key relationships, the questions it poses (including those relating to the levels of proceeds of crime and the proportions being laundered) are questions that all countries should consider to assist in addressing the problem of money laundering. Currently, few countries have the statistical basis to address these questions, and it is only by being confronted by the issue, through the regular conduct of such surveys, that statistical improvements will be stimulated.

This report has suggested that the likely value of crime in Australia results in money laundering in the region of AUD 4.5 billion. Without doubt, to some extent, this will involve some element of identity fraud, which, while we are unable to quantify, was estimated by SIRCA for 2001/02 to be in the order of AUD 1.1 billion. In order to assess the impact of this on the Australian economy, we have considered the multiplier effects, particularly those effects of the diversion of expenditure of particular components to the real estate sector. We have not, however, been able to estimate the extent to which funds are laundered and subsequently invested in Australia, or are invested in other countries.

Our overseas respondents generally do not consider Australia to be significant as a transit or destination country for the laundering of funds generated from offences in their countries. Similarly, our Australian respondents did not rate Australia highly as a transit country for the laundering of proceeds to or from other countries. This could suggest that either there could be a net outflow from Australia of laundered funds, or that funds actually are being returned to Australia, but that this repatriation is not being detected, perhaps due to less obvious money-laundering transit countries being utilised. It could also be consistent with money laundering through Australia being conducted mainly through non-transactional methods, such as trade mis-pricing or the informal value-transfer sector, rather than through the regulated financial sector, and therefore not coming to the notice of the FIUs who provided the majority of the responses to our survey.

To assess the impacts of ML, we used economic multiplier data, with particular reference to the impact of diversions of expenditure from ‘all other sectors’ to the real estate sector, by calculating average effects for ‘all other sectors’.

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<sup>251</sup> Quirk, P (1997) “If money laundering has moved to the parallel market—that is, debits and credits booked by organized criminal quasi-banks, say, over the Internet—there could be important implications for anti-laundering efforts, which have typically focused on criminal activity at the point at which the proceeds enter the aboveground economy”

## Money Laundering in and through Australia in 2004

We received little information regarding the financing of terrorism: the agencies in Australia and overseas that responded to our survey generally either chose not to provide any information, or were unable to. It is still an area which is difficult to accurately examine, due partly to the typically small amounts involved, the inherent nature of the methods used to move these funds, and the sensitivity of this issue.



## **CHAPTER 15 - THE CASE FOR FURTHER RESEARCH**

An observation of the 1995 Walker report was that significant benefit would flow from information on the extent of crime and money laundering in other countries, and that other countries should be encouraged to conduct some modelling to endeavour to quantify costs of crime and money laundering. This call was also made by Quirk, who noted that there was a clear need for better data, and that a “consistent international methodology would offer economies of scale as well as the sharing of insights across countries.”<sup>252</sup>

While the responses that we received to our survey were quite encouraging, it is worth considering the actual response rates we achieved. In Australia, we surveyed 30 law enforcement and related agencies, and achieved responses from 12 agencies (40%). Two agencies provided multiple responses. A further three agencies responded to the effect that they were either unable to assist, or did not have sufficient information to assist. We also surveyed 20 Australian researchers, one of whom responded (5%). Our survey of overseas researchers achieved a better response rate than the Australian survey, with four out of 20 researchers (20%) responding to the study.

Overseas, of the 100 FIUs and related organisations we surveyed, 21 provided responses (21%), and two agencies responded to the effect that they were unable to assist. This response rate may suggest that either the value of this type of modelling is not universally accepted, or alternatively, that most FIUs (including those with which AUSTRAC does have an exchange agreement) simply do not have the data requested for this exercise. The recognition in the 1996/97 Annual Report of the FATF that “the majority of FATF members lack sufficient data to support any credible estimate” has apparently not prompted any great advancement in the intervening 9 years.

Our hope had been, if the Survey had received a more substantial response, to build an economic model of the generation of proceeds of crime in Australia, and the subsequent laundering of a proportion of these proceeds either through Australian or offshore transactions. The information requested in the survey questionnaires would have provided a sufficient basis for analysis of the country-level factors that determine the generation of laundered money and the factors that determine the methods and routes used by launderers. This ambition has proven a little premature, largely because few other countries were in a position to contribute the necessary information. Nevertheless, ten years ago there was effectively no information of this type being shared between countries, whereas now there is some. Simply asking these important questions helps to make people realise the extent of the gaps in their knowledge, and may stimulate improvements in data collection and analysis. Future researchers may find enough information to build a model on, so it is worth continuing in this direction, with regular surveys.

There are a number of other issues which we would have liked, but were not able, to address:

- This report was not able to reliably address the issue of the definition of fraud. While some high impact fraud-type crimes, such as stock market fraud and the emerging crimes of ID fraud, fall clearly in the commonly understood definition of fraud, others, such as tax evasion and insider trading, are still often regarded as somewhere between a civil and criminal matter. The uncertainty over what constitutes fraud is one of those factors that make the estimation of money laundering problematic. Further, the predominance of fraud as a generator of proceeds requiring laundering suggests that a keener focus on fraud is appropriate.
- This report briefly considered flows of funds between locations in Australia and particular countries and the issue of “suspicious” (cf. “unusual”) transactions, finding that it was, effectively, a “needle in a haystack” problem. The issue of identifying “suspicious” transactions is

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<sup>252</sup> Quirk, P. (1997)

fundamental to identifying the factors that determine the methods used by launderers and the routes they use. A more meaningful analysis might have been conducted if it were possible to reliably compare values of trade and funds flows between countries, and by netting these values, consider the relative magnitude of non-trade figures.

- Further study could be undertaken to seek additional information about the proportion of proceeds of crime that stays offshore, compared to that which is repatriated back to Australia. This issue is probably most important in identifying the effects of money laundering on the Australian economy.
- The increasing ability to use electronic value facilities such as stored-value cards and e-gold type services, and mobile phone technologies for transfer of value, and the possibilities of abuse of these technologies for money laundering or the financing of terrorism. This issue will be of increasing global interest, and may become the emerging typology of choice for money launderers.

### Anti-Money Laundering Reform

Australia's compliance with the revised 40 + 9 Recommendations is currently being evaluated, and this, in conjunction with the current review of Australia's anti-money laundering regime, will no doubt present issues for further study.

### Trade Pricing

In the course of this research, we have considered work by John Zdanowicz, which could be explored further with respect to Australia. Zdanowicz found significant import and export mis-pricing between the United States and other countries, and Australia and several Southeast Asian nations featured in the top 25 countries. As the formal and informal finance sectors continue to make it harder for money launderers to abuse their services, transfer pricing seems likely to be an inviting alternative. This type of analysis might be applied to Australian imports and exports, to consider the extent of customs fraud, and may also be of help in considering the financing of terrorism through manipulation of trade pricing.

### Underground economy / tax evasion

Countries that have significant shadow economies, and/or rate poorly on indices such as the corruption index compiled by Transparency International may be considered further, with a view to assessing money laundering linkages. Further consideration of the existence of any relationship between tax evasion and money laundering could be informative.

### International comparative modelling / attractiveness modelling

John Walker's "Modelling Global Money Laundering Flows" (1999) sought to model the extent of possible laundering in each of 226 countries, considering the proportions of money laundered within the country or sent to another country, and finally determining what proportion of funds are sent to various countries. To assist the identification of likely laundering routes, he developed the concept of an 'attractiveness index', where the attractiveness of a country for laundering was considered to be dependent upon factors such as:

- the presence or absence of banking secrecy provisions,
- government attitudes to money laundering,
- levels of corruption and regional conflict, and
- geographical, ethnic or trading proximities between the origin and destination countries.

Later work showed that the first two points could be effectively addressed by using indices based on TransCrime's "Euroshore" measures of the effectiveness of a country's regulations and legislation as deterrents to money laundering. He also showed that the banking sector's capability was a useful and necessary indicator of attractiveness to money launderers, as tax havens typically have very high ratios of "business services exports" to total exports. The development of an attractiveness index is, importantly, a non-subjective way of generating a ranking of the level of concern, so further effort in refining this model

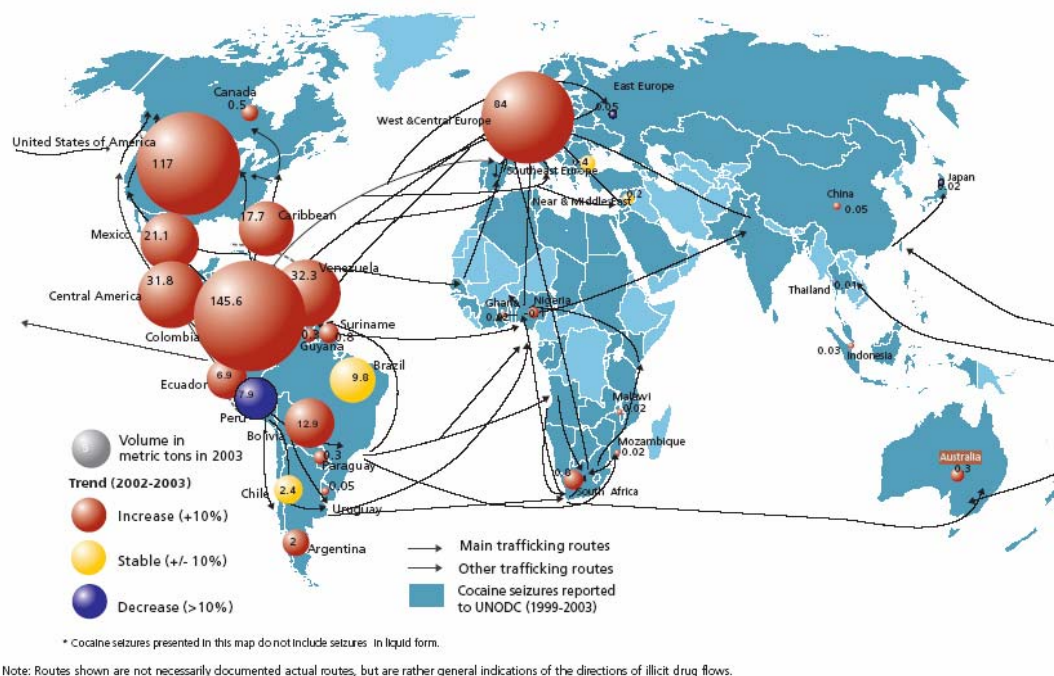
may be of assistance. Such a model will recognise that while countries may be of concern, it is “the significance of the amount of proceeds laundered, not ... the anti-money laundering measures taken”<sup>253</sup> that is of importance.

### More comprehensive data

The clearest need for further research is still, however, the need for internationally comparable data about crime, the proceeds of crime, and the disposal of criminal assets. While significant efforts have been made in this direction, for example by the UNODC in its periodic Surveys of Crime Trends and Operations of Criminal Justice Systems,<sup>254</sup> the results have so far been disappointing. Some countries, particularly the small and impoverished countries, do not have the resources or the expertise available to even compile data on their own crime problems, but others appear to lack interest more than resources. Systematic international cooperation in data collection and research – possibly based on collaboration between governments, academia and the private international finance sector agencies – could adequately fill gaps in the database, and lead to a valuable international monitoring system capable of identifying the global money laundering issues that most require attention.

The UNODC’s World Drug Report 2005, and the annual reports questionnaires (ARQ) data collection on which it is based, now forms an excellent model for what is needed to make global money laundering estimation a reality. A copy of the ARQ, including questions relating to known drug production, seizures, prices and consumption, is sent by the UNODC to each UN member country, and the data from the completed ARQs are entered into a growing database. Although the nature of the problem means that many countries are not in a position to fully answer the survey’s questions, and others supply very tentative responses, the survey has, over the years, provided sufficient data to enable fairly comprehensive pictures to be drawn at the level of world regions (see, for example, Figure 17).

**Figure 17. Cocaine seizure 2002-03: extent and trends (countries reporting seizures of more than 0.01mt (10kg.))**



Source: UNODC (2005b)

<sup>253</sup> Bureau for International Narcotics and Law Enforcement Affairs. (2005). For another discussion of ‘attractiveness’, see UK Financial Services Authority (2001) regarding the globalisation of international markets and the relaxation of national borders; new electronic commerce and information technologies; the increasing use of complex financial instruments; and the role of offshore financial centres and NCCTs.

<sup>254</sup> UNODC (2005a)

In the 2005 WDR Report, the UNODC has included the results of a “global input-output model”, which was developed from the recognition that “Knowledge of the market’s value is indisputably useful for policy formulation.” Estimates of value “enable analysts to look at the relative importance of the size of the markets vis-a-vis local economies and it will facilitate the comparison of the importance of different drugs in economic terms.”<sup>255</sup>

This mirrors the statement in the Foreword of our report: “It is difficult to explain the importance of a problem without quantifying it”. The obvious inference for money laundering research is that as much attention needs to be focused on the “other half” of the money laundering problem – i.e. major frauds – as is currently focused on illicit drugs. A parallel approach, based on the conduct of an appropriately designed international survey, followed up by econometric modelling, could therefore be “indisputably useful for policy formulation” regarding money laundering.

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<sup>255</sup> UNODC (2005b)



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