



Australian Government

Australian Institute of Criminology

# **A national study of crime in the Australian fishing industry**

**Judy Putt  
Katherine Anderson**

Research and Public Policy Series

**No. 76**



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**Australian Institute of Criminology**

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## Director's introduction

With the increasing demand for Australian seafood in overseas markets and an expanding domestic market, the fishing industry needs to ensure that resources are harvested in a sustainable manner so that fish stocks are maintained and the industry is kept viable. Although small by world standards, the fishing industry is important to Australia because of the number of people it employs, either directly or indirectly, and the considerable export earnings that come from it. There are about 80,000 people directly employed in the seafood industry and in 2002–03 the export value of Australian seafood product was \$1.85 billion.

Efforts to protect Australia's fisheries from overexploitation include preventing illegal harvesting and trade in fish products. Within the Australian domestic fishing industry there has always been some illegal activity but this is thought to be low level non-compliance with fishing regulations which is small scale and opportunistic. The majority of recreational fishers are believed to be compliant although there appears to be some organised illegal activity. This is often family based and involves cash or barter transactions.

In contrast to the occasional and lower level non-compliance with fisheries regulations that occurs within the recreational, commercial and subsistence sectors there is a small but significant group of habitual offenders who deliberately and regularly flout the regulations for their own profit or benefit. Some organised criminal activity is already evident in high value, low volume fisheries such as abalone, and with illegally obtained shark fins.

Although the Australian fisheries management arrangements currently in place may be effective in minimising the risk of low level illegal activity, there is widespread concern among fisheries officers that the current regulatory environment is not adequate to deal with and prevent organised criminal activity. Effective fisheries management arrangements to address organised and cross-border crime depend on the legislation and regime of penalties, having appropriate policing methods and powers, and cooperative arrangements between agencies.

The Australian Institute of Criminology was commissioned in 2004 by the Australian Government Department of Agriculture, Fisheries and Forestry to report on criminal activity in the Australian fishing industry, and to examine ways of protecting the sector against increased and more organised criminal activity. The research includes a review of the literature and of Australian legislation, consultations with key stakeholders, a national survey of fisheries officers and analysis of prosecution and court outcome data from four jurisdictions. The results suggest that more serious criminal activity may be occurring but is rarely being brought before the courts, and that future preventative and investigative initiatives will require additional resources and skills development.

**Toni Makkai**  
**Director**  
**Australian Institute of Criminology**



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## Disclaimer

This research paper does not necessarily reflect the policy position of the Australian Government.

## Abbreviations

<b>ACC</b>	Australian Crime Commission
<b>AFP</b>	Australian Federal Police
<b>AFMA</b>	Australian Fisheries Management Authority
<b>AFZ</b>	Australian fishing zone
<b>COC</b>	Chinese organised crime. Could also be known as Eurasian organised crime, which would include, for example, crime groups from a range of Asian and European countries
<b>DAFF</b>	Department of Agriculture, Fisheries and Forestry
<b>DIMA</b>	Department of Immigration and Multicultural Affairs
<b>FATF</b>	Financial Action Task Force
<b>FSU</b>	Former Soviet Union
<b>IUU</b>	Illegal, unreported and unregulated fishing
<b>KGW</b>	King George whiting
<b>OMCG</b>	Outlaw motor cycle gangs
<b>RFE</b>	Russian Far East
<b>TRAFFIC</b>	Wildlife trade monitoring network
<b>VMS</b>	Vessel monitoring systems

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## Key terms

**Fishing industry** Includes those involved in the taking, processing or transporting of fish as both licensed and unlicensed operators in the commercial, recreational and Indigenous sectors

**Money laundering** '[T]he goal of a large number of criminal acts is to generate a profit for the individual or group that carries out the act. Money laundering is the processing of these criminal proceeds to disguise their illegal origin. This process is of critical importance, as it enables the criminal to enjoy these profits without jeopardising their source.' (Financial Action Task Force 2003)

**Organised crime** Refers to known organised crime or other criminal groups engaged in illegal fishing activities in all its aspects, for example, illegal catch, illegal processing, illegal distribution

**Organised crime in Australia's fishing industry** Defined in the survey questionnaire as being a structured group of three or more persons, who work together with the purpose of committing a serious offence

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## Executive summary

The Australian Government Department of Agriculture, Fisheries and Forestry commissioned the Australian Institute of Criminology (AIC) in 2004 to determine the extent and nature of criminal activity in the fishing industry and to assess current capacity to respond to this activity. The project was undertaken in conjunction with the Australian Crime Commission (ACC), which had the principal task of undertaking an intelligence assessment of organised criminal involvement in the industry, the results of which are reported independently.

The research by the AIC involved a review of the literature and of Australian legislation, consultations with key stakeholders, a national survey of fisheries officers and analysis of prosecution and court outcome data from four jurisdictions.

The results of the research are summarised under the terms of reference for the project.

### **The extent to which organised crime has infiltrated the Australian fishing industry**

Some measure of noncompliance in the fishing sector has always been present, although only a small proportion could be characterised as high level systematic or organised criminal activity. The national survey of fisheries officers found that the majority believed that, in their district, less than 20 percent of the fishing industry (defined in the study as including commercial, recreational and Indigenous sectors) was involved in fishing-related crime. Both the consultations and the results from the national survey of fisheries officers suggest that only a fraction of illegal activity is believed to be linked to organised crime (defined in the survey as being a structured group of three or more persons who work together with the purpose of committing a serious offence).

There was, however, the perception by officers that organised criminal activity was more common across a state or territory, in comparison to the level they believed existed at the local level. Except for a small number of fisheries officers who did not know, all the fisheries officers agreed that organised criminal activity was present to some degree across the fishing industry in their jurisdiction – 26 percent said there was a lot, 58 percent said there was some and 14 percent said there was a little. In addition, over half of the officers believed their district was indirectly affected by this activity, with 58 percent of them believing that their district was a transit point for the movement interstate or overseas of illegal fish or fish product.

The number of fisheries officers who did not know the answer to questions increased as more detailed information was sought about the nature of the organised criminal activity. For example, 28 percent of the officers did not know whether organised criminal activity in their district involved other illegal commodities. Along with the types of offences and penalties

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evident in the prosecution and court outcome data, this suggests that fisheries officers primarily have contact with opportunistic or small scale fisheries crime.

There was widespread concern among key stakeholders about the potential vulnerability of the sector as a whole to infiltration by organised crime groups. Nearly all fisheries officers surveyed believed that the type of criminal activity encountered by fisheries enforcement agencies had changed over the past five years. Stakeholder concern about the level of vulnerability may be linked to the changes in the type of criminal activity being encountered by fisheries enforcement agencies in their day-to-day work.

The potential vulnerability of the fishing sector was perceived to increase as specific fish stocks increased in value, especially if there were lucrative overseas markets. Some organised criminal activity is already evident in high value, low volume fisheries such as abalone, and with illegally obtained shark fins.

The consultations revealed that a far wider range of species may be vulnerable to exploitation including mud crabs, native and coral fish, marine scale, the extended seahorse family, eel, bêche de mer (otherwise known as trepang or sea slug/sea cucumbers,) and the sea urchin. Three main species were identified as vulnerable to organised criminal activity in the national survey – rock lobster (by 63% of officers), abalone (by 62% of officers) and shark (by 57% of officers).

A range of factors were identified by stakeholders that make the fishing industry vulnerable to various types of organised criminal exploitation. The sector comprises many small business ventures, subject to seasonal fishing fluctuations and competition from seafood imports that create financial pressures. In addition, illicit drug use is not uncommon in some sectors of the workforce and this might also precipitate involvement in other illicit criminal activity, such as poaching fish and the distribution of illicit drugs.

According to many stakeholders, the large majority of recreational fishers are believed to be compliant. However they also noted there was some organised illegal activity among recreational fishers, particularly among ethnically and culturally based family groups. This form of organised activity was a means of providing extra household cash through selling fish to domestic businesses, such as fish and chip shops, restaurants, cafes, hotels, clubs, or through bartering the fish for services in kind.

There are many types of illegal activities which may occur in the commercial sector including:

- non-reporting or under-reporting catch
- co-mingling legal with illegal catch
- selling commercial catch to clubs, cafes, restaurants, hotels, or private individuals

- 
- taking in excess of the allowable quota
  - swapping catch between commercial and recreational quota.

Fisheries officers in the survey indicated that the most common strategies employed to avoid detection were the use of concealed spaces in boats and vehicles and counter surveillance. They also believed that illegal fishers were more likely to pose as legitimate recreational fishers than as commercial fishers.

## **The undermining of fisheries management arrangements**

The literature review highlighted how contemporary organised crime groups operate:

- they are fluid
- they have large funds at their disposal to put towards the day-to-day expenses surrounding their operations, paying off corrupt officials or other business expenses
- they are able to utilise various methods to transfer funds internationally
- they are not averse to using violence, if required
- they network informally with other crime groups domestically and internationally to facilitate particular activities.

Other countries' experiences provide evidence of the adverse consequences of organised crime groups on fisheries and the wider environment, including trade in other illegal commodities and illicitly obtained resources, violence, corruption, fraud and money laundering. More direct social and economic damage to the fisheries industry and compliance agencies by illicit activity includes threats to officers' safety, destruction of habitat, unsustainable fishing practices, and the undermining of legitimate business interests involved in domestic and export markets through unfair competition and poor standards of seafood safety.

Although Australian fisheries management arrangements currently in place may be working well in terms of minimising the risk of low level illegal activity, the consultations found that many stakeholders lack confidence in the current regulatory environment to deal with and prevent organised criminal activity. The national survey of fisheries officers revealed just under half of the officers (40%) believed their state/territory to be effective in dealing with organised criminal activity, while 45 percent believed their state/territory to be ineffective.

Effective fisheries management arrangements to address organised and cross-border crime depend on:

- fisheries legislation and the regime of penalties
- appropriate policing methods and powers
- cooperative arrangements between agencies.

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The adequacy and effectiveness of each of these key areas, specifically in relation to organised criminal activity, was investigated during the research and, although jurisdictional differences emerged during the research, for example where fisheries enforcement and compliance is the responsibility of the police services in the Northern Territory and Tasmania, the results have been summarised as a national overview.

## **The adequacy of penalties as a deterrent**

Consultations with key stakeholders revealed that many believed their legislation had inadequate penalty provisions for serious criminal activity. Several jurisdictions are considering introducing a similar provision to Victoria, which recently introduced the indictable offence of trafficking with serious penalties attached to conviction.

Even where there are more severe penalties for particular offences, some stakeholders doubted that the courts would impose such penalties. Prosecution and court outcome data show that many matters were undefended, that a very small fraction of court outcomes resulted in a serious penalty, and that the majority of offenders were given relatively minor fines. In Queensland for example, the average fine was \$1,312, with 51 percent of fines less than \$500. Such fines are unlikely to deter offenders making a substantial profit from their illegal activities. For commercial fishers, the suspension, revocation or adjustment of licences or the confiscation of assets may act as a greater disincentive than the prospect of a fine.

Criminological research on deterrence has consistently demonstrated that the likelihood of detection and apprehension acts as greater deterrent than the punishment that might be exacted. In relation to deterring organised criminal activity, the organisational factors of personal safety and the number of officers were rated in the national survey as the most important by 71 percent of fisheries officers. Arguably, officers who feel safer, whether by dint of numbers and/or the provision of protective and other equipment, might feel more capable of dealing with the potential dangers of organised criminals. Organised criminals in turn might appreciate that officers thus equipped would constitute a greater deterrence than at present. Other factors were rated highly, with nearly two thirds of officers rating legislation, interagency cooperation and surveillance capacity as very important.

## **The extent of national consistency of legislative approaches**

From the stakeholder consultations, it was apparent that there are regulatory differences across jurisdictions for commercial fisheries and recreational fishing related to licensing and quota arrangements, and the quantity, size and sex of specified fish stocks. In addition, much of the fisheries legislation in Australia is viewed as complex and complicated, with the

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national review of fisheries legislation revealing many differences across jurisdictions. The differences were also highlighted during consultations and included:

- nature of offences and regulatory requirements
- penalty regimes
- reverse onus of proof
- assets confiscation
- powers of officers e.g. arrest, search and seizure.

To achieve greater consistency and to increase capacity to combat systematic criminal activity, the followed areas could be reviewed:

- the distinction between recreational and commercial fishers in terms of the commission of offences
- the distinction made in legislation between the taking of fish and the possession of fish
- introduction of an offence of trafficking in all jurisdictions, with the offence potentially including processing plants, wholesalers and retailers through which or to whom fish are dispatched
- the ambit of the governing legislation (in terms of regulatory requirements) in terms of whether it allows officers the time to deal effectively with serious and organised crime as well as more routine regulatory issues such as licensing requirements
- the extent and availability of powers granted to fisheries, including power of arrest, power of entry and search of properties, and power of search and seizure
- the link between the nature and severity of the penalty regime to the perceived or actual seriousness of the offences
- financial penalty regimes, with jurisdictions differing in terms of fines and expiation fees, and penalty units
- the provision for automatic bans (for both licensed commercial and unlicensed fishers) from certain types of fishing activity or fishing areas, or loss or adjustment of licences.

## **Adequacy of current fisheries compliance organisation and enforcement effort**

From the consultations it was apparent that many stakeholders believed that they were successful in detecting and prosecuting many minor infractions. However, the national survey found nearly half of the fisheries officers believed that their jurisdiction was ineffective in detecting organised criminal activity, and 45 percent believed that their jurisdiction was ineffectual in dealing with organised criminal activity once it was detected.

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Fisheries officers are responsible for ensuring that activities which impact on the efficient management of the fisheries environment are prevented and/detected and mitigated. The majority of fisheries officers are not likely to possess the expertise to tackle, and/or have direct experience in tackling, organised crime. That fisheries organisations will require additional resources, training and specialist staff to deal with organised criminal activity was recognised by fisheries officers in the national survey. The personal safety and skills base of officers, intelligence, dedicated investigators and analysts, and financial and human resources rated highly as very important factors in monitoring and dealing with organised crime.

There was evident widespread concern for the personal safety of officers confronted by serious criminals. Thirty-seven percent of officers indicated that they operated in an unsafe or very unsafe environment. An important issue may be the level and type of protection provided to fisheries officers, with stakeholder consultations revealing differences across jurisdictions in whether they were allowed to wear protective vests and carry pepper spray or batons.

Although not rated as a priority by fisheries officers, promising initiatives that might help enforcement efforts included educational campaigns for both the community and the judiciary. The environmental court introduced in South Africa has an important role in educating and training fisheries and police officers, investigators and prosecutors.

## **The need for enhanced traditional policing methods**

Although key stakeholders indicated that reviews of legislation related to offences, penalties and police powers were already underway in some jurisdictions, the fisheries officers' survey highlighted that more needed to be done in relation to legislation, powers for fisheries officers and cooperation between agencies. These three factors emerged as the most important factors that, from the officers' point of view, would enhance compliance and capacity to deal with organised criminal activity.

Collaboration between agencies can be an important means by which expertise and information are shared. Intra-jurisdictional collaboration between agencies was viewed as effective by most fisheries officers, while multi-jurisdictional collaboration was less likely to be rated as effective, particularly when non-fisheries agencies were involved.

The sharing of information about fisheries-related criminal activity was more likely to be frequent in the case of state police and fisheries agencies and the Australian Fisheries Management Authority. According to the fisheries officers the majority of Australian Government agencies, such as the Australian Federal Police (AFP), the ACC, and the Department of Immigration and Multicultural Affairs, infrequently referred information about

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criminal activity to their agency. The exception was Customs, with 28 percent of officers saying information was referred frequently or sometimes.

Several key barriers to the sharing of information were identified by fisheries officers – lack of formal agreements by 71 percent of officers, unwillingness to share information by 60 percent of officers, uncertainty about the information being kept confidential by 59 percent of officers, and lack of uniform data storage system by 58 percent of officers. In relation to formal agreements, key stakeholders have indicated that several jurisdictions are seeking to work more cooperatively with other agencies through formal agreements. However, such agreements may not address the issue raised during consultations of fisheries officers being unable to access existing intelligence data about organised criminal networks and activities.

More resources may be required to enhance an intelligence led policing approach to organised criminal activity. It seems there is no systematic collection of intelligence across jurisdictions, despite improvements in secure data holdings at a jurisdictional level. This means there is no national monitoring of the organised criminal activity in the fishing industry or of enforcement efforts in terms of recording of prosecutions and court outcomes. However, improved cooperation and more systematic and consistent recording of data across jurisdictions will result in a more effective and targeted approach to enforcement and prevention.

## **The benefits of developing future cooperation between fisheries and police agencies**

Future cooperation between agencies could take many forms including multi-agency or bilateral cooperation within jurisdictions, or cross border and international cooperation to create:

- operational taskforces
- effective sharing of intelligence and information.

The benefits of cooperation through taskforces and special operations within Australia, and of international links to combat transnational criminal activities, are demonstrated by the success of operations in other countries as well as Australia. Fisheries agencies in South Africa, Canada and New Zealand have taken advantage of specialist police equipment and officers trained in covert activities for one-off or ongoing assistance in operations. Increased cooperation between fisheries and police agencies brought about benefits such as improved morale; greater efficiency, including more targeted use of resources; a better educated workforce; and an improved success rate in dealing with organised crime activity in the fishing industry.

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Other examples of successful multi-agency and international collaboration were identified through consultations and the literature review. Such initiatives can result in improved intelligence and therefore more disruptions to organised criminal networks, and prosecutions of serious offenders. In terms of operational collaboration, the strategic use of taskforces was supported by many stakeholders. There are several models that could be adopted, including an operation-specific multi-agency taskforce or the establishment of a special unit within fisheries organisations. With joint operations, there might be the need to address factors that fisheries officers viewed as potential impediments to success – differing priorities (by 83% of fisheries officers), limited and varied resource allocation (by 75% of fisheries officers) and legislative differences, including powers of officers (by 63% of officers).

## Introduction

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## Terms of reference

Anecdotal evidence and some research (see Tailby & Grant 2002; Palmer 2004) suggest that the following changes occurred during the past decade in the Australian fishing sector:

- growth in organised crime group activity in the systematic harvesting, processing and distribution of abalone and rock lobster
- organised crime groups using the fishing sector to launder money, and drugs being manufactured at aquaculture facilities.

In 2004 the Australian Government Department of Agriculture, Fisheries and Forestry (DAFF) contracted the Australian Institute of Criminology (AIC) to undertake a two-stage project to determine the extent and nature of criminal activity in the Australian fishing industry. The terms of reference, which were endorsed by the Natural Resource Management Council, were to:

- determine, by consultation with fisheries and law enforcement agencies, the existence and/or extent of organised criminal involvement in the seafood industry
- estimate the extent to which this organised activity puts at risk existing or proposed fisheries management arrangements, or other laws of the states, territories and Commonwealth
- advise on whether existing fisheries legislation and the regime of penalties in each jurisdiction provide an effective deterrent to crime and whether this effect is measurable and adequate
- identify and analyse existing legislative approaches for national consistency
- advise on the extent to which the organisation of fisheries compliance, and conduct of fisheries enforcement effort is adequately attuned to emerging issues in organised crime activity
- determine if enhancement of traditional policing methods and powers would assist in dealing with fisheries crime
- examine the extent to which future cooperation between fisheries and police agencies should be developed.

The project was undertaken in conjunction with the Australian Crime Commission, which had the principal task of assessing organised criminal involvement in the Australian fishing industry based on its intelligence holdings.

The scope of the study was confined to fishing in the Australian domestic sector, in the AFZ and inland waters, and did not include illegal foreign fishing.

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## Key concepts

At the outset, it is important to define some of the key terms and concepts relevant to the topic.

'Organised crime' is defined in the same way as in the United Nations Convention against Transnational Organised Crime, Article 2 of which states:

- a) 'Organised criminal group' shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit
- b) 'Serious crime' shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty
- c) 'Structured group' shall mean a group that is not randomly formed for the immediate commission of an offence and that does not need to have formally defined roles for its members, continuity of its membership or a developed structure.

Specific activities that relate to organised crime in the industry include:

- transfer pricing which entails 'the under/or over-invoicing of ... trade transactions to avoid regulatory control' (Walter 1985: 15)
- money laundering, which the Financial Action Task Force (FATF) defines as 'the processing of criminal proceeds to disguise their illegal origin'. This process is of critical importance, as it enables the criminal to enjoy these profits without jeopardising their source (OECD 2003)
- 'underground banking' refers to informal banking systems which run parallel to, but independent of, the formal banking sector. It involves the transfer of the value of currency without its physical relocation (McCusker 2005).

The concept of the 'fishing industry' is based on the explanation provided by the Australian Government Fisheries Research & Development Council (FRDC), namely, that it includes any industry or activity conducted in or from Australia concerned with taking, culturing, processing, preserving, storing, transporting, marketing or selling fish or fish products (FRDC 2004a). The FRDC has identified three principal industry sectors. These are:

- the commercial sector, which comprises enterprises and individuals associated with wild catch or aquaculture resources and the various transformations of those resources into products for sale. It is also referred to as the 'seafood industry', although nonfood items such as pearls are included among its products
- the recreational sector, which comprises enterprises and individuals associated with the purpose of recreation, sport or sustenance with fisheries resources from which products are derived that are not for sale

- 
- the traditional sector, which comprises enterprises and individuals associated with fisheries resources from which Aboriginal and Torres Strait Islander people derive products in accordance with their traditions (FRDC 2004a).

To assist fisheries officers with completing the survey, a definition for 'organised crime in the Australian fishing industry' was included at the beginning of the questionnaire. It was defined as being a structured group of three or more persons, who work together with the purpose of committing a serious offence.

## Method

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From July 2004 to December 2005 the AIC undertook a major systematic study of crime in the fishing industry. The study was designed to elicit new information upon which to build a credible evidence base of the extent of organised crime in the industry and strategies for combating such activity. The study was comprised of five components:

- a review of Australian legislation
- a review of relevant Australian and overseas literature
- consultations with industry and law enforcement stakeholders
- a national survey of fisheries officers
- a compilation of prosecution and sentencing data from four jurisdictions.

## Literature review

The literature review was scoped broadly to gather information from a wide variety of sources. These included online and hard copy newspapers, academic journals and books, and official reports. Government websites, both within Australia and overseas, were also useful sources of information. Material on fisheries crime, law enforcement powers and penalty regimes in other countries, such as South Africa, the Russian Federation (in particular the RFE), Canada and New Zealand, was examined to place the Australian situation in a global context. These countries were chosen because all have important fishing sectors as an integral part of their national economies, all have anecdotal or documented evidence of organised crime involvement in their fishing industries, and all have attempted to circumvent illegal/organised crime activities in their fishing industries, with varying degrees of success.

## Consultations

Consultations were conducted Australia-wide in the latter part of 2004 with fisheries and law enforcement officers and industry representatives. The consultations took place in the capital city of each jurisdiction. In some cases consultations took the form of group sessions, while others were one-on-one discussions. As well, a roundtable discussion involving relevant Australian Government agencies was convened in late 2004 in Canberra.

Four key themes guided the consultations:

- stocks vulnerable to organised crime
- legislative strengths and weaknesses
- operational strengths and weaknesses

- 
- extent of cooperation and liaison with other agencies.

After the main findings from the initial consultations were circulated to jurisdictions in the Stage 1 report, feedback and further information were elicited from stakeholders in the first half of 2005. Jurisdictional representatives were also asked to provide an update on how data of illegal activity were recorded. In 2001, an AIC report *Assessment of illegal catches of Australian abalone* (Tailby & Gant 2001) identified data holdings across jurisdictions that might provide some information on the illegal harvesting and sale of abalone. During consultations, key personnel in each jurisdiction outlined whether there had been changes in data systems and in the tracking of illegal, unregulated and unreported fishing (IUU).

## Legislative review

All Commonwealth, state and territory Acts and regulations relevant to criminal offences, police powers and penalty regimes relating to fisheries were identified. Some 48 separate Acts, regulations, rules and management plans were examined in detail. The primary enabling legislation reviewed in each jurisdiction was:

- Commonwealth: *Fisheries Management Act 1991* *Great Barrier Reef Marine Park Act 1975*
- Western Australia: *Fish Resources Management Act 1994*
- Australian Capital Territory: *Fisheries Act 2000*
- Queensland: *Fisheries Act 1994*
- South Australia: *Fisheries Act 1982*
- Northern Territory: *Fisheries Act 1998*
- New South Wales: *Fisheries Act 1935*; *Fisheries Management Act 1994*
- Victoria: *Fisheries Act 1995*
- Tasmania: *Inland Fisheries Act 1995*; *Living Marine Resources Management Act 1995*.

## National survey of fisheries officers

An Australia-wide survey of fisheries officers was conducted between July and September 2005. This canvassed officers' views on:

- knowledge of illegal/organised crime in the fishing industry in the local area and across their jurisdiction
- the extent of that crime

- the *modus operandi* of illegal/organised crime fishers
- issues facing fisheries officers in dealing with illegal/organised crime
- limitations or otherwise of the existing legal framework to deal with illegal/organised crime
- limitations or otherwise of inter-jurisdictional cooperation.

The questionnaire was finalised after piloting with a group of former fisheries officers now based at DAFF and comments from AIC research staff, the Australian Fisheries Managers Forum, state managers and their senior compliance staff. A copy of the questionnaire is provided in Appendix C.

The questionnaire was administered using the AIC's internet site. There were 311 responses in total from a population of 567, resulting in a 55 percent response rate. Response rates varied across jurisdictions, and the details by jurisdiction are set out in Table 1. To ensure that responses reflected the actual distribution of fisheries officers, the data have been appropriately weighted. Unless otherwise specified, results from the survey are based on the weighted data.

<b>Table 1: Survey response details</b>			
<b>Jurisdiction</b>	<b>Total population</b>	<b>Number who replied</b>	<b>Response rate (%)</b>
Queensland	144	88	61
Western Australia	105	79	75
Victoria	104	37	36
New South Wales	83	39	47
South Australia	48	31	65
Tasmania	35	24	69
AFMA	33	9	27
Northern Territory	13	2	15
ACT	2	2	100
<b>Total</b>	<b>567</b>	<b>311</b>	<b>55</b>

Source: AIC National Fisheries Survey 2005 [computer file]

Fisheries officers who responded to the survey had the following characteristics:

- the overwhelming majority were male
- the average age was 39 years
- the majority had completed a Year 12 certificate at school
- over half (60%) were currently employed in monitoring, surveillance and enforcement work. A further 16 percent were employed in compliance, supervision and monitoring.

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## Prosecutions and sentencing outcomes

To ascertain trends in fishing crimes, prosecutions and sentencing outcomes, four jurisdictions were asked to provide data for a five-year period, between the 1999 and 2004 calendar years. The jurisdictions included in the data collection were Queensland, Northern Territory, Victoria and the Commonwealth (AFMA). The type of data requested included:

- unique offender identity numbers (if available)
- the offence date
- the court appearance date
- details of the offence
- the offence location
- court outcome.

The extent and detail of the data varied between jurisdictions. No two jurisdictions data were similar in layout or content. There was no uniformity between jurisdictions as to how the offence information is set out, or the recording of details of a specific offence. Missing or incomplete data were common, particularly the details of the offence and the location of the offence. It was impossible to compare data because of these differences in recording.

## Context

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## Australian fisheries

The threats posed to fishing industries have increased as result of flourishing demand globally and by changing/improved fishing techniques (Clarke 2002; Deglar 2004; Ekron 2004; Fish Information and Services 2004; Marshall 2002; Njobeni 2004; Outdoor News Network 2004; The Times Standard 2004; and Weaver 2004). Various overseas reports discuss the threats posed by illegal recreational activity and organised criminal networks (Curtis et al. 2003; Gastrow 2001; Dean 2004; Vancouver Aquarium Aquatic Environmental News Network 2004). Linked to the increasing demand globally for fish products is the escalating threat of IUU fishing (also known as 'fish piracy' – see Organisation for Economic Cooperation and Development (OECD 2004a). IUU activity is focused increasingly on deep sea fisheries because of the depletion of coastal fisheries. This has ramifications for deep sea species and ecosystems. Arguably, Australia's fishing industry could become increasingly under threat from IUU fishing, by criminally-minded domestic or foreign operators. Australia is a member of the Ministerial Task Force on IUU fishing, with other members including Chile, Namibia, New Zealand and Britain (see Doulman 2000; Oceana 2003; OECD 2003).

Fish and other seafood, and their habitat, have considerable economic and environmental value. Australia's fishing zone measures 11 million square kilometres, and extends 200 nautical miles from the coastline. Despite its size, the poor nutrient content of Australia's waters means that they are not highly productive by world standards. However, it is an important primary industry which results in direct and indirect employment for a large number of Australians, and results in considerable export earnings for the country, as the production and export statistics highlight in Tables 2 and 3. To summarise:

- In 2002–03, Australia's commercial fishing sector harvested approximately 249,000 tonnes of seafood, with a landed value of approximately A\$2.3 billion (FRDC 2004b).
- Between 1991–92 and 2001–02, the value of Australia's aquaculture sector grew from A\$202 million to A\$733 million. A wide range of seafood products are now farmed, for example, 'pearls, prawns, redclaw, barramundi, crocodiles, Atlantic salmon, edible oysters; abalone, mussels, trout, silver perch, murray cod, yabbies and marron' (Love & Langenkamp 2003: 3).
- Australia's seafood industry represents the country's fourth most important food-based primary industry (after beef, wheat and milk) (Seafood Training Australia 2005).
- There are approximately 80,000 people employed in the seafood industry. This figure does not include indirect employment, such as compliance, transport, storage, wholesale and retail sectors (Seafood Training Australia 2005).
- In 2002–03 the export value of Australian seafood product was A\$1.85 billion (in the main, rock lobster, pearls, tuna, prawns, and abalone) (Australia. Department of Foreign Affairs and Trade 2004).

**Table 2: Value of seafood exports 2002–03 (\$m)**

Product	Value
Rock lobster	493
Pearls	404
Tuna	319
Prawns	263
Abalone	263
Other crustaceans	263
Scallops	34
Oysters	4

Source: Seafood Training Australia 2005

The economic benefits of the fishing industry are distributed across the country as Table 3 shows. In addition to the export revenue generated by high value species such as rock lobster, tuna and abalone there is a large domestic market for seafood. It is estimated that 90 percent of Australians eat seafood and that each person consumes approximately 16 kilograms of fish and seafood annually (AFMA 2005a; Seafood Training Australia 2005). By 2050 it is estimated Australia's population of 25 million people will require 1,150,000 tonnes of seafood, with an average consumption of 23 kilograms per person per annum (Kearney et al. 2003).

**Table 3: Value of Australia's fisheries (wild catch and aquaculture) 2002–03 (\$'000)**

State/territory	Gross value of production
Western Australia	607,148
AFMA (2001–02)	417,029
South Australia	473,514
Tasmania	288,225
Queensland	285,313
New South Wales	135,191
Victoria	108,877
Northern Territory	54,919

Source: AFMA 2003; Seafood Training Australia 2005

With the increasing demand for Australian seafood in overseas markets and an expanding domestic market, the fishing industry will be under ever increasing pressure to harvest resources in a sustainable manner. Given concerns globally about depletions in the world's fisheries, authorities and legitimate fishers alike share an interest in maintaining the sustainability of Australia fish stocks and the viability of the fishing industry.

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## Fisheries management regimes in Australia

A report prepared for the OECD on Australian fisheries outlines current management regimes, some of the complexities surrounding jurisdictional responsibilities and problems arising from an excess fishing capacity (OECD 2004b). Except where agreement is reached to the contrary, the Australian Government's jurisdiction extends from the three to the 200 nautical mile limit of the AFZ, while state jurisdiction is from the coastline to the three nautical mile limit. Under more than 50 Offshore Constitutional Settlement fisheries arrangements, the management of a specified fish stock or a commercial fishery has been transferred to a single jurisdiction or is managed in partnership under a joint authority arrangement. In general terms, the Australian Government aims to retain overall management responsibility for all highly migratory fish stocks and any fish species subject to regional or international agreements, while the states have responsibility for day to day management of recreational, including charter, fishing and traditional fishing (OECD 2004b: 10).

At the federal level, responsibility for domestic Commonwealth fisheries management rests with the statutory authority, the Australian Fisheries Management Authority (AFMA). Under the *Fisheries Management Act 1991*, AFMA can allocate four types of fishing concessions – statutory fishing rights, fishing permits, scientific permits, and foreign fishing permits. The management of most commercial fisheries in state waters is under the control of state governments through the relevant fisheries departments, which are responsible for monitoring and enforcing compliance with state based legislation that defines fisheries-related offences.

In essence, fisheries management seeks to balance sectoral interests – commercial, recreational and Indigenous – as well as to manage fish resources so that their use and development are ecologically sustainable. Commercial fisheries management techniques include input controls – time based (such as seasonal closures), entry based (such as licensing), and gear based (such as net and boat size limits). Output controls include total allowable catch (TAC) and individual transferable quotas. In most fisheries a combination of controls are applied involving limited entry, time and area based controls and either gear and/or boat based mechanisms.

To ensure that management arrangements are working, risk based compliance regimes are deployed as appropriate – depending on the fishery – by the Australian and state governments and involve a mixture of physical surveillance both on water and from the air, the monitoring of unloads of catches in port, the auditing of paper trails to determine catch landings and technical applications such as vessel monitoring systems (VMS; OECD 2004b).

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## Key commercial fish species and fisheries

Key fish species in Australian coastal areas that are vulnerable to illegal exploitation and trade are high value and low volume species such as abalone and rock lobster. The following figures for abalone highlight the volume and value of the legitimate market for these key fisheries:

- Southeast Australia is home to some of the last highly productive wild abalone stocks in the world, with Tasmania producing around 25 percent of global wild abalone and Victoria producing 10 percent of the global wild harvest. There are 71 abalone fishery access licence holders in Victoria who take approximately 1,360 tonnes a year. With an annual landed catch value of approximately \$50 million, abalone is the most valuable commercial fishery in Victoria. Ninety-five percent of all abalone harvested in Victoria is exported (Arnold 2005).
- In 2002, Tasmania's commercial abalone take was worth \$115 million with 50 percent of abalone exported live to Japan or Hong Kong and the bulk of the remainder being canned (TDPIWE 2004a).
- In South Australia, approximately five percent of the world's wild abalone is harvested. There are in excess of 500 South Australians employed in fishing, processing, regulating and supporting the abalone industry. South Australia's 35 licence holders sell around \$50 million worth of abalone per year.
- In Western Australia, abalone is worth an estimated \$15 million per year (Western Australia. Department of Fisheries 2004).

The organisation of, and regulatory environment within, each fish industry differs depending on the type of species and jurisdiction. Abalone is unique in that it is the only species to be tier 2 species under the National Docketing System, a complementary approach across the country to monitor its extraction, processing and sale, although not all jurisdictions have implemented the system to date. There is a five-state organisation, the Australian Abalone Council, which has been created with representatives from Western Australia, South Australia, Victoria, New South Wales and Tasmania. In Tasmania, for example, there is also a state-wide 12-member Management Advisory Committee comprising representatives of divers, processors, recreational fishery and quota holders, which considers the rate of catch, the health of the industry and legislative recommendations. Jurisdictional variations in the abalone industry are indicated by the following accounts of licensing/quota arrangements and reporting requirements:

- The Western Australian Abalone Industry Association comprises all the licence holders and is completely self-funded. It is a small industry, with 31 licences. Under the regulations, operators are required to prior report, and are then required to count and weigh on the beach, and fill out the appropriate documentation within 30 minutes of landing (Western Australian stakeholder comments 2004).

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- As yet there are no prior reporting requirements for the commercial abalone industry in Victoria. Divers seal and tag the abalone on landing, weigh at the beach and report the weight, location, number of bins, time of landing, and time of weighing to the Department of Primary Industries (VDPI 2004a).
  - In Tasmania, there are 3,500 quota units for 717 kilograms of abalone entitlement per annum. The value of the quota units is approximately \$250,000 to \$300,000 per unit. When the abalone fishery went to quota, 125 dive licences were issued (reduced to 123 licences after two were forfeited following prosecutions for illegal fishing activity). There are 26 abalone processors in Tasmania. There has been an increase in the number of Asian groups running factories in Tasmania, as well as setting up dive operations. At present they are operating eight out of a total of 26 factories (Tasmanian stakeholder comment 2004).
  - In New South Wales, there are approximately 42 shareholders and divers in the abalone industry which is worth approximately \$15 million annually to the state (New South Wales Fisheries 2003). The person who owns the shares or quota is the shareholder. There is a public register and it is primarily a family based industry (New South Wales stakeholder comment 2004).
  - In South Australia, the TAC is set at 880 tonnes (South Australia. Department of Primary Industry and Resources 2004) and stakeholders indicated there are 35 abalone licences.

With rock lobster, which was worth nearly \$500 million in 2002–03 in export earnings, the Western Australia industry is the largest in Australia and worth about \$300 million, with around 580 commercial operators. A record catch of 14,500 tonnes was recorded in the 1999–2000 season (Western Australia. Department of Fisheries 2000b). In Victoria, the southern rock lobster (crayfish) fishery is worth \$20 million in exports annually (VDPI 2004b), in New South Wales the industry is worth \$4.6 million annually (New South Wales Fisheries 2003b), and the Tasmanian industry accounts for about eight percent of Australia's production. Much of the rock lobster is shipped from Sydney or Melbourne to Hong Kong where it may be transhipped to other destinations, such as Singapore, China and Taiwan (TDPIWE 2004b).

Rock lobster is another major commercial fishery. In Western Australia rock lobster will be going to quota with lobster pots costing around \$25,000. A 100 pot licence, together with a boat and associated gear is valued at approximately \$4 million (Western Australia. Department of Fisheries 2000b). The rock lobster fishery operates under a quota system with real-time reporting requirements. Prior reporting enables fisheries officers to be at the landing stage by the time the boat docks. In Tasmania, there are 314 rock lobster licences, with about 240 boats and generally two people on each boat (TDPIWE 2004b).

According to a 2001 report, the Australian shark catch is dominated by shark catch in the target shark fisheries and, to a lesser extent, by shark retained as byproduct (Rose & Shark

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Advisory Group 2001). The species and quantities of shark discarded by commercial fishers, including those that may have been illegally finned, appear to have been poorly quantified. There are a range of target shark fisheries including the Southern Shark Fishery (which now makes up the gillnet sector and shark hook sector within the larger South and Eastern Scalefish and Shark Fishery (SESSF)), the Western Australian shark fisheries and the Northern Territory shark fishery. Individual transferable quotas were introduced for school and gummy shark in the gillnet and shark hook sectors from 2001 and for sawfish and elephant fish from 2002. Under an Offshore Constitutional Settlement fisheries arrangement, AFMA is now responsible for managing school and gummy shark in the coastal waters of South Australia, Tasmania, and Victoria (Caton & McLoughlin 2004). With the northern shark fisheries, new management arrangements were implemented by the Northern Territory Department of Business, Economic and Regional Development (NTDBERD) in 2004–05 to ensure the ongoing sustainability of the fishery (NTDBERD 2005).

Most of the Northern Territory and Queensland shark fisheries involved four to six main operators in each jurisdiction in 1999, although there were also a large number of fishers taking shark while targeting other species. By 2001 the number of shark fishery licences had dropped (Rose & Shark Advisory Group 2001). Northern Territory stakeholders in 2004 indicated there were 17–18 licences in the industry, with the fishery operating up to 30 miles offshore. In addition, Karumba shark fishers (Queensland) work across the border into the Northern Territory. The main produce from sharks landed in Australia is meat, most of which is used for domestic consumption. Several sources of data from the 1990s indicated that Queensland is the major exporter of shark, with the United States and Korea as the main overseas markets (Rose & Shark Advisory Group 2001).

Other commercial fisheries include the pearling industry and the Southern bluefin tuna industry; these however were less likely to be seen by stakeholders as vulnerable to low-level fishing-related illegal activity from outsiders because of tight security:

- Southern bluefin tuna is a major aquaculture industry in South Australia, earning about \$400 million per annum. The industry works off global and national quotas but the TAC does not include recreational catch, which has not been accurately quantified. Not many thefts are reported from the fishery, which has private security guards guarding the pens (stakeholder comment 2004).
- The pearling industry in Western Australia has 16 licences. It is comprised of joint ventures or company structures and three major groups market the product. It is a vertically integrated industry worth approximately \$200 million annually. The remoteness of the pearl farms makes them accessible only by boat or by plane. The farms use radio sensor fences, satellite surveillance arrangement and people who live on the farm at all times (industry stakeholder comments 2004, Western Australia. Department of Fisheries 1997a; 1997b; 2000).

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When consulted in 2004, stakeholders perceived commercial fisheries vulnerable to illegal exploitation or the industry vulnerable to criminal activity to include:

- Timor box fishery – operates around the Evans Shoal area of the Timor Reef, from the West Australia/Northern Territory border out as far as the outer limits of the AFZ. There are two types of fishing activity – the line and the drop fishery – both of which target reef fish, for example, red emperor, golden snapper, red snapper and cods, which are transported to the Sydney Fish Market.
- Trawler fishery – in Queensland in 2004 there were 480 trawlers, 90 percent of which are owner-operated. The trawl industry harvests scallops, prawns, squid, Moreton Bay bugs and stout whiting. Bycatch includes blue swimmer crabs, Balmain bugs, cuttlefish and octopus. Large companies own the majority of the trawls.
- Coral reef fishery (live fish trade) – in Queensland the fish targeted in this fishery include grouper, coral trout snapper, wrasses, emperors (for example Red Throat Emperor), sweetlips and seabream. Live fish are transhipped in fish tanks and flown out from Cairns.
- Marine scale fishery – in South Australia this fishery is worth \$12 million per annum. It includes species such as KGW, calamari, garfish, western sand whiting and snapper.
- Prawn fishery – operates across the Gulf and the top end of Australian waters, with mother ships operating out of Cairns and Darwin. Other prawn fisheries in various jurisdictions were not mentioned during stakeholder consultations as potentially vulnerable.
- Mud crabs – in the Northern Territory in 2004 there were 49 licences worth about \$400,000 each. The fishery is open all year and both males and females can be harvested. In Queensland, the taking of female crabs is prohibited.
- Barramundi – in the Northern Territory in 2004, there were 25 barramundi licences, operated by long-time Territorians. As a cash fishery it is small scale, and in 2002 the commercial barramundi harvest totalled 740 tonnes (Northern Territory Fisheries Group 2003). The barramundi fishery (like the mackerel industry) operates around the coast.
- Murray cod – South Australia has a legitimate commercial Murray cod and callop (a South Australia specific word for golden perch) fishery, while in Victoria, there is a ban on commercial fishing of native fish.
- Bêche-de-mer (sea cucumber, trepang) – in the Northern Territory one company owns all six licences according to stakeholders; it is processed in Tasmania. In Queensland in 2004 there were three licence holders for bêche-de-mer and trochus.
- Eels – Victoria has a small aquaculture eel fishery in lakes with 14 licence holders; the main export market for eels is Europe.

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## Recreational fishers

From the stakeholder consultations, it was apparent that there were regulatory differences across jurisdictions in recreational fishing related to licensing and permit arrangements, and the quantity, size and sex of specified fish stocks. With rock lobster, for example, in Western Australia, the recreational take is 400 tonnes a year. Two pots are allowed per fisher, and recreational fishers are allowed to dive for rock lobster. There is no possession limit on rock lobster, only abalone, with recreational takers required to tail clip the lobsters. The season runs from 15 November to 30 June. In South Australia, recreational fishers can take four rock lobsters per day in the season, and they only need a permit for a pot. There is a maximum of two pots (it costs \$35 for the first pot and \$75 for the second pot). There were 12,000 permits issued in 2004, whereas in 2003 the total number of permits was 10,000. There are 20,000 recreational pots and the sector leases back 5,000 extra from the commercial sector. It is a requirement for the recreational sector that harvested rock lobster must be clipped.

Stakeholder consultations highlighted changes that have occurred, or are advocated, to reduce recreational fishing of a range of species including abalone, barramundi, and various marine scale species. In discussions on this topic the total size and impact of the recreational take was clearly a concern, along with the opportunities within this sector for more systematic illegal exploitation of the resource. For example:

- It has been estimated that there are approximately 550,000 recreational abalone fishers in Victoria, not all of whom are legitimate harvesters (VDPI 2004a). In 2004–05 new recreational controls were introduced including a reduction in catch limits and a closed season for central Victorian waters (VDPI 2005).
- There are seasonal closures in the Northern Territory for recreational fishing of barramundi. It is estimated that the recreational barramundi harvest in 2000 amounted to 370 tonnes, but that 76 percent of the catch was released (Northern Territory Fisheries Group 2004). Concern was expressed about the large quantities of barramundi being taken by recreational fishers from other states, who were transporting it home in freezer loads.
- In South Australia snapper has a closed season while KGW does not. Some stakeholders advocate the introduction of recreational licences for KGW, as they claim the recreational sector is taking up to 60 percent of the KGW TAC, with the commercial net fisher estimated to be taking around 10 percent.
- The increase in the green zones from five percent to more than 33 percent in the Great Barrier Reef Marine Park means that neither recreational nor commercial fishers can fish in these waters. Displacement of legitimate activity to areas outside of the green zones and the creation of a black market in fish from these zones were raised as issues by stakeholders.

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## The market for illegal product

From the literature it is apparent that East Asia is an influential driver of the seafood trade in products such as abalone and shark fin. Fish has always been an important component of the East Asian diet and this is coupled with the centuries-old use of fisheries products as health tonics or medicines. The growing affluence of some East Asian societies (for example, China, Malaysia and Thailand) has had a dramatic impact on the demand for both dietary and medicinal fish products. It is believed that China, in particular, exerts considerable demand on the market (Clarke 2002).

Hong Kong is the focus for the legal global trade in products such as abalone, shark fin, seahorses, and *bêche-de-mer*. There appears to be a major market for illegal abalone, with dried abalone being sold in large quantities in Hong Kong. Hong Kong acts as a gateway for the legitimate and illegal trade to mainland China, and it has been suggested that two systems operate to facilitate the smuggling of abalone into mainland China, with the first involving local fishing authorities where a duty is paid. This is a safer but more expensive option than the second system via 'gangster controlled organisations' (Chung 2005).

The profits from the market in illegal products are likely to be great. For example, a serving of small black cultured abalone from either Taiwan or China will cost approximately US\$12 in a Hong Kong restaurant. Tinned abalone from Japan, South Africa, Australia, Mexico and the Philippines containing two abalone will cost approximately US\$70. The 'best' abalone (Gon Bao Yu) costs up to US\$1,250. In 'post-revolutionary China, the nouveau riche are willing to pay up to US\$5,000 for a meal which includes Gon Bao Yu' (Clarke 2002: 17).

It has been estimated that the legal shark fin trade is increasing by five percent annually, with an ever-growing mainland China market, resulting in intensified competition among restaurants specialising in shark fin. In the years 1998–2002, 11 metric tonnes per year of shark fin were imported into Hong Kong (Lee 2004). It is believed that Hong Kong is the centre for 50–80 percent of the world trade in shark fin (Shark Finning IUCN Information Paper, cited in Lee 2004). Like the abalone trade, mainland China's growing middle class has created an increasing demand for shark fin for use in soup. While Hong Kong is the central distribution point for the shark fin industry, mainland China is the major destination for drying and processing (Clarke 2002). According to a WildAid observer, apart from China, processing plants exist on a small scale in Taiwan, Hong Kong, Singapore, Malaysia, Indonesia, and Thailand as well as other producer countries where Chinese traders have settled, such as Ecuador, Brazil and South Africa (Victor Wu, personal communication 2005).

There is very little literature that specifically focuses on the Hong Kong trade in seahorses. Most international sources discuss protection of the species or the availability of product to supply aquariums (see Courtney 2003; International Fund for Animal Welfare 2004;

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Lee 2004; Marine Work Group Ireland 2003; Moore 1997; Project Seahorse 2004; Saleh 2004; TRAFFIC 2002, 2004). The traditional Chinese medicine trade includes marine life such as seahorses. In 2002, a CITES guide was released to assist law enforcers globally in identifying illegal product (Allan 2005: 53). In spite of a trade ban from China to Taiwan, there is a flourishing trade in seahorses, given that China is the largest market for this commodity. The trade is facilitated through individual fishing boats, as well as local businessmen conducting trade through Hong Kong. It has been reported that

Volumes of dried seahorses recorded as exported from Australia in the period 1998–2002 were less than 15 kg while imports to China, Hong Kong and Taiwan over the same period were over 700 kg ... the large discrepancies between export and import data sets for pipehorses (up to five-fold) suggest that Australian exports may have been significantly under-reported (Martin-Smith & Vincent 2005: 12).

Another fish commodity where there seems to be a lucrative black market is *bêche-de-mer* which is sourced from the southwest Pacific Islands states, as well as countries such as Australia, Kenya, Mexico, Indonesia, Ecuador and the Philippines. Again, Hong Kong is the major importer of this product (approximately 80%), with Singapore ranked second. It has been suggested that Singapore imports higher grade product, while Hong Kong imports lower grade *bêche-de-mer*, primarily for the Chinese market (Conand & Byrne 1993). However according to a recent survey, Hong Kong traders believe the highest quality *bêche-de-mer* originates from Japan, the Pacific coast of South America, South Africa and Australia (Clarke 2002: 63).

It is clear that overseas illicit markets in seafood products such as abalone, *bêche-de-mer* and shark fin are flourishing, due in large part to a steadily increasing demand from mainland China. What is also clear is that there is extensive international involvement in terms of supply (e.g. Australia or South Africa), harvesting (e.g. Spain, Indonesia or domestic operator), facilitation (e.g. COC or other organised crime group) and the market (for example, mainland China). It is also clear from the literature that the illicit trade is well run, with established markets and distribution routes.

While there are three priority species in Australia that were identified from the literature as attractive to international illegal markets (abalone, shark fin and seahorses) there are also illegal domestic markets in many species, including abalone, rock lobster and native fish. During the 2004 consultations, stakeholders also referred to illegal restaurant/café trade in poached reef fish, eel, yabbies, squid, razor fish, snapper and dhufish, as well as the illegal taking of rare cowries, ornamental fish and coral. It is impossible to estimate the size and value of these illegal domestic markets. At the top end of the scale it was estimated in 1997 that one of Australia's better known abalone poachers was earning in excess of \$1 million a year from the harvest and sale of illegal abalone (cited in Tailby & Gant 2002). Tailby and Gant thoroughly researched the illegal market in Australian abalone but were not able to quantify accurately either the size or the value of the illegal market.

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Although there are estimates of theft or poaching of various types of fish, there are no public estimates of how much of the stolen or illegally obtained fish is consumed in the domestic black market. Examples of estimates of illegal take of abalone include that 13 percent of the abalone TAC in Victoria constitutes 'unaccounted catch' which includes both illegal fishing and the legitimate recreational harvest (VDPI 2004c). Another estimate is that, of the annual harvest in excess of 1,440 tonnes, approximately 400 tonnes is poached illegally (Arnold 2005). In NSW it has been estimated that abalone theft amounts between 20 and 60 percent of the TAC (Palmer 2004).

## **Illegal activity in Australia**

Efforts to protect Australia's fisheries from overexploitation include preventing the illegal harvest and trade in fish products. Although there has always been some illegal activity in Australia's domestic fishing industry, much of it could be characterised as small scale and akin to low level noncompliance with fishing regulations. Among the different sectors – commercial, recreational and Indigenous subsistence fishing (in some instances protected by customary marine tenure) – there are opportunities to engage in illegal activity. Much of this may occur on an infrequent and opportunistic basis.

Illegal activities can take a variety of forms. Commercial fishers (Anderson & McCusker 2005) may:

- avoid reporting or under-report their catch
- co-mingle illegal with legal catches
- operate a vertically integrated fishing business to facilitate money laundering activities
- sell commercial catch to clubs, restaurants, hotels or private individuals on a cash or barter basis
- take in excess of the allowable quota
- swap their catch between their commercial and recreational allowances (for example distributing catch between their various crab and lobster pots).

Some of these activities, such as selling of catch to restaurants, may also be practised by recreational fishers and can contribute to the overexploitation of vulnerable species. The recreational fishing sector is widely popular, with over a quarter of Australia's population estimated to engage in the pastime (FRDC 2004b). According to many stakeholders, although the large majority of recreational fishers are believed to be compliant, there appears to some low level organised illegal activity, particularly among ethnically and culturally based family groups. This activity is a means of providing extra household cash through selling fish to domestic businesses, such as fish and chip shops, restaurants, cafes, hotels, clubs, or through bartering the fish for services in kind.

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## Organised criminal activity

In contrast to the occasional and lower level noncompliance with fisheries regulations that occurs within the recreational, commercial and subsistence fishers there is a smaller but significant group of habitual or repeat offenders who have been characterised as:

- criminals who systematically flout fisheries regulations to profit from the illegal sale of high value fish such as abalone
- fish thieves who regularly flout the regulations for a range of personal benefits, including illegal sale, bartering or personal use
- subsistence fishers who regularly flout the regulations in order to provide themselves and their families with traditional seafood items that are not readily obtainable through normal retail seafood outlets (Victoria. Parliament. Environment and Natural Resources Committee 2002: 243).

During stakeholder consultations three key risk factors which might facilitate the infiltration of organised crime into the industry were identified:

- the structural nature of the industry
- the profitability of the sector
- the entrepreneurship of organised crime groups.

Structurally the sector comprises many small business ventures, subject to seasonal fishing fluctuations and competition from seafood imports that create financial pressures. The sector is also characterised by seasonal work which can attract individuals with involvement in other criminal activity such as poaching and the distribution of drugs. These structural factors can reduce the resiliency of the sector to organised criminal activity.

As resources become scarcer and therefore more valuable, it is to be expected that there will be commensurate growth in poaching and illicit markets. Systematic criminal activity, which is more likely to target the vulnerable and most valuable species, not only escalates the level of illegal activity but also its impact. It has been argued that one impact is an increase in criminal activity generally in the Australia domestic fishing sector, such as environmental offences, theft, fraud, quarantine violation, tax evasion and serious crime against people, including murder (MacKinnon 2003: 2). The increasing profitability of the sector (as resources are depleted) makes the sector more attractive to organised criminal groups.

The potential consequences of more organised criminal activity, particularly if it involves established criminal networks with overseas connections, include:

- damage to the habitat of fish through improper fishing practices
- rapid and severe depletion of key fish stocks

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- seafood hazardous to health due to poor handling and illegal processing
  - pressure on legitimate markets and producers, due to unfair competition
  - threats to fisheries officers and legitimate operators.

Some of these consequences are evident in overseas countries. Illegal exploitation of specific species in the RFE, Canada, South Africa and New Zealand has brought some industries to a standstill. For example, South Africa and Canada's abalone industries have been much reduced. In the RFE, the King crab and Alaskan pollock sectors suffer from high levels of poaching. While New Zealand's paua (abalone) fishery has been heavily targeted by organised crime groups and several coastal fishing areas have been closed, it remains a viable industry. For example, the annual legal catch is 1,057 tonnes and it is estimated that an additional 1,000 tonnes is poached (Heatley 2004).

The entrepreneurship of criminal groups is evidenced by overseas experience. This demonstrates how organised crime can be involved in domestic fishing sectors, and can use both fish and fishing vessels to facilitate trade in illicit goods and illegally sourced resources. The increasing demand globally of high value, low volume seafood products (for example, shark fin, bêche-de-mer, seahorses, the restaurant live fish trade, aquarium fish, abalone, rock lobster, native fish) means that they may be traded for and with other illegal commodities, for example, drugs, arms, and people (human trafficking/sexual slavery). However, the level of organised criminal involvement in the fishing sectors varies within and between countries, with much of this evidence pointing to fishing vessels being used to facilitate other criminal activity. Known examples include:

- COC groups linked to the fishing industries of South Africa, Australia and New Zealand
- active links between FSU and COC organised crime include other commodities, apart from fish, for example, timber, ferrous and nonferrous metals and gold in the RFE
- FSU groups are reputedly involved in arms smuggling, fraud, car theft and drug trafficking and COC groups are linked to abalone and shark smuggling, illegal rhino horn and ivory trading, drug importation and distribution, money laundering, tax evasion, human trafficking and trade in contraband goods in South Africa (Gastrow 1999; United States. Drug Enforcement Administration 2002; Watts 2003)
- active OMCG involvement in a variety of crimes, including the use of fishing vessels to transport drugs, and the possible infiltration by FSU crime groups of Canada's west coast fishing industry (Royal Canadian Mounted Police 2001).

As organised crime increases its involvement in this sector, there is evidence emerging that many of the groups such as COC, FSU crime groups, Yakuza (Japanese organised crime groups) and OMCG are developing cooperative arrangements to facilitate the supply and distribution of a range of illegally obtained or illicit commodities. In the RFE, FSU crime groups, the Yakuza and COC allegedly cooperate over commodities such as fish and timber

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(Curtis et al. 2003), with FSU crime groups and COC also cooperating in the supply of drugs and alcohol, human trafficking, illegal immigration and gambling.

Systematic criminal involvement in the international traffic of illegally sourced fish products is facilitated by networking between different crime groups, as and when the need arises. A wide range of criminal activities may be associated with the illegal trade, including the concealment of financial transactions and profits. These crimes include violence, corruption, fraud, and money laundering, with the transfer of the proceeds of crime across networks and national borders through such methods as transfer pricing and underground banking (McCusker 2005; Willetts 1998).

## Capacity to deal with organised criminal activities

There is a considerable body of literature on debates relating to fisheries conservation and management regimes, for example quota systems and marine parks (Bellwood et al. 2004; Carter 2003; Day 2002; Foster & Haward 2003; Hannesson 1998; Harvey, Clarke & von Baumgarten 2002; Hilborn, Punt & Orensanz 2004; Hønneland 2000; Jentoft 2000; Kearney, Andrew & West 1996; Manson & Die 2001; McCay 1995; Phillips, Kriwoken & Hay 2002; and Wescott 2000) some of which relate to specific types of fishing industries. There is also a body of legal scholarship dealing with international agreements to protect fish stocks (for example: Barkin & DeSombre 2000; Barston 1999; Cole 2003; Johnston & VanderZwaag 2000; Mann Borgese 2000; Stokke 2000).

Although it is important to have international and national regulatory regimes that seek to protect the environment and ensure industry sustainability, they are not primarily aimed at tackling serious fisheries crime or organised criminal activity linked to the fishing industry. Addressing organised criminal activity in fishing creates law enforcement challenges for all the countries examined (South Africa, Russian Federation, Canada, and New Zealand). The most extreme example, the involvement of FSU crime groups in the RFE's fishing industry, highlights the ability of organised crime groups to infiltrate vulnerable or weakened law enforcement organisations. The sustainability of the RFE fishing industry is threatened by a failure to address organised criminal activity in the industry because of official corruption and bureaucratic infighting, lack of resources (including the termination of government subsidies), and regulatory inadequacies. As well, the importation of poached seafood (in this case predominantly to Japan) demonstrates that where there is the demand there can be a thriving black market in fish, even in highly regulated environments.

Overseas experience suggests there are key factors that can hinder efforts to reduce and prevent organised criminal activity, including:

- a weak or complex regulatory environment
- inadequate resources and expertise

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- corruption and poor governance
  - insufficient cooperation between key agencies nationally and internationally.

## Conclusion

It was not possible within the scope of this research to compare the perceived levels of criminal activity in the fishing industry with other industries' or sectors' experiences of crime. The AIC has undertaken research that has investigated farm crime and crimes against small business, but these focused on their experiences of victimisation, where for example, a theft or vandalism is perpetrated against the business. The literature on organised criminal activity suggests that there is extensive infiltration of natural resource sectors and illegal trade in these resources in many parts of the world. Areas of exploitation include illicit trafficking in natural resources including petroleum, timber, diamonds and other minerals (Environmental Investigation Agency 2004; United Nations 2005) and the trade in wildlife (Cook, Roberts & Lowther 2002; Lin 2005; Naylor 2002; Warchol 2004). However, Australia's economic and political circumstances are different from many of these countries, so that it is less vulnerable to the most excessive forms of corruption and illegal activity. There are, however, characteristics of the fishing industry – the regulatory framework that separates commercial from recreational activity, the use of boats, the many small operators involved in fishing and processing, the value and portability of some fish commodities, and its geographical spread which means that fishing occurs even in the most remote parts of Australia – which lend itself to certain kinds of hard to detect criminal activities.

There are several reasons that the fishing industry in Australia may be attractive to organised crime groups. The industry comprises small businesses with relatively little cohesion and organisation. This may help to facilitate infiltration by crime groups, which may operate vertical businesses, collude with the processing and distribution sector and have overseas links. It is possible, either now or into the future, that there will be links built between COC/FSU/OMCG in Australia to facilitate transnational trafficking in illicit goods and resources, including fish.

To better understand whether this is a likely scenario and to assess whether Australia can deal with such infiltration, three key questions guided the research:

- What is the nature and extent of illegal activity in the Australian fishing sector?
- What is the current response to illegal activity?
- Could improvements be introduced to reduce the risk of systematic criminal exploitation of valuable fish resources?

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The next chapter presents findings relevant to the first question about the nature and extent of criminal activity in Australia's fishing industry. The following two chapters present information that addresses the question about current responses in terms of legislation, law enforcement, prosecution and court outcomes. Both chapters include relevant findings from the stakeholder consultations, and from the legislative and literature review. The former presents key results from the national survey that relate to law enforcement, while the latter presents some findings from the analysis of prosecution and court outcome data. The final chapter addresses the question of what could be improved by highlighting some good practice examples and ways forward that were identified during the project.

## **Nature and extent of criminal activity in Australia's fishing industry**

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In Australia, a number of inquiries and reports have looked at the regulation of the fishing industry, however to date the only publicly available reports that have examined crime in Australia's fishing industry are from the AIC's research on illegal abalone catch (Tailby & Gant 2001) and investigation into illegal fishing for commercial gain or profit in New South Wales (Palmer 2004). Both these reports found evidence of illegal activity, notably the poaching of abalone, but relied primarily on anecdotes and particular cases to suggest that organised criminal groups were involved in the fishing industry. It was therefore important to investigate in a more systematic manner whether stakeholders across the nation believed there was much illegal activity, whether any of this activity was connected to organised criminal groups, and what the activity involved.

Australia-wide consultations with industry stakeholders, fisheries and law enforcement agencies highlighted that:

- illegal activity occurred within all fishing sectors (commercial, recreational and Indigenous) in all Australian jurisdictions, and that the recreational sector can provide good cover for organised criminal activity
- organised crime involvement was more likely within a high value, low volume fishery such as abalone.

The main points about perceived types of illegal activity in the fishing industry that emerged from the consultations included:

- most commercial and recreational fishers are compliant (between 85–90 percent according to key stakeholders during 2004 consultations, although lower percentages were obtained from the survey of fisheries officers when asked about levels of criminal activity in the fishing industry in their local area)
- high value seafood destined for overseas markets is more likely to attract organised criminal networks
- the majority of illegal activity is opportunistic and might involve individuals or small family groups who sell the illicit product to clubs, pubs and restaurants
- fishing boats are sometimes used for criminal purposes, mainly illicit drug distribution
- certain commercial fishing sectors are likely to have workers involved in illicit drug use, which makes them more vulnerable in involvement in other criminal activity
- fishing businesses – vessels, processing, aquaculture – have the potential to be used for illegal activities, such as money laundering.

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## Strategies used by offenders

During consultations, stakeholders described instances of fisheries crime that highlighted how offender strategies varied depending on the species being targeted, what regulations applied, and the level of organisational capacity of the offenders. For example, in relation to abalone:

- Both Queensland and Western Australia stakeholders referred to instances where tourists or overseas students had been involved in hiding illegal abalone in carry-on luggage on overseas flights.
- A sophisticated operation involving the illegal export of abalone was uncovered by Operation Oakum in 2002. The abalone was poached in Tasmania by out of state divers who dived at night and undertook surveillance of police. The range of strategies employed to avoid detection en route out of the country included manipulation of weights on dockets, involvement of an aircraft company, concealment of abalone in crates in furniture vans that went to Queensland, from where it was supplied by consignment to Hong Kong. Corrupt insiders appear to have been involved at both ends, with a former police inspector implicated in Tasmania and a Customs official in Hong Kong.
- In the recreational sector, a number of stakeholders referred to incidents of groups of five to eight people masquerading as recreational fishers and harvesting 10 abalone each. In Victoria, one crew used a vessel and four different people a day, involving a total of 40 people and 10 vehicles that travelled to remote parts of the coastline. According to stakeholders, illegal divers are becoming more sophisticated in Tasmania and Victoria, with some using re-breathers to hide their bubbles, working at night with underwater lights and using global positioning systems. In South Australia stakeholders referred to family run abalone reef pickers, who conceal the abalone in their clothes. In New South Wales stakeholders referred to the targeting of national parks by illegal divers, and to Aboriginal family groups in some locations, who were reputed to be well organised with half a dozen groups working on the coast in specific areas.

Victorian stakeholders indicated that problems in the rock lobster industry were focused in the licensed sector. They observed that it was much more difficult to harvest rock lobsters, but that they were easier to sell, for example, to restaurants and clubs, given the size of the domestic market. It is not usual for rock lobsters to be exported illegally, given their size and packaging requirements. New South Wales stakeholders mentioned two methods by which commercial fishers could be involved in the black market – long liners picking up other people's pots and sending illicit untagged product to legitimate processors in Sydney and Queensland. Western Australian stakeholders discussed supposedly recreational fishers going to inshore reefs and taking large quantities.

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Stakeholders provided a range of cases that exhibited different methodologies and levels of organisation in other commercial fisheries. For example, in the Northern Territory, stakeholders considered that large scale and well-organised shark finning had developed in northern Australia, with family groups and companies involved. They also discussed the crab industry, where crabs are harvested in remote areas, mainly on mud flats, and excess potting is believed to be anything up to double or triple the number of licensed pots, with crabbers using string to link pots. Asian crabbers working around the coastline, staying in often rudimentary camps in remote and hard to access locations, often do not keep records, which makes it very difficult to monitor compliance or to know to whom licences have been subcontracted. In 2004 Northern Territory police uncovered a cross nominating system with operators nominating each other on their licences so that they can pull each other's pots. Live crabs are sent to Darwin in crates and may be airfreighted to other parts of Australia or handed over to a trader-processor in Darwin.

As well as the well organised illegal take of abalone and rock lobster in the recreational or unlicensed sectors, some Commonwealth stakeholders believed ongoing recreational activity could be masking commercial scale activity in many other species. This is indicated by practices such as the lack of documentation in restaurants for live fish products and the use of freezer trailers to transport fish home. Fishing competitions were also identified as a potential avenue of participation in the cash economy. Specific examples given by stakeholders during consultations in the various jurisdictions included well-organised operations in South Australia involving the illegal recreational take of KGW, often by unemployed people or persons on a pension. Stakeholders indicated it was more common in rural areas with fish being sold to restaurants, clubs and hotels in towns and cities. Another example was in New South Wales where the theft of oysters can be well organised, using lifting equipment on vehicles to steal whole racks of oysters from farming enterprises.

According to fisheries officers who participated in the national survey, the most common strategy used by offenders to avoid detection of their fishing-related criminal activity (see Table 4) was concealed spaces in boats and vehicles (52%). The next two most common strategies involved the active use of intelligence and monitoring of the activities of fisheries officers – these were counter surveillance (for example, lookouts or guards; 51%) and knowledge of fisheries officers' movements and equipment (38%). These strategies require premeditation and funding; either for modification of vehicles or boats, or payment of associates.

The fisheries officers also believed that offenders are more likely to pose as recreational fishers, either in concert or acting alone (36% and 30% respectively) than as commercial fishers (30% and 11% respectively). Other common strategies include mixing the legal and illegal catch during processing (32%) and transportation (28%), documentation fraud (31%) and dummy runs (where an activity diverts officers' attention away from the actual illegal

operation; 30%). Relatively few officers reported the frequent use of false identification and registration, posing as legitimate commercial fishers or tampering with VMS.

Further analysis of the strategies officers saw as being used frequently revealed that officers who reported a lot of use of concealed spaces were also more likely to report use of counter surveillance and dummy runs. Document fraud and mixing the catch were strategies that were highly inter-correlated as were false identification and registrations.

**Table 4: Types of strategies used by offenders to avoid detection of fishing-related criminal activity (row percent)**

Strategy	Use a lot	Use sometimes	Use a little	Don't use
Concealed spaces in boats, vehicles	52	41	6	1
Counter surveillance, e.g. lookouts, or guards	51	35	13	1
Knowledge of fisheries' officers movements and equipment	38	41	18	3
Pose as legitimate recreational fishers:				
– operating in concert with others	36	39	20	5
– operating alone	30	41	23	5
Mixing legal with illegal catch during:				
– processing	32	49	16	3
– transportation	28	46	23	3
Fisheries documentation fraud	31	47	18	4
Dummy runs	30	36	27	7
Pose as legitimate commercial fishers				
– operating in concert with others	13	36	33	18
– operating alone	11	30	40	19
False identification and registrations	13	35	41	11
Tampering with Vessel Monitoring Systems	4	25	39	32

Survey question: In your view, how often do offenders in your local area use each of the following strategies to avoid detection of their fishing-related criminal activity?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n=567

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## Types of offenders

As the more serious and organised criminal activity is likely to involve more sophisticated strategies, a framework for identifying the different types of offenders and activities is essential. Victoria has identified a typology of criminal activity that underpins their regulatory activity:

- opportunistic
- low level organised
- high level organised groups.

The latter might involve a range of fishers and organised processing and marketing (including export). Another and complementary approach is to categorise different type of offenders who differ in levels of sophistication and method. For example, abalone poachers have been grouped into:

- organised poachers who work in crews and facilitate distribution
- licensed divers who use fraudulent documentation
- shore-based divers who poach abalone
- extended family groups who harvest recreational bag limits and sell to restaurants and other businesses
- individuals who opportunistically poach over the recreational bag limit (Tailby & Gant 2002).

In terms of high level organised offending, the stakeholder consultations revealed concerns in a number of jurisdictions about existing involvement of OMCGs or AOC groups. For example, in Western Australia, an OMCG was said to have been involved in the theft of pearls; in the Northern Territory, OMCGs were reported to have purchased and subsequently sold fishing licences; and in South Australia, enforcement stakeholders believed that an OMCG had been involved in the illegal abalone trade. In Queensland a ROC group was thought to have purchased fishing vessels in order to distribute illicit drugs.

## Vulnerable species

While abalone and shark have been targeted by organised crime groups, the consultations indicated that stakeholders were concerned about a range of other species. These include Murray cod, KGW, barramundi, rock lobster, mud crab, live coral reef fish, snapper and prawns (see Table 5). While Hong Kong is the main market for illegally fished abalone and shark fin, stakeholders reported an extensive illicit Australian market for these other species.

The market includes clubs, restaurants, hotels, fish and chip shops, as well as bartering for services in kind.

**Table 5: Stakeholder perceptions of vulnerable species and fisheries**

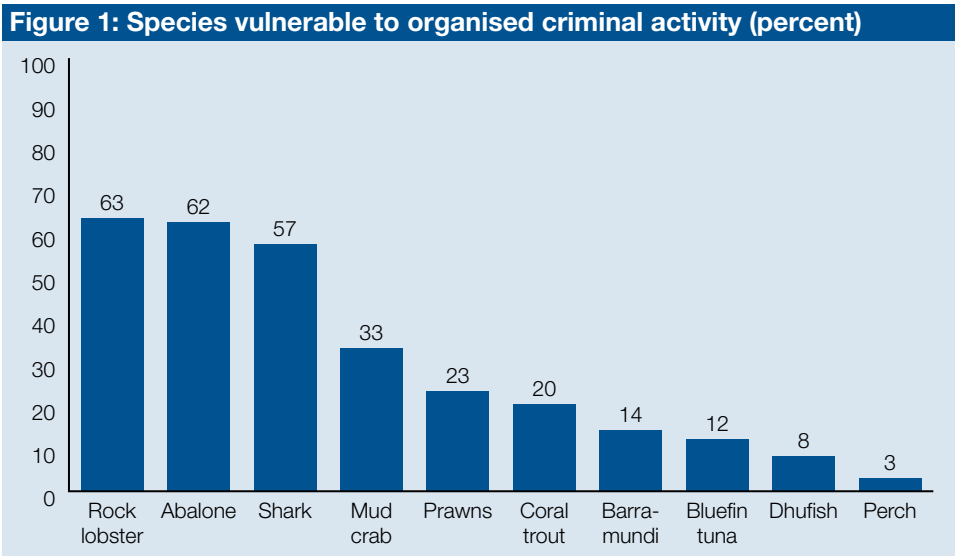
Commonwealth	Vic	Tas	SA	WA	NT	Qld	NSW
Abalone	Abalone	Abalone	Abalone	Abalone	Mud crab	Torres Strait fishery (e.g. tropical rock lobster and sea slugs)	Abalone
Shark	Rock lobster	Rock lobster	Rock lobster	Rock lobster	Shark		Rock lobster
	Eel		Marine scale fish (e.g. KGW)	Pearling	Barramundi		Offshore fisheries (tuna, shark, prawn)
	Native fish			Shark	Timor box fishery, prawns, pearling, abalone, bêche-de-mer	Trawl sector	
	Live seahorses, yabbies, squid and snapper		Shark	Dhufish, snapper, shell, coral, ornamental fish		Live coral reef fish	
						Crabs	Eel, oysters, aquaculture

Source: National stakeholder consultations, 2004

Figure 1 shows the species fisheries nominated by officers as the most vulnerable to organised criminal activity in their local area. Officers could nominate more than one species. Overall, rock lobster and abalone were perceived to be the species most vulnerable (63% and 62% respectively), followed by shark, and with it, shark fin (57%). In contrast, only three percent of fisheries officers believed that perch were vulnerable to organised criminal activity. Further analysis of the data revealed jurisdictional differences in species perceived to be vulnerable.

Jurisdictional differences in officers' perceptions of species vulnerability to organised criminal activity are, as might be expected, influenced by whether the state or territory has a significant fishery of a particular species. It also should be borne in mind that a number of jurisdictions – the Commonwealth (AFMA), Australian Capital Territory and Northern Territory – had only a small number of respondents. Similar to what emerged through consultations and summarised in Table 5, abalone was identified as the most vulnerable by nearly all fisheries officers in Tasmania, Victoria, South Australia and Western Australia. A major proportion of fisheries officers in all jurisdictions except the Australian Capital Territory, the Commonwealth, Northern Territory and Queensland also identified rock lobster as most vulnerable. A large proportion of fisheries officers in AFMA (78%), Western Australia (66%), Queensland (64%) and the Northern Territory (100%, ie both respondents) selected shark as most vulnerable. Mud crab was selected by quite a few officers from the Northern Territory (100%) Queensland (80%) and New South Wales (46%). Barramundi was seen as most vulnerable by all Northern Territory officers, bluefin tuna by 29% of South Australian officers

and prawns by 46% of New South Wales officers. These data are consistent with the stakeholder interviews and the anecdotal evidence to date.

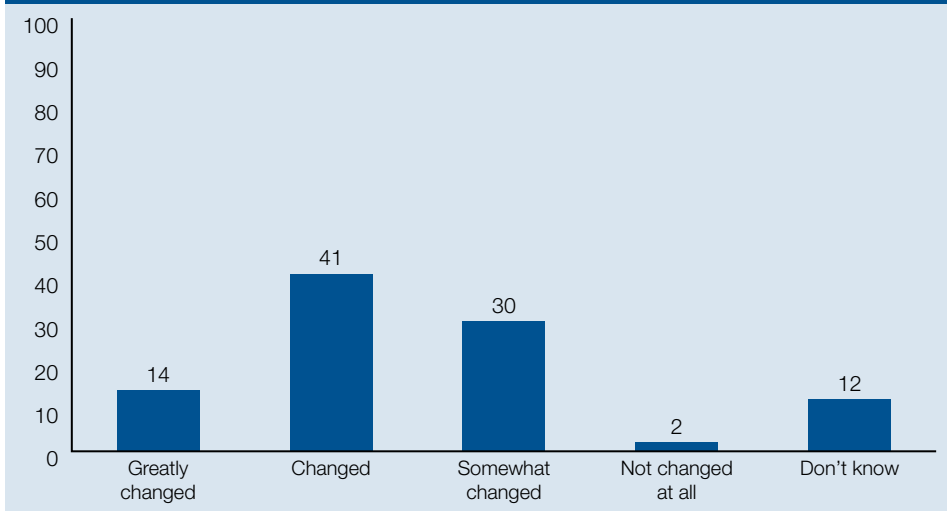


Survey question: In your view, what species are most vulnerable to organised criminal activity in your local area?  
Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n=567

## Type of criminal activity

The majority of fisheries officers (85%) believed that the types of criminal activity encountered by fisheries enforcement agencies had changed to some degree over the past five years, with a further 12 percent undecided (see Figure 2 below). The consultations with stakeholders suggest that at least some of the change is due to heightened awareness of, or an increase in, organised criminal activity in the fishing sector. When asked about their perceptions of organised criminal activity in their state or territory 26 percent of fisheries officers said there was a lot of criminal activity, 58 percent said there was some, 14 percent said there was little with no officers believing there was none (see Figure 3). Where officers indicated there was a lot of organised criminal activity in their jurisdiction, the overwhelming majority said that criminal activity had either greatly changed (38%) or changed (39%). In contrast to those officers who believed there was a little organised criminal activity the majority (61%) said criminal activity had somewhat changed. This lends support to the view that some of the change in criminal activity is linked to organised criminal activity.

**Figure 2: Level of change in type of criminal activity encountered by fisheries enforcement agencies over the past five years (percent)**

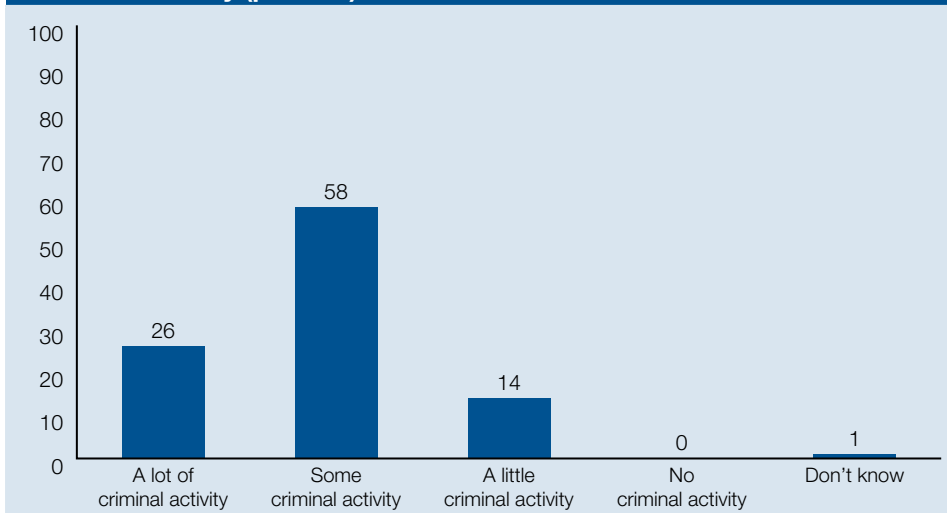


Survey question: Do you believe that the types of criminal activity encountered by fisheries enforcement officers has changed over the past five years?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n=567

There was significant jurisdictional variation in the extent to which a lot of organised criminal activity was seen to be occurring. Not unexpectedly the Australian Capital Territory officers reported none, followed by six percent of officers in Queensland, eight percent in Tasmania and nine percent in Western Australia. Many more officers in South Australia (42%), New South Wales (44%), the Commonwealth (44%) and Victoria (49%) reported a lot of activity.

**Figure 3: Perceptions of the extent of organised criminal activity in state/territory (percent)**



Survey question: Do you believe that there is organised criminal activity operating within the fishing industry of your state/territory?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n=567

Fisheries officers were asked a number of questions about fishing-related criminal activity in their local area/region/district (see Table 6). Just over 60 percent believed that less than 20 percent of the fishing industry was involved in fishing-related crime. A further 20 percent believed there was more criminal involvement by the fishing industry – between 20 and 40 percent of the industry. The majority of officers (71%) believed that less than one fifth of this criminal activity could be linked to organised crime, with half of the officers believing the organised criminal activity in the past year involved other illegal commodities. Around a quarter of officers did not know how much organised criminal activity involved illegal commodities other than fish in their local area.

Cross tabulations showed that more than half of all officers (52%) believed that less than one fifth of the fishing industry in their area or district was involved in fishing-related criminal activity and less than one fifth of that activity constituted organised crime activity. Among the small number of officers who believed that a significant proportion of the local fishing industry was involved in fishing-related criminal activity, the majority (65%) said it was organised criminal activity. This would indicate that a very small number of officers are either specialising in work that addresses organised criminal activity or that they are located in a hot spot for organised criminal activity. For the vast majority, however, criminal activity is more likely to be a matter that they dealt with on an intermittent basis, with most of it not being linked to organised crime.

**Table 6: Fishing-related criminal activity in local area/district/region (row percent)**

Strategy	<20	21–40	>40	Don't know
Percent of fishing industry involved in fishing-related crime <sup>a</sup>	61	22	9	7
Percent of local criminal fishing activity that is organised crime <sup>b</sup>	71	9	4	14
Percent of organised criminal activity that is involved in other illegal commodities <sup>c</sup>	47	10	15	28

a: Survey question: In your opinion, what proportion of the fishing industry in your work area/district/region is involved in fishing-related criminal activities?

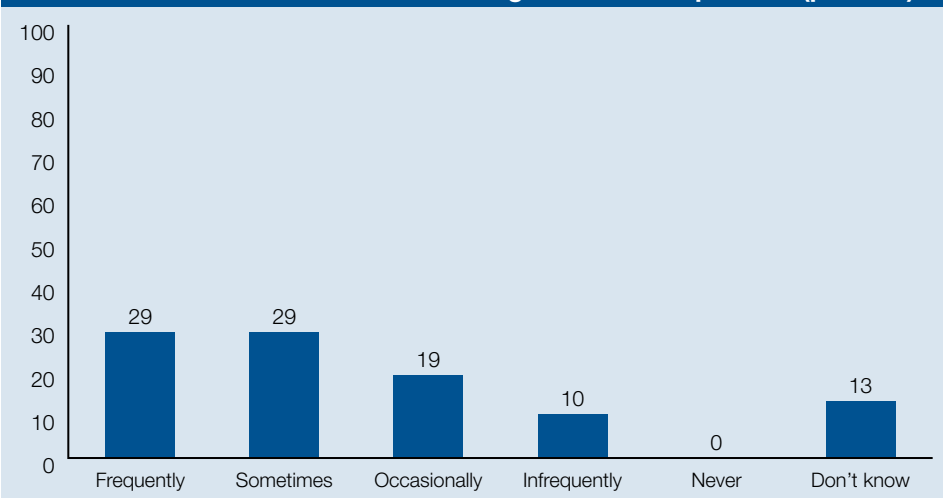
b: Survey question: In your opinion, what proportion of this [fishing-related] criminal activity in your work area/district/region is organised criminal activity?

c: Survey question: In the past year, in your view, what proportion of organised criminal activity in the fishing industry in your work area/district/region also involved other illegal commodities?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n=567

The fisheries officers were also asked whether they believed their local area/district/region was being used as a transit point for the movement of illegal fish or fish product. All officers thought that it did happen, with the majority (58%) saying it happened frequently or sometimes (see Figure 4). There were noticeable variations on the extent to which movement occurred illegally across jurisdictions. Only 22 percent of Commonwealth fisheries officers reported that illegal movement occurred frequently or sometimes in their area or region. Around one third (34%) of Western Australian officers reported frequent/sometimes movement, compared with 58 percent in Queensland, 61 percent in Tasmania, 67 percent in New South Wales, 68 percent in South Australia, 76 percent in Victoria and 100 percent in the Northern Territory.

**Figure 4: Area/district/region being used as a transit point for interstate/international movement of illegal fish or fish product (percent)**



Survey question: Do you believe that your work area/district/region is used as a transit point for the movement of illegal fish product or other illegal commodities to interstate or international locations?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n=567

## Conclusion

Australia-wide consultations with industry stakeholders, fisheries and law enforcement agencies highlighted that illegal activity occurs within all fishing sectors (commercial, recreational and Indigenous) in all Australian jurisdictions, and that the recreational sector can provide good cover for organised criminal activity. It was further found that organised crime involvement was more likely within a high value, low volume fishery such as abalone.

The main points about types of illegal activity in the fishing industry that emerged included:

- most commercial and recreational fishers are compliant
- high value seafood destined for overseas markets is more likely to attract organised criminal networks
- the majority of illegal activity is opportunistic and might involve individuals or small family groups, who sell the illicit product to clubs, pubs and restaurants
- fishing boats are sometimes used for criminal purposes, mainly illicit drug distribution
- certain commercial fishing sectors are likely to have workers involved in illicit drug use, which makes them more vulnerable in involvement in other criminal activity

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- fishing businesses – vessels, processing, aquaculture – have the potential to be used for illegal activities, such as money laundering.

On the extent of criminal activity in Australia's fishing industry, the key stakeholder consultations and the national survey of fisheries officers found that:

- there has been change in the type of criminal activity in the past five years
- there is a perception of widespread fisheries-related criminal activity, but it is confined to a minority of the fishing industry
- there is, however, a perception that a substantial minority of this activity involves organised criminal groups
- offenders use a range of strategies to avoid detection and many of these require a level of premeditation and resources both human and financial
- currently the most vulnerable species are rock lobster, abalone and shark, with a number of other species also identified as being vulnerable to organised crime.

**Law enforcement**

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The nature and range of Australian legislation on fisheries-related offences is primarily designed to regulate the fishing industry to manage the resource to ensure long term sustainability through the prevention and detection of activities that impact adversely on the fisheries environment. This includes the protection of habitat and endangered species, as well as the prevention of overexploitation of certain species by both commercial and recreational fishers.

In terms of recreational and domestic commercial fishing, there are jurisdictional differences in how fisheries are managed through quotas, licences, reporting requirements, tagging and documentation, and regulations surrounding the quantity, size and sex of specified fish stocks. There is, however, no definition within any legislation of 'fisheries crime' and what it might entail. Although there is a myriad of offences, not all of these suggest criminal activity and there is an underlying assumption, in the distinction made in some jurisdictions between first, second and subsequent offences, that a one-off or occasional offence could have been committed in error rather than with criminal intent.

Legislation in most states and territories attempts to be all encompassing in coverage, which has resulted in a large number of pieces of secondary legislation to augment the primary statutes. During consultations, stakeholders indicated that they found much of the legislation complex and complicated, and rendered more difficult by the wealth of secondary legislation. There is often a failure to distinguish between minor infringements and more serious forms of illegal catching or possession of species.

The national review of legislation revealed differences across jurisdictions including:

- nature of offences and regulatory requirements
- penalty regimes
- onus of proof
- assets confiscation
- powers of officers, for example, arrest, search and seizure.

Legislation is further complicated by complexity in law enforcement arrangements as they apply to maritime crime, as noted by one commentator:

Problems associated with controlling maritime crime include its complexity, the disparate range of agencies and levels of government that have jurisdiction over policing what happens at sea, and the international laws, treaties and regulations that add to the difficulties.

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There are at least 20 agencies and three levels of government – federal, state and local – who are responsible for policing the matters that could broadly be defined as maritime crime. These include the armed forces, federal and state police, federal and state fisheries authorities, immigration, Customs, environmental protection authorities, quarantine officials, the Australian Taxation Office, local councils, port authorities... (MacKinnon 2003: 2).

While state and territory responsibilities for fishing industries are generally restricted to all waters within three nautical mile territorial seas, these jurisdictions can also have responsibility for some fisheries out to the limit of Australia's 200 nautical mile fishing zone. States and territories are responsible for recreational fishing while the Commonwealth limits its authority to commercial fishing as well as controlling the activities of foreign fishing fleets.

States and territories vary in terms of the personnel to whom they grant powers in fisheries regulation and in the extent and/or availability of those powers. Most jurisdictions appoint fisheries officers, but three have different arrangements:

- In the Northern Territory, the Marine and Fisheries Enforcement Unit of the Northern Territory Police enforces all Territory and Commonwealth legislation covering the fishing industry.
- In Tasmania, the police Marine and Rescue Division comprises a number of squads which police the fishing of rock lobster, abalone and scalefish.
- The Australian Capital Territory uses conservation officers, whose powers are constrained.

Appendix A provides a comprehensive list of the legislation provisions across jurisdictions as they relate to enforcement powers. The differences in powers of arrest, search, entry and seizure accorded to fisheries officers is demonstrated by a summary of key powers for the different jurisdictions:

- Western Australian fisheries officers have power of entry and search of residential and non-residential properties, power of arrest and power of seizure.
- Queensland inspectors have powers of entry, boarding, seizure and the power to stop (but not subsequently to arrest) persons; the power to stop is not specifically laid out in other jurisdictions.
- Northern Territory fisheries officers have no power of arrest but may question persons, and have powers of search and seizure.
- New South Wales fisheries officers have a wide range of powers including the right to board vessels, enter and search premises, arrest and seize property.

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- Victorian authorised officers may arrest, search people and places (the right to search each person does not appear in any other legislation) and have powers of entry, seizure, forfeiture and hot pursuit.
  - Australian Capital Territory conservation officers may gain entry to places and may seize fish etc; however they have no powers of search or arrest.
  - Tasmanian fisheries officers have the power of entry, power to stop vessels and vehicles, and to arrest and search residential and non-residential premises.
  - South Australian fisheries officers have powers of arrest, entry and search; it appears there is no one set of powers to apply to all officers operating under fisheries legislation.
  - Great Barrier Reef Marine Park Authority inspectors have powers of search (including of aircraft and of individuals), arrest, and confiscation and forfeiture.
  - Commonwealth officers (AFMA) may stop boats and have the power to arrest. They can also search vehicles, boats and aircraft.

Stakeholder consultations revealed that they were aware of jurisdictional differences, both in legislation and operational practice, and that this informed their assessments of jurisdictional strengths and weaknesses (see Table 7). A recurring theme related to weaknesses was whether:

- tackling organised criminal activity should be considered a duty of fisheries officers
- it was realistic to have this expectation given their other roles
- they had the expertise and capacity to take on such a role
- they were adequately protected while performing such a role.

Fisheries officers are primarily concerned with maximising voluntary compliance and creating effective deterrence. They are responsible for enforcing a wide range of regulatory requirements related to conservation and management but they do have an enforcement role, as set out under relevant Acts. Stakeholders noted that the wide range of regulatory activities that fisheries officers are required to undertake may undermine their enforcement capacity in a context of resource constraints. That capacity is likely to be further affected if they are required to police suspected organised crime activity. It seems likely that the training of fisheries officers would not routinely prepare them for the intricacies or potential danger surrounding the investigation of organised criminal involvement in the fishing industry. In terms of being able to deal with such potential dangers there are also differences across jurisdictions in whether protective equipment or defensive equipment (such as capsicum spray or stab/bulletproof vests) is issued routinely to fisheries officers.

**Table 7: Stakeholder perceptions of legislative and operational strengths and weaknesses, by jurisdiction**

Legislative strengths	Legislative weaknesses	Operational strengths	Operational weaknesses/limitations	Cooperation/liaison with other agencies	Key changes in 2005
<b>Commonwealth</b>					
<i>Crimes Act 1914</i> and Criminal Code 1995 covers corruption offences	International law constraints	Expertise in prosecuting illegal fishing	No mandate or capacity to investigate large scale crime	Information sharing inhibited by privacy legislation	Funding of \$220 million for Securing our Fishing Future Initiative
Surveillance and controlled operation legislation	Penalties too high Not well integrated with state/territory legislation				
<b>Victoria</b>					
Powers of fisheries officers	Primary Act could be better structured	Performance monitoring	Focus on compliance, particularly with increase in marine protected areas	Vic police major fraud squad	Reviewed its investigation policies and procedures
Assets forfeiture		Training and qualifications e.g. fraud control, bullet proof vests, capicum spray		ATO	Would like access to Austrac info
Recent legislative amendments (indictable offences, penalties of up to 10 years in prison for fish trafficking)					
Reverse onus of proof					
<b>Tasmania</b>					
Strong forfeiture powers, indictable offences and penalties	Complexity	Good access to intelligence	Resources – e.g. to police Bass Strait	NCA (operation Oakum)	Police preparing a Bill to introduce crime of trafficking and other provisions
Powers of entry, search and seizure	No trafficking offences No controlled operations legislation	General policing experience	Turnover in staff as move to other areas of policing	Cross jurisdictional difficulties re warrants and police powers	Introduced labelling laws for abalone processing exporting out of the state (as have Vic and NSW)
<b>South Australia</b>					
Authorised police powers	Penalties (other than for abalone)	New software for licensing and management	Limited resources	MOU with Customs; none with police	Reviewing its legislation
Penalties for abalone offences	Lack of deeming provisions	New microchip technology	Lack of intelligence access and capacity		MOU being developed with police
Links to other legislation	Fish processor regulations Outdated e.g. technology	Upgrading vessel			Application to use pepper spray

Legislative strengths	Legislative weaknesses	Operational strengths	Operational weaknesses/limitations	Cooperation/liaison with other agencies	Key changes in 2005
<b>Western Australia</b> Additional penalty provisions Mandatory penalties and confiscation of assets Search and seizure	No indictable offences No proceeds of crimes Weak forfeiture provisions Weak possession limits Fit and proper person provision	Good negotiation skills Prosecutions advisory panel	Cost recovery dominates over intelligence driven law enforcement	MOUs with AFP, Customs and WA police	Amending legislation (trafficking, confiscation of assets) Updating prosecutions database Assessing need to provide pepper spray, batons and protective vests
	Complexity Inconsistent application penalties	Enforcement focus Indigenous marine ranger program	No tracking of product's consignment No method of verifying amount caught Not enough officers	Customs Coastwatch Office of Environment and Heritage	Training and infrastructure for Indigenous marine rangers
<b>Northern Territory</b> Power to search/seize without warrant Act administered by police					
<b>Queensland</b> Department responsible for policy and enforcement	Complexity e.g. 7 management plans Ineffective provisions Narrow range of on the spot fines No powers of entry No confiscation of assets Focus on the illegal fisher not the illegal buyer Criminal history checks not mandatory	Direct access to VMS, quota monitoring and licensing databases More specialist officers (e.g. 5 specialist investigators) and training Education programs for Vietnamese groups	Difficulties in recruiting officers Officers not armed with batons, sprays etc.	GBRMPA Dept of Transport AFMA Qld Environmental Protection Agency Difficulties exchanging info with state police or AFP	Act and regulations under review
<b>New South Wales</b> Changes resulting from Palmer report	Possession limits need reverse onus of proof No confiscation of assets Taking fish for sale not a prescribed offence	Officers' knowledge of fisheries and of the law Can arrest on the spot Without warrant can search vehicles, boats and commercial premises Tackling movement of product across state borders	Lack investigative, surveillance skills	Joint Agency Waterways Enforcement Committee (NSW Water Police, Customs, NSW Crime Commission, AFMA, NSW Fisheries, AQIS, ATO, Centrelink and the AFP)	Initiating a variety of legislative changes as a result of the Palmer report Purchased new computer equipment

Source: National stakeholder consultations 2004; stakeholder feedback 2005

Fisheries officers reported that they were taking on increasing roles across regulatory, law enforcement and conservation activities. The majority of officers (59%) indicated that they had an increasing role in compliance, and 54 percent said they had an increasing role in the investigation in criminal activity. Although the majority of officers believed they had an increasing role in the investigation of criminal activity and in law enforcement (48%), nearly one fifth (18%) said their duties had declined over the past five years in these two areas. The duties where there were perceived to be the fewest changes were in fisheries conservation and management, with over 40 percent of officers reporting there was no change in the past five years in these duties (see Table 8).

**Table 8: Change in duties carried out over last five years (row percent)**

Duties	Increasing role	Decreasing role	No change
Compliance	59	12	29
Investigation of criminal activity	54	18	28
Law enforcement role	48	18	34
Fisheries management	47	13	40
Fisheries conservation	43	15	42

Survey question: In your view, please indicate what change (if any) has occurred in the duties you have carried out in your position, over the last five years?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

The investigation of suspected organised criminal activity may pose particular challenges for fisheries officers. As part of the survey, fisheries officers were asked to rate the importance of a range of factors in monitoring and dealing with organised criminal activity. The factor that scored the highest was the personal safety of fisheries officers (77%; see Table 9), followed by intelligence capacity (69%), financial/human resources (68%), skills base of fisheries officers (65%), and dedicated investigators and analysts (62%) and 58 percent saw infrastructure as very high in importance. A much lower proportion of officers ranked access to related legislation as being very important in the day to day monitoring and dealing with organised criminal activity in the industry.

**Table 9: Ratings of factors to monitor and deal with organised criminal activity (row percent)**

Factors	Very high			Very low	
	1	2	3	4	5
Personal safety of officers	77	15	6	2	1
Intelligence capacity	69	24	5	0	0
Financial/human resources	68	27	3	1	1
Skills base of fisheries officers	65	31	3	0	1
Dedicated Investigators and analysts	62	28	8	1	2
Support resources (vehicles, boats, surveillance equipment)	58	32	8	2	0
Attitude of the courts	37	45	14	3	1
Access to related legislation: Surveillance Devices Act	34	40	17	6	2
Access to related legislation: Assets Confiscation Act	26	39	25	8	2
Access to related legislation: Crimes (Controlled Operation) Act	26	39	24	7	3

Survey question: Please rate the importance of each of the following factors of monitoring and dealing with organised criminal activity in the fishing industry?

Note: percentages may not total 100 due to rounding

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

Investment in human and material resources were also identified as very important when fisheries officers were asked to rate factors that would help their organisation deter organised criminal activity. Table 10 shows that 71 percent of officers rated the personal safety of officers and the number of officers as at the highest level of importance, 64 percent surveillance capacity, 63 percent training and 52 percent supporting infrastructure. Nearly two thirds of officers also gave very high ratings to legislation and 65 percent indicated that interagency cooperation was very high in importance. The education of the judiciary and of the general public was given lower ratings in importance.

**Table 10: Ratings of factors to help the organisation deter organised criminal activity (row percent)**

Factors	Very high			Very low	
	1	2	3	4	5
Number of fisheries officers	71	22	5	2	1
Personal safety of officers	71	18	9	1	1
Legislation	65	30	4	1	0
Interagency cooperation	65	29	6	0	0
Surveillance capacity	64	32	3	1	1
Training for fisheries officers	63	29	8	0	0
Support services (vehicles, boats)	52	35	10	2	0
Education of the judiciary	43	40	13	3	0
Education of the general public	35	39	20	5	1

Survey question: Please rate the importance of each of the following factors of monitoring and dealing with organised criminal activity in the fishing industry?

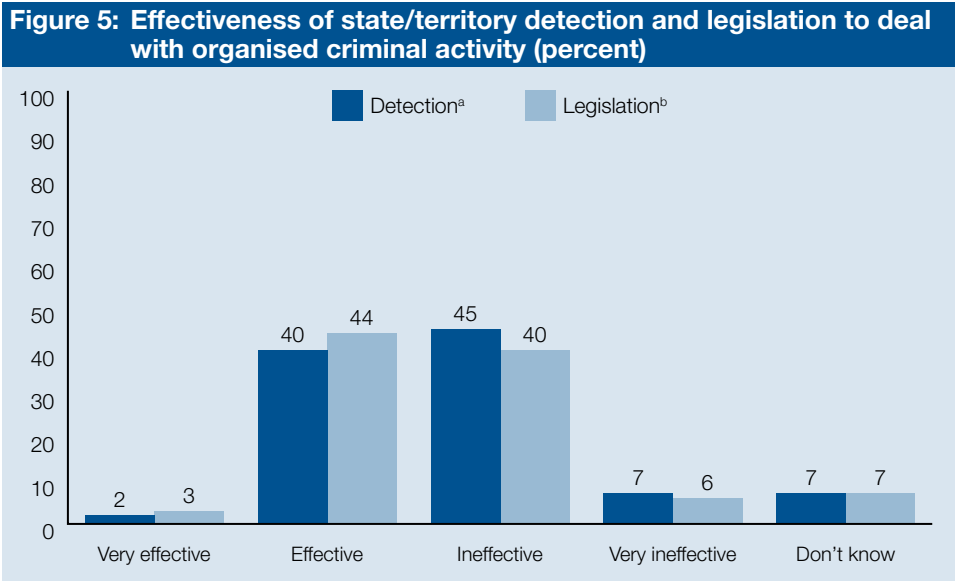
Note: percentages may not total 100 due to rounding

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

The national survey also sought to elicit officers' views on the effectiveness of their jurisdiction in detecting organised criminal activity as well as the effectiveness of legislation and interagency collaboration. An almost equal number of officers believed that their state or territory was either effective (45%) or ineffective (40%) in detecting organised criminal activity (see Figure 5). Victorian and Tasmanian officers were the most likely to believe their state or territory was effective, followed by South Australia and Western Australia. Nationally, almost equal proportions of officers also believed that the state/territory legislation was either adequate or inadequate to deal with organised crime. Given that 65 percent of officers rated legislation as a very important factor when it came to deterring organised criminal activity (see Table 10) this would suggest that many officers would view legislative reform as a priority to tackle organised criminal activity. Based on the survey results it would seem the majority of officers from Victoria, Western Australia, Australian Capital Territory and Tasmania believe their legislation is either adequate or very adequate, while officers from Queensland, South Australia and the Commonwealth were less confident of the adequacy of their legislation.

Further analysis was undertaken to ascertain whether officers' perceptions of state/territory effectiveness on a range of variables was influenced by their assessment of levels of organised criminal activity in their jurisdiction. There was only a clear trend with two variables. As the perceived level of organised criminal activity declined, so did the officers' assessment of jurisdictional effectiveness in detecting this activity – that is, the more activity, the more effective detection there is. However, the opposite trend was true in terms of the adequacy of legislation, with officers more likely to rate it as adequate or very adequate when there was believed to be lower levels of organised criminal activity. The level of

organised criminal activity had only a marginal effect on officers' perceptions of jurisdiction's effectiveness in dealing with organised criminal activity, with officers' marginally more likely to say it was very effective or effective when there was some organised criminal activity.



Survey questions: Do you believe your State/Territory is effective in dealing with detected organised criminal activity in the fishing industry?/Do you think that your State/Territory has adequate fisheries legislation to deal with organised criminal activity in the fishing industry?

a: refers to responses to the question about the effectiveness of a jurisdiction's response

b: refers to responses to the question about the effectiveness of legislation

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

The survey contained a number of questions regarding the collaboration between agencies, either within the state/territory, or across jurisdictions. Nearly two thirds of officers (65%) rated interagency cooperation very highly as a deterrent to organised criminal activity (see Table 10). Table 11 presents the officers' perceptions of the level of effectiveness of this collaboration. Cooperation between agencies within a jurisdiction was seen as the most effective with 54 percent rating it as effective. The level of effectiveness decreases when officers responded to the multi-jurisdictional aspects of the question, either between fisheries agencies (41%) or even less when it included other agencies (37%). More fisheries officers believed that multi-jurisdictional collaboration which included other agencies was less than effective (60%).

**Table 11: Effectiveness of interagency collaboration in dealing with organised criminal activity (row percent)**

<b>Collaboration</b>	<b>Very effective</b>	<b>Effective</b>	<b>Ineffective</b>	<b>Very ineffective</b>	<b>Don't know</b>
Within state/territory	9	54	25	5	7
Multi-jurisdictional (between fisheries agencies)	6	41	36	7	10
Multi-jurisdictional (including other agencies)	3	37	40	10	10

Survey question: In your view, how effective is the collaboration between agencies (within State/Territory or multi-jurisdictional) in dealing with organised criminal activity in the fishing industry?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

Another question related to the perceived frequency of information provided to fisheries officers by other nominated agencies. Table 12 shows considerable differences in perceived frequency in the provision of information. For example, fisheries officers perceived that the provision of information from the AFP and the ACC is infrequent. On the other hand, it is clear that AFMA and state/territory fisheries agencies are perceived as maintaining a steady flow of information.

**Table 12: Provision of information by agencies (row percent)**

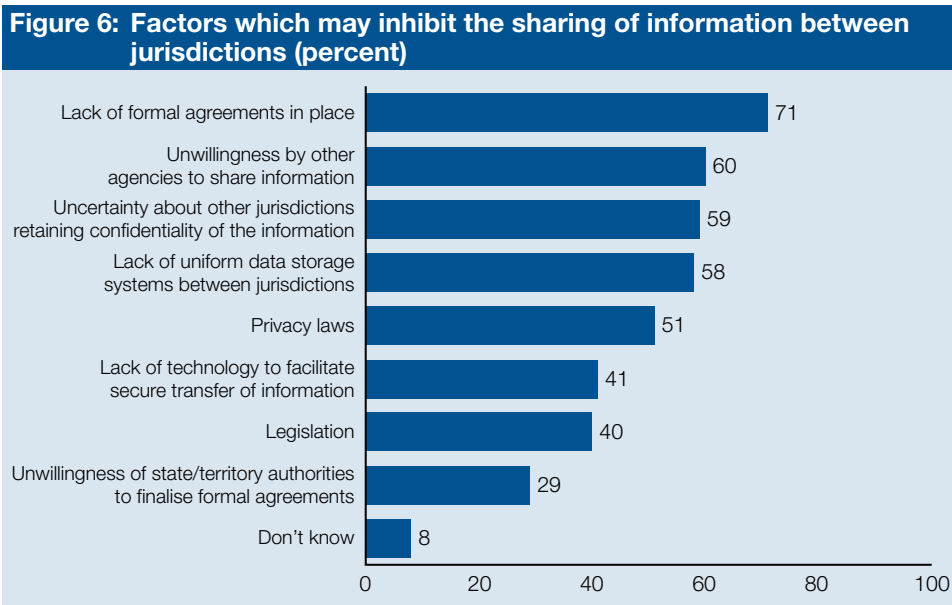
<b>Agency</b>	<b>Frequently</b>	<b>Some-times</b>	<b>Occas- ionally</b>	<b>Infreq- uently</b>	<b>Never</b>	<b>Don't know</b>
State/territory fisheries agencies	24	25	22	15	5	9
AFMA	21	24	23	12	6	14
State/territory Police Department	19	30	22	17	4	8
Australian Customs Service	10	18	28	22	8	14
DAFF	5	6	11	27	28	23
Director of Public Prosecutions	4	7	6	25	35	24
Australian Quarantine and Inspection Service	2	12	17	28	22	18
AFP	2	8	15	35	18	22
DIMA	1	3	5	29	37	24
Australian Tax Office	0	4	6	29	40	21
Centrelink	0	3	8	29	40	20
ACC	0	3	11	35	27	25

Survey question: Rate each of the following agencies in terms of how often they refer information about criminal activity in the fishing industry to your agency?

Note: percentages may not total 100 due to rounding

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

Fisheries officers were also asked whether they were satisfied that these agencies passed on information as a matter of routine. Only one percent reported being very satisfied followed by 24 percent who said they were satisfied. Most were dissatisfied (39%), and 35 percent indicated that they did not know. Seventy-one percent of officers felt that the lack of formal agreements inhibited the sharing of information between jurisdictions (see Figure 6). In addition, officers thought that other agencies were unwilling to share information (60%), or that they felt uncertain about other jurisdictions maintaining confidentiality of the information (59%). The lack of uniform data storage systems between jurisdictions was also perceived by officers as an inhibiting factor (58%).

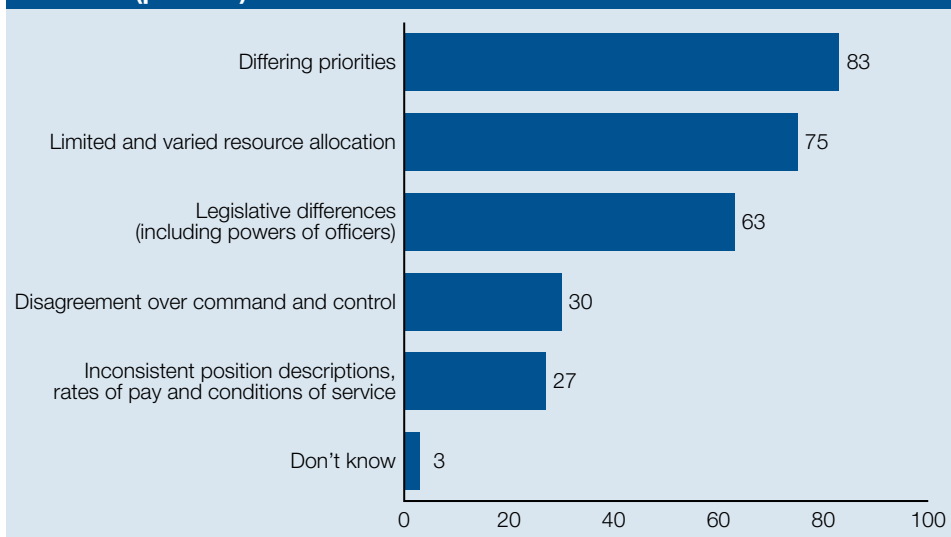


Survey question: Please indicate which of the following factors may inhibit the sharing of information between jurisdictions?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

On factors that may restrict the success of joint operations, a large percentage of officers (83%) perceived that differing priorities were a major factor (see Figure 7). Limited and varied resource allocation and legislative differences were also seen as important factors by 75 percent of officers and 63 percent felt that legislation differences also restricted the success of joint operations. A smaller but still substantial number of officers (30%) felt that disagreement over command and control affected successful outcomes as well as human resource factors associated with differential pay and conditions.

**Figure 7: Factors that may restrict the success of joint operations (percent)**



Survey question: Please indicate which of the following factors may restrict the success of joint operations?

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data; n=567

The personal safety of officers was raised frequently during consultations, and it was seen by officers as a very important factor in deterring, monitoring and dealing with organised crime activity. The national survey included a question about whether current occupational health and safety procedures provided a safe environment for compliance officers in dealing with organised crime. The majority of officers (48%) believed they did, while 29 percent of officers believed they did not. Of those officers who believed the procedures provided a safe environment, the majority (81%) said this applied most of the time and 11 percent said it applied always. Officers from Tasmania, Victoria and South Australia were more likely to believe that current procedures provided a safe or very safe environment.

## Conclusion

This chapter has documented:

- the complex and differing regulatory regimes that operate across the Commonwealth, state and territory governments
- the increasing role of fisheries officers in compliance and law enforcement activity
- that officers believe that human resources are very important in monitoring and dealing with organised crime

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- that, while officers believed effective legislation and interagency cooperation to be very important to deterring organised crime, fewer of them reported that relevant legislation and interagency cooperation are very effective
  - officers noted relatively little sharing of intelligence with law enforcement bodies but much high cooperation across state/territory fishing agencies and AFMA
  - factors inhibiting the sharing of information included lack of formal agreements, agencies unwillingness to share, issues of confidentiality/privacy and lack of uniform data storage systems
  - the success of joint operations was seen as hindered by differing priorities, limited resources and legislative differences.

A fundamental question is whether the monitoring and enforcement roles of fisheries officers can, or indeed should, be combined. From the consultations it was apparent that there are pros and cons in having a policing service responsible for fisheries enforcement. Fisheries officers are more likely than seconded police officers to have expertise in fish, their habitat and the various aspects of the industry, as well as the complex regulatory regime. On the other hand police are more likely to have the experience and expertise to deal with criminals and criminal activity. Another advantage is that they have access to national and their own intelligence databases, putting them in a better position to be informed by, and to contribute to, intelligence and operational efforts against known criminal groups.

Within the ambit of the governing legislation (in terms of the number of regulatory requirements) and within the constraints of limited resources, the question also arises whether fisheries officers have the time to deal effectively with serious and organised crime as well as the more routine (but probably more prevalent) regulatory issues such as licensing requirements. Against this backdrop of time constraints, there is also the question of the relative expertise such officers might possess in identification and knowledge of organised crime activity. Given that the survey revealed a widespread perception among officers that they have an increasing role in law enforcement and compliance activity, and there are concerns about the human resource implications of this increase, regular reviews need to address:

- training and access to specialised skills
- occupational health and safety
- referral procedures to police and other relevant agencies.

The detection of noncompliance, and in particular more serious forms of criminal activity, is enhanced by intelligence gathering and sharing. It seems there have been major improvements in most jurisdictions since the Tailby and Gant (2001) study into abalone in the way that information is recorded and stored on abalone poaching, for example with the move to the use of secure information databases and interest in some quarters in the

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adoption and use of the standard IUU form routinely completed in Victoria. However, it seems that intelligence on offenders and on illegal activity in other fisheries is not as well developed. As already noted, in the jurisdictions where the police are responsible for fisheries enforcement (Tasmania and the Northern Territory) the officers have access to mainstream police intelligence databases. However, this advantage may be lost if fisheries crime intelligence is given little priority. It may only register within state and national intelligence data collections and analysis if serious criminal networks, for example those involved in illicit drug production and distribution, are in some way connected to the fishing industry, in either the commercial or recreational sectors.

The survey of fisheries officers highlighted insufficient sharing of information by agencies and of collaboration across jurisdictions. The lack of formal agreements was seen as a major problem. Protocols to enable the sharing of information that do not breach privacy provisions would clearly be of benefit. However, there has to be some degree of agreement on the purpose of sharing the information and what the expected benefits are to all parties. Differing priorities will continue to affect the success of joint operations, as well as the willingness of agencies to collaborate with information and resource commitments. As the majority of officers rated cooperation very highly as a deterrent to organised criminal activity, it would seem prudent to invest in more formal arrangements to ensure cooperation can and does occur across jurisdictions.

## Prosecution and court outcomes

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Even where successful detection of criminal or illegal activity occurs, this does not automatically result in prosecution or in a court determination. Stakeholder consultations reported high rates of successful prosecution, such as:

- 57–80 percent in South Australia
- 90–95 percent in New South Wales
- 90 percent in the Northern Territory
- 95 percent in Victoria.

It was consistently noted during consultations, however, that it can be very difficult to successfully prosecute more serious matters. For example New South Wales stakeholders said that the courts would not take matter seriously unless it could be proven that so called recreational fishing offences were related to commercial activity. Queensland stakeholders reported that only a small percentage of their cases go to trial, with most cases uncontested. In Victoria much of the lower level offending is dealt with by penalty infringement notice.

Difficulties have been identified in the literature, in prosecuting certain kinds of more serious, environmental offences through the courts. It has been suggested that the defence formulates mitigation arguments to refute and neutralise the criminalisation of the defendant's activities (de Prez 2000: 66). It has been claimed that in Canada prosecuting lawyers are not 'especially experienced, effective, or predictable in obtaining convictions related to fisheries crime'. Even where there is a successful prosecution, there may be reluctance to impose as 'severe penalties, such as license suspensions and seizures of fishing equipment, to deprive fishers and those dependent upon them of an economic livelihood' (McMullan & Perrier 2002: 703).

Two recent sentences imposed on commercial and recreational fishers in Australia suggest that the circumstances of the offenders can influence the magistrate's decision making. In a case involving three commercial fishers catching a great white shark, the penalty handed down by the magistrate took into account their employment situation and reliance on social security benefits (Sayer 2005). In a case involving recidivist abalone poachers, the magistrate considered that the maximum penalty would have been too harsh because three of them were on government benefits and the other had four children with another on the way (Riley 2005).

In Australia there is no universally applied penalty regime across states and territories. Appendix B outlines the legislative provisions for penalties in each jurisdiction. The value of a penalty unit varies from \$75 to A\$110. Given the multiples of penalty units utilised in the state/territory statutes, the value of one penalty unit will influence the total cost of the fine significantly. A number of Commonwealth/state/territory statutes provide for the imposition of substantial fines – for example, Tasmanian legislation provides for a fine of \$500,000 for

the taking of abalone, and the Commonwealth legislation provides for a fine of \$825,000 for foreign boats being used for commercial fishing in Australian waters. Furthermore, a number of state/territory statutes provide for the imposition of a term of imprisonment in addition to, or instead of a fine.

It was apparent during the stakeholder consultations, that many fisheries staff considered the existing penalty regimes inadequate, and that the courts were too lenient. The examination of data from four jurisdictions on charges and court outcomes suggests that severe penalties are rare. However, the findings are suggestive rather than conclusive. Due to missing or incomplete data and differences in recording practices, it was only possible to highlight some basic trends within jurisdictions, including the number of charges, location and outcomes. The data can be analysed in three ways – charges, offenders and events. The number of charges can vary for each event. Similarly there can be more than one offender per event or more offenders than events due to multiple offending episodes. For example in Victoria in 2003 there were 1,365 charges, 357 unique offenders and 431 events. In Northern Territory there were 60 charges 29 offenders and 42 events. Because of the lack of identifier information it was not possible to track Queensland or AFMA data (see Table 13).

Data were received from Queensland, Northern Territory, Victoria and AFMA, for 1999–2004. It should be noted that data for the Northern Territory include offences dating back to 1987 (2), 1994 (1), 1996 (4), and 1997 (16).

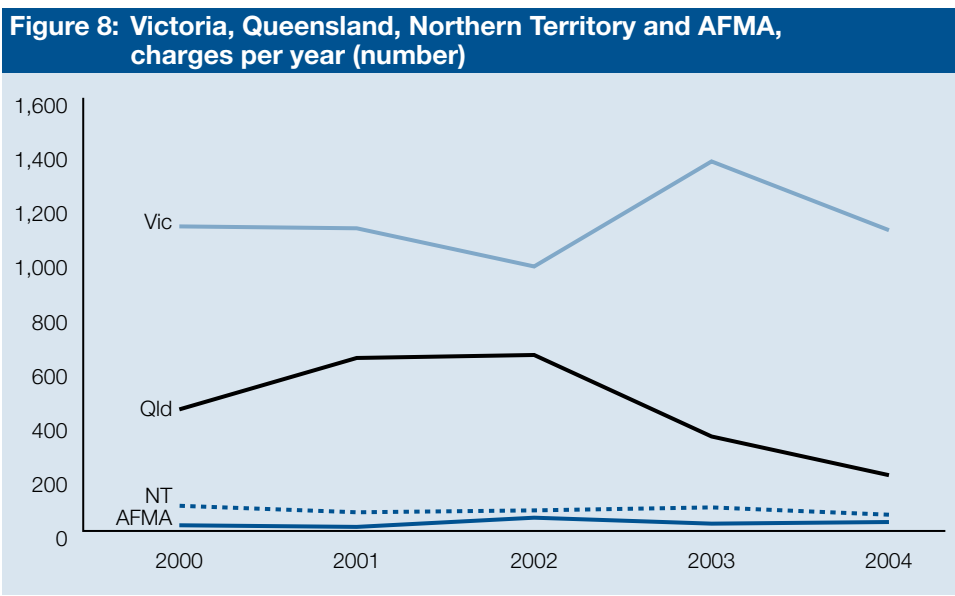
The large number of charges per offender in Victoria could result from minor infractions by recreational fishers acting illegally. There is a relatively low number of offences recorded by AFMA for the same period. As AFMA deals with Commonwealth commercial fisheries, its officers are unlikely to come across recreational offenders, who may form a considerable percentage of offenders from state/territory jurisdictions. For example, the majority of offences occurring in Commonwealth waters during the period under review related to breach of permit conditions (102 offences, n=152).

Table 13: Tracking charges, 2003			
Jurisdiction	All charges	All offenders	Number of events
Victoria	1,365	357	431
Queensland	348	Not defined	–
Northern Territory	60	29	42
AFMA	26	No unique identifier	–

Source: AIC, Victoria, Queensland, Northern Territory and AFMA prosecutions and sentencing data 1999–2004; AFMA 2003 [computer file]

Figure 8 shows the offences per year for all four jurisdictions for the years 2000 to 2004. Victoria registered a sharp spike in charges for the year 2003 (up to 1,365), followed by

a drop the following year (down to 1,111). Queensland also registered a drop in charges between 2003 (348) and 2004 (205). Likewise, the Northern Territory dropped from 58 charges in 2003 to 17 charges in 2004. AFMA, on the other hand experienced an increase, from 17 offences in 2001 to 47 offences in 2002, and then back down to 26 in 2003 and 30 in 2004.

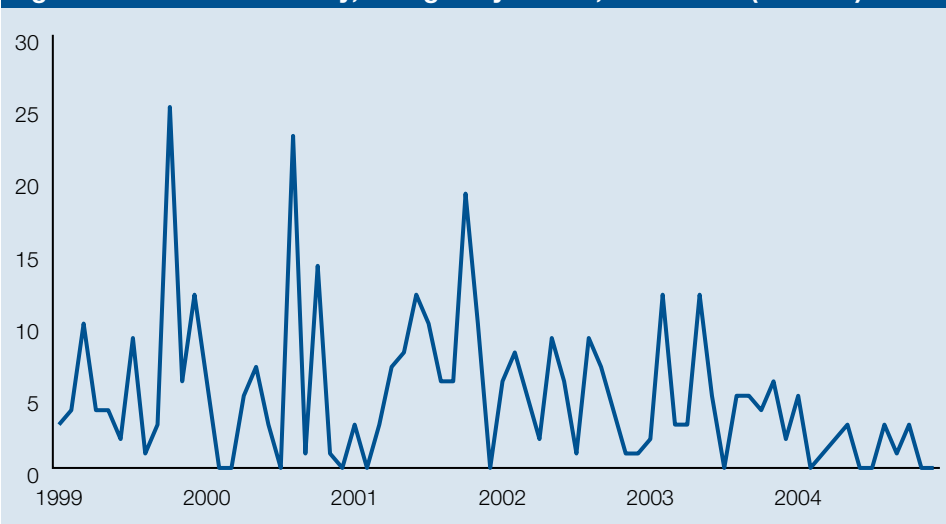


Source: AIC, Queensland, AFMA, Northern Territory and Victoria prosecution and sentencing data 1999–2004 [computer file]

When the charges by jurisdiction are analysed by month, there are clear seasonal variations and similarities each year. The variations could be a result of many factors including the extent of fishing effort and levels of surveillance.

In the Northern Territory, October appears to be a peak month for charges, in particular for the earlier years examined: 1999 (25); 2000 (14); 2001 (19). Rates dropped for October in 2002 (4); 2003 (4) and 2004 (3), when there was a general decline over the three years in the number of charges.

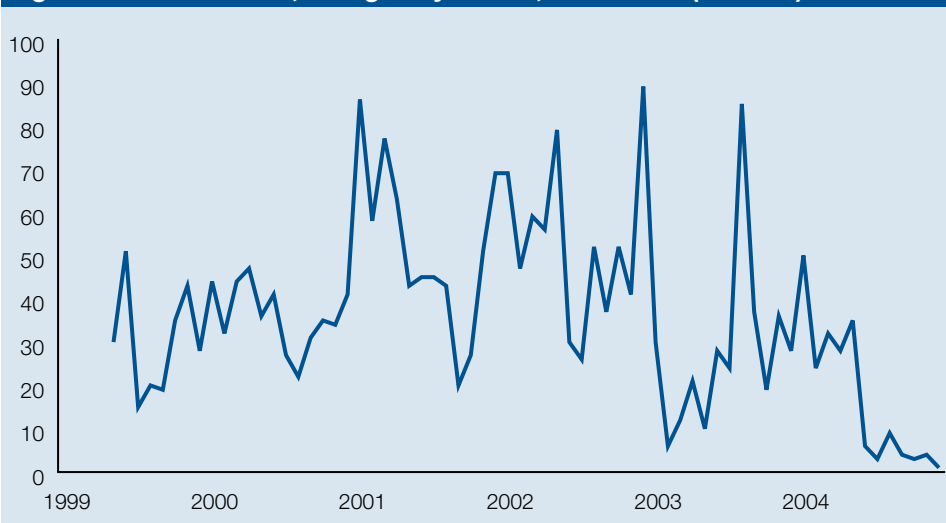
**Figure 9: Northern Territory, charges by month, 1999–2004 (number)**



Source: AIC Northern Territory prosecutions and sentencing data 1999–2004 [computer file]; n=448

In Figure 10, the number of offences per month in Queensland shows considerable variation. For example, there are sharp spikes during the summer months of December and January. Over the years examined there are also more charges recorded for April, May and August. Also of interest is the clear decline in charges during 2003 and particularly in the latter six months of 2004, after a peak of 35 offences in May that year.

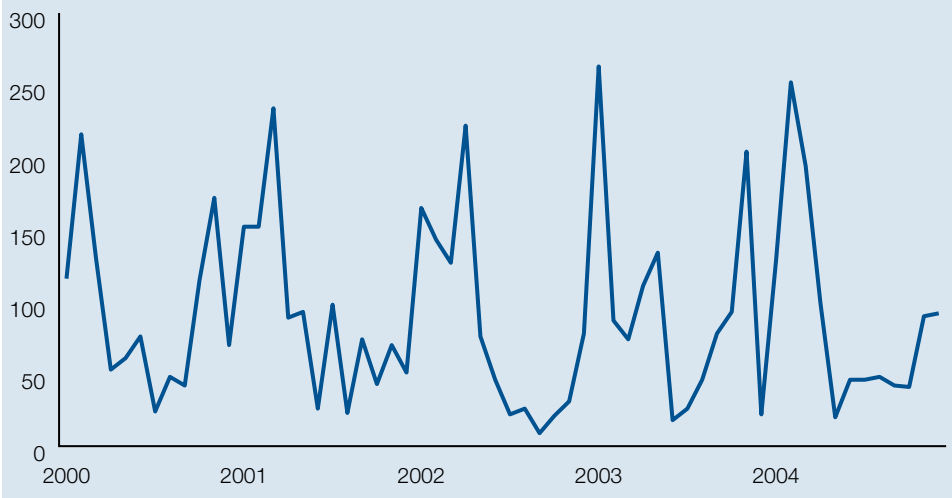
**Figure 10: Queensland, charges by month, 1999–2004 (number)**



Source: AIC, Queensland prosecutions and sentencing data 1999–04 [computer file]; n=2,544

Figure 11 shows marked variations in the number of charges per month in Victoria. More charges were laid in January and February, while very few charges were recorded for September, October and November 2002, with a low of nine charges recorded for September 2002. At the other extreme, a total of 263 charges were recorded in January 2003.

**Figure 11: Victoria, charges by month, 2000–04 (number)**



Source: AIC, Victoria prosecutions and sentencing data 2000–04 [computer file]; n=5,696

AFMA's data on the total number of charges each year show an increase in charges for 2002, the vast majority being for breach of permit conditions (Figure 12). One third of the charges recorded (16 out of the 47) in 2002 related to the Eastern Tuna Billfish Fishery and 16 charges related to the Northern Prawn Fishery.

**Figure 12: AFMA, charges, 2000–04 (number)**



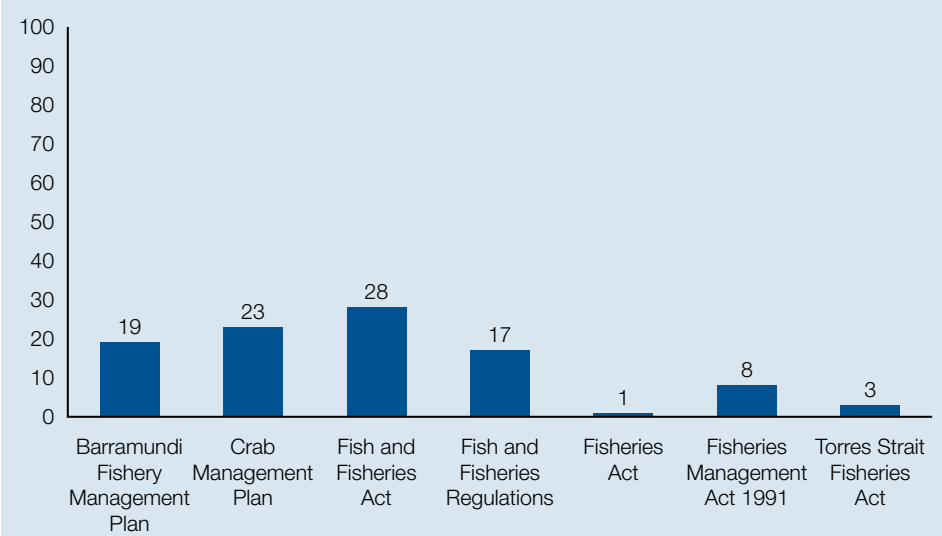
Source: AIC, AFMA prosecutions and sentencing data 2000–04 [computer file]; n=152

## Types of offences

It was difficult to ascertain the types of charges laid against defendants due to missing data. However, Figure 13 shows the proportion of charges laid under specified pieces of legislation for the Northern Territory. Queensland data on charges were also collated against specific legislative provisions. For the period 1999–2004 charges were laid under nine separate statutes. Most guilty charges were laid under the *Fisheries Act 1994* and Fisheries Regulations 1995. Table 14 shows the most common guilty charges by legislative provision, with a description of the offence. This table highlights a number of issues including:

- the description of most offence categories are very general, although a number of description categories suggest some were committed by recreational fishers and were of a relatively minor nature
- as legislation is complex within a jurisdiction and differs across jurisdictions, it makes it difficult to compare offences across jurisdictions
- descriptions of offences would need to be standardised before any multi-jurisdictional or national data could be collected.

**Figure 13: Northern Territory, charges by legislation, 1999–2004 (percent)**



Source: AIC, Northern Territory prosecutions and sentencing data 1999–2004 [computer file]; n=448

**Table 14: Queensland, most common guilty charges by legislation, 1999–2004**

Legislation	Section	Description	Number
<i>Fisheries Act 1994</i>	118(3)	Fail to keep documents	52
<i>Fisheries Act 1994</i>	123	Destroyed marine plants	61
<i>Fisheries Act 1994</i>	173(3)	Did not produce documents in reasonable time	34
<i>Fisheries Act 1994</i>	77	Breach closed waters	363
<i>Fisheries Act 1994</i>	78(1)	Take/possess/sell regulated fish	733
<i>Fisheries Act 1994</i>	80	Taking fish in prohibited way	112
<i>Fisheries Act 1994</i>	82	Did an act only an authority holder can do	499
<i>Fisheries Act 1994</i>	84(1)	Possess prohibited fishing apparatus	128
<i>Fisheries Act 1994</i>	85(4)	Use/possess commercial fishing apparatus	124
<i>Fisheries Act 1994</i>	Unknown	Unspecified offence in <i>Fisheries Act 1994</i>	64
Fisheries Regulation 1995	82(1)	Allowed a person onboard a commercial fishing boat	44
Fisheries Regulation 1995	85	Contravened a condition of an authority	83
Fisheries Regulation 1995	86	Contravened a fisheries provision	66

Source: Queensland prosecution and sentencing data June 1999–2004; n=2,544

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## Characteristics of defendants

The Northern Territory data included unique offender identification numbers and demographic information such as the defendant's gender and Indigenous status. The unique identifier facilitates the measurement of multiple offending as well as the descriptive analysis of fisheries crime offenders. In the Northern Territory data, the 448 charges recorded were attributable to 211 individual defendants in 293 individual offence episodes. Offence episodes are measured on a daily basis, so that multiple offences charged on the same day are coded as one daily episode. On average a single episode was made up of two offences, however one defendant was charged with as many as 12 offences on the same day. Defendants with two or more episodes of offending can be classified as multiple or recidivist offenders. Analysis indicates that this was the case for only 21 percent of the 211 offenders in the Northern Territory. Of these recidivist offenders, the average number of episodes was three (minimum two and maximum six). The remaining 167 (79%) offenders had only one recorded offence episode.

Descriptive analysis by gender and Indigenous status indicates that:

- the majority of offenders were non-Indigenous males (n=167, 79%)
- less than one in ten offenders were Indigenous males (n=13, 6%)
- a small number of offenders were female (n=9, 4%) and no female offender was identified as Indigenous
- there were 22 (10%) offenders where either gender or Indigenous status were unknown
- there was no difference in the level of multiple offending by either gender or Indigenous status
- the majority of judicial orders handed down were fines or restitution orders, regardless of gender or Indigenous status.

## Hot spots

In the jurisdictions examined, where locations were identified, there were 'hot spots' of detected illegal activity, in that more charges were laid for activity at these locations. This could be the result of more surveillance or the targeting of particular areas. The information has to be interpreted cautiously given that the amount of missing data, and incomplete or vague location references.

In the case of the Northern Territory, most of the offences occurred in and around Darwin (see Table 15). There were also a large number of charges laid for illegal activity in the waters of the Gulf of Carpentaria. Figure 14 maps the number of charges by location, for 1999–2004.

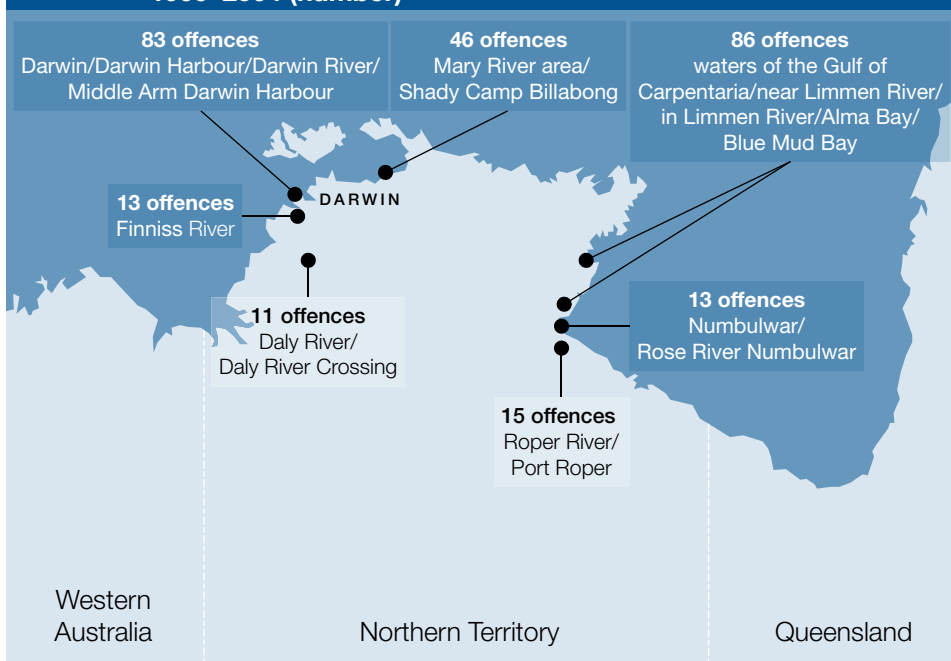
**Table 15: Northern Territory, charges by recorded offence location, 1999–2004**

Offence location	Total number of charges	Number of charges by year
Darwin/Darwin Harbour/Darwin River/Middle Arm Darwin Harbour	83	1 (1997); 25 (1998); 9 (1999); 5 (2000); 14 (2001); 10 (2002); 19 (2003)
Gulf of Carpentaria/near Limmen River/in Limmen River/unnamed tidal creek in Gulf of Carpentaria/Jalma Bay/AFZ, Timor Box	63	11 (1998); 7 (1999); 18 (2000); 6 (2001); 10 (2003); 11 (2004)
Blue Mud Bay	23	1 (1998); 4 (2000); 13 (2001); 4 (2003); 1 (2004)
Roper River/Port Roper	15	2 (1999); 1 (2000); 4 (2002); 8 (2003)
Finniss River	13	6 (1998); 6 (1999); 1 (2002)
McArthur River	13	3 (1997); 3 (1998); 1 (1999); 1 (2000); 1 (2001); 4 (2002)
Numbulwar/Rose River Numbulwar	13	7 (1997); 1 (1999); 5 (2002)
Daly River/Daly River Crossing	11	4 (1999); 1 (2000); 2 (2001); 4 (2002)

Note: with a number of charges prosecuted in 1999–2004, charges were laid in earlier years and offences dating back to 1997 are included

Source: AIC, Northern Territory prosecutions and sentencing data 1999–2004 [computer file]; n=448

**Figure 14: Northern Territory, charges by recorded offence location, 1999–2004 (number)**



Source: AIC, Northern Territory prosecutions and sentencing data 1999–2004 [computer file]; n=448

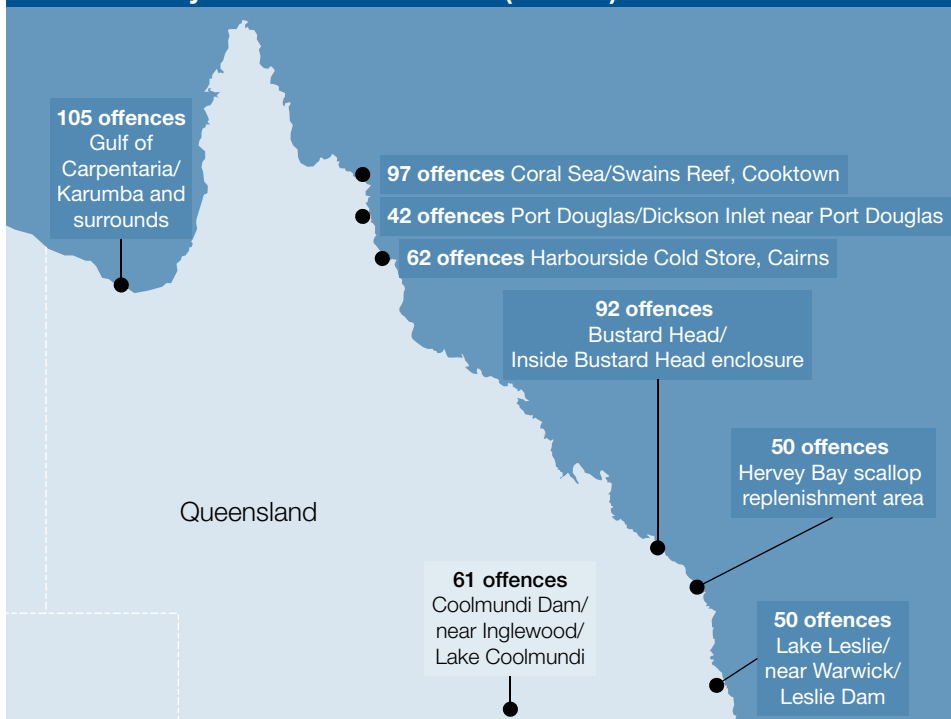
In Queensland, as with the Northern Territory, the greatest number of charges were in the Gulf of Carpentaria (see Table 16 and Figure 15), closely followed by the Coral Sea area around Cooktown and Swains Reef. The inland lakes of Coolmundi Dam/Lake and Lake Leslie/Leslie Dam were also recorded as having a considerable number of charges. Unfortunately there was insufficient explanation of the charges linked to Harbourside Coldstore Cairns, with the offences receiving in excess of \$500,000 in fines.

**Table 16: Queensland, charges by recorded offence location, May 1999 – December 2004**

Offence location	Total number of charges	Number of charges by year
Gulf of Carpentaria/Karumba and surrounds	105	1 (1999); 14 (2000); 23 (2001); 27 (2002); 14 (2003); 26 (2004)
Coral Sea/Swains Reef/Cooktown	97	7 (2000); 22 (2001); 58 (2002); 8 (2003); 2 (2004)
Bustard Head/inside Bustard Head enclosure	92	22 (1999); 23 (2000); 39 (2001); 6 (2002); 2 (2003);
Harbourside Coldstore, Cairns	62	21 (2002); 41 (2003);
Coolmundi Dam/via, near Inglewood/Lake Coolmundi	61	20 (2001); 24 (2002); 9 (2002); 5 (2003); 3 (2004)
Hervey Bay Scallop Replenishment area	50	21(2000); 23 (2001); 2 (2002); 1 (2003); 3 (2004)
Lake Leslie/near Warwick/Leslie Dam	50	25 (2001); 22 (2002); 3 (2003);
Port Douglas/Dickson Inlet near Port Douglas	42	2 (2001); 3 (2002); 21 (2003); 16 (2004)

Source: Queensland prosecutions and sentencing data May 1999 – December 2004. n=2,319

**Figure 15: Queensland, charges by recorded offence location, May 1999 – December 2004 (number)**



Source: Queensland prosecutions and sentencing data May 1999 – December 2004; n=2,319

Breach of permit was the most common offence type for AFMA's Eastern Tuna Billfish Fishery which was the fishery with the greatest number of offences (45; Table 17). While the AFMA data noted detailed information regarding the nature of the offence, specific offence locations were not provided.

**Table 17: AFMA, charges by recorded offence location, 2000–04**

<b>Fishery location</b>	<b>Number of offences</b>
Eastern Tuna Billfish Fishery	45
Northern Prawn Fishery	22
South-East Fishery	22
Gillnet, hook & trap	15
Southern Shark Fishery	15

Source: AIC, AFMA prosecutions and sentencing data 2000–04 [computer file]; n=152

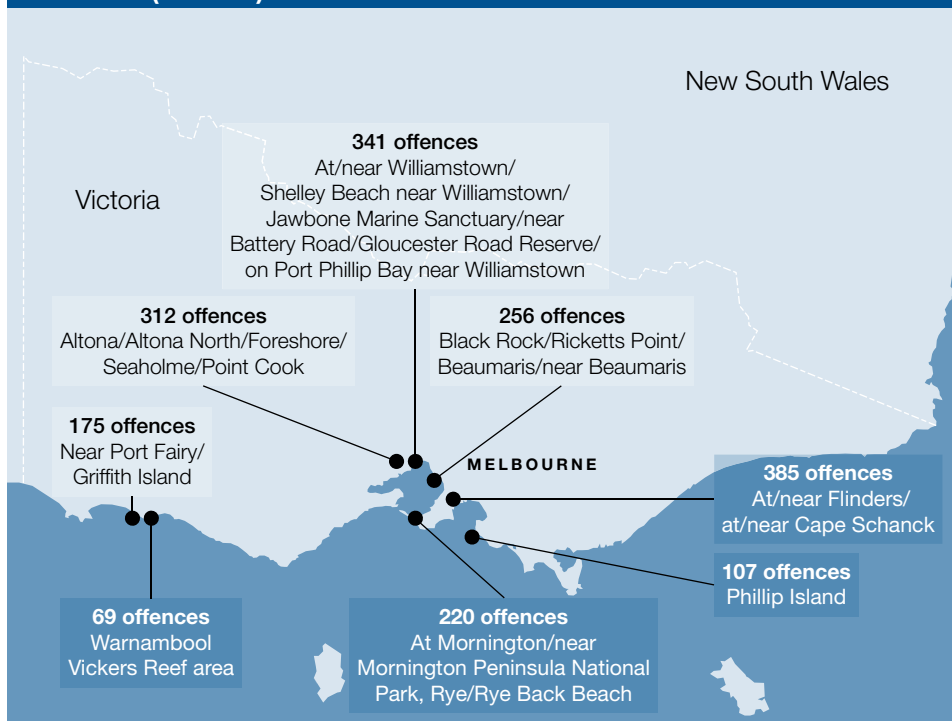
Table 18 and Figure 16 show the most common Victorian locations for charges during 2000–04. The vast majority of charges were for offences in and around Port Phillip Bay, and most of them related to abalone poaching.

**Table 18: Victoria, charges by recorded offence location, 2000–04**

<b>Fishery location</b>	<b>Total number of charges</b>	<b>Number of charges by year</b>
At/near Williamstown/Shelley Beach near Williamstown/Jawbone Marine Sanctuary at Williamstown/near Battery Road in Williamstown/near Gloucester Road Reserve in Williamstown/on Port Phillip Bay near Williamstown	341	80 (2001); 49 (2002); 118 (2003); 94 (2004)
Altona/Altona North/Altona Foreshore/Seaholme/Seaholme Foreshore/Seaholme/near Seaholme/in Altona/Point Cook near Altona/on the Esplanade/foreshore at Altona	312	66 (2000); 55 (2002); 108 (2003); 83 (2004)
Black Rock/Black Rock Boat Ramp/at Black Rock/Black Rock near Barwon Heads/Ricketts Point in Black Rock/Half Moon Bay near Black Rock	197	57 (2000); 12 (2001); 75 (2003); 53 (2004)
Near/at Flinders	215	23 (2000); 49 (2001); 133 (2002); 10 (2004)
Near Port Fairy/Griffith Island, Port Fairy	175	39 (2000); 49 (2002); 86 (2003); 1 (2004)
At/near Cape Schanck	170	22 (2000); 75 (2001); 73 (2002)
At Mornington/Marina Cove near Mornington Peninsula/Gunnamatta near Mornington Peninsula National Park/on Nepean Highway near Mornington	148	20 (2001); 42 (2002); 38 (2003); 48 (2004)
Phillip Island/near Phillip Island/Cowries Beach Phillip island/near Summerlands on Phillip Island	107	42 (2001); 15 (2002); 32 (2003); 18 (2004)
Rye/Rye Back Beach	72	34 (2001); 38 (2002);
At/near/in Warnambool/Vickers Reef near Warnambool/Warnambool Breakwater	69	14 (2001); 18 (2002); 24 (2003); 13 (2004)
Beaumaris/near Beaumaris/on Port Phillip Bay near Beaumaris/Ricketts Point	59	13 (2002); 35 (2003); 11 (2004)

Source: AIC, Victorian prosecutions and sentencing data 2000–04 [computer file]; n=5,696

**Figure 16: Victoria, charges by recorded offence location, 2000–04 (number)**

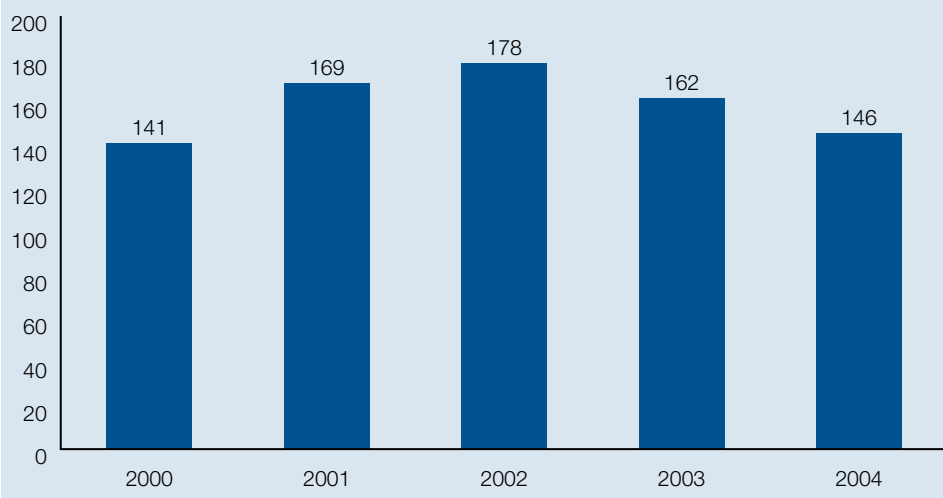


Source: AIC, Victorian prosecutions and sentencing data 2000–04 [computer file]; n=5,696

## Time between offence and court hearing

Victoria was the only jurisdiction to provide separate data for each year. The average time between the date of an offence and the date of a court hearing was 159 days, or approximately 23 weeks. Figure 17 sets out the average number of days each year, with 2002 showing the longest average time between the offence date and court appearance (178 days, or 25 weeks). There was a difference of 141 days (20 weeks) during 2000.

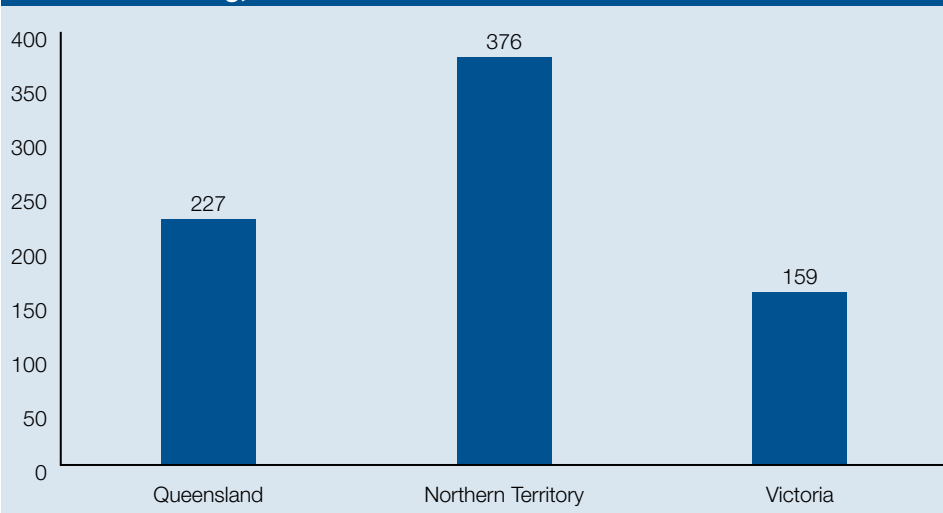
**Figure 17: Victoria, average number of days between offence date and court hearing, 2000–04**



Source: AIC, Victorian prosecutions and sentencing data 2000–04 [computer file] n=5,696

Figure 18 shows the average number of days between offence date and court hearing, for 1999–2004, for Queensland, Northern Territory and Victoria. The Northern Territory recorded the highest average number of days; 376 days between an offence and court date. Victoria had the lowest average number of days; 159 days between offence date and court hearing.

**Figure 18: Queensland, Northern Territory and Victoria, average number of days between offence date and court date/hearing, 1999–2004**



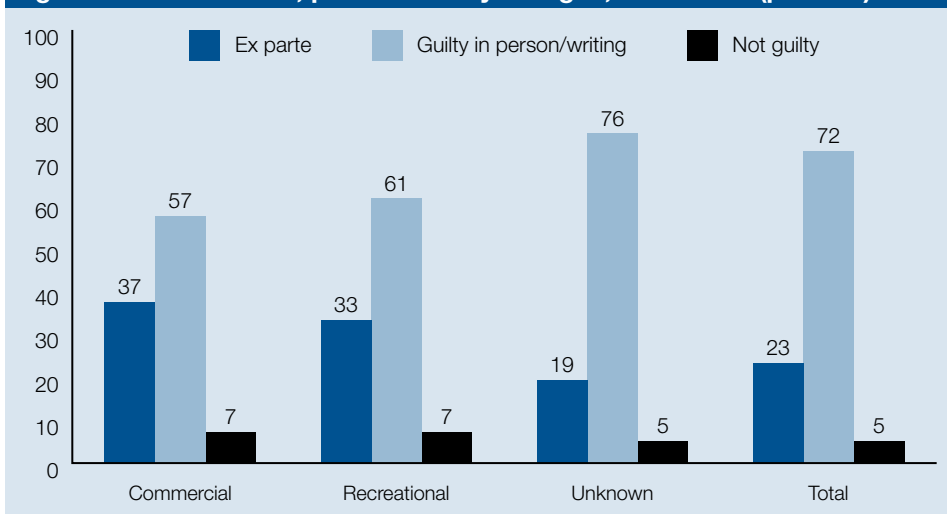
Note: the Northern Territory data recorded court dates while Queensland and Victoria recorded court hearing

Source: AIC, Queensland, Northern Territory and Victoria prosecution and sentencing data 1999–2004 [computer file]; n=762

## Convictions

Figure 19 shows that, in Queensland, of the total number of cases where the plea was recorded, the majority of defendants (72%) pleaded guilty, either in person or in writing. With five percent of the charges, a not guilty plea was entered, and 23 percent were dealt with ex parte. In cases where the plea was recorded, a slightly higher proportion of recreational fishers (61%) than commercial fishers (57%) pleaded guilty.

**Figure 19: Queensland, plea details by charges, 1999–2004 (percent)**



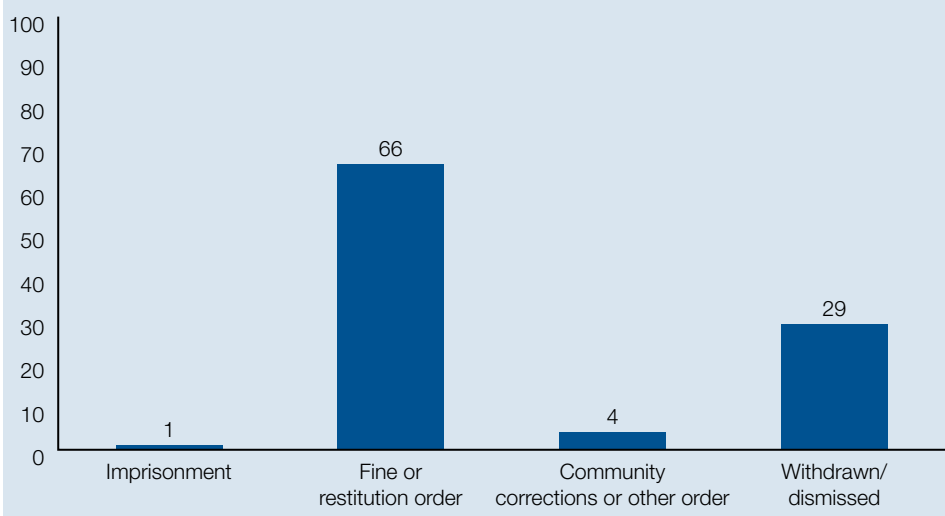
Source: Queensland prosecution and sentencing data June 1999–2004; n=2,544

## Court outcomes

Figure 20 shows outcomes by charges for 1999–2004 for the Northern Territory with 66 percent of charges resulting in a fine or restitution order, four percent resulted in a community corrections or other order, and one percent resulted in imprisonment. Nearly one third (29%) of charges were withdrawn.

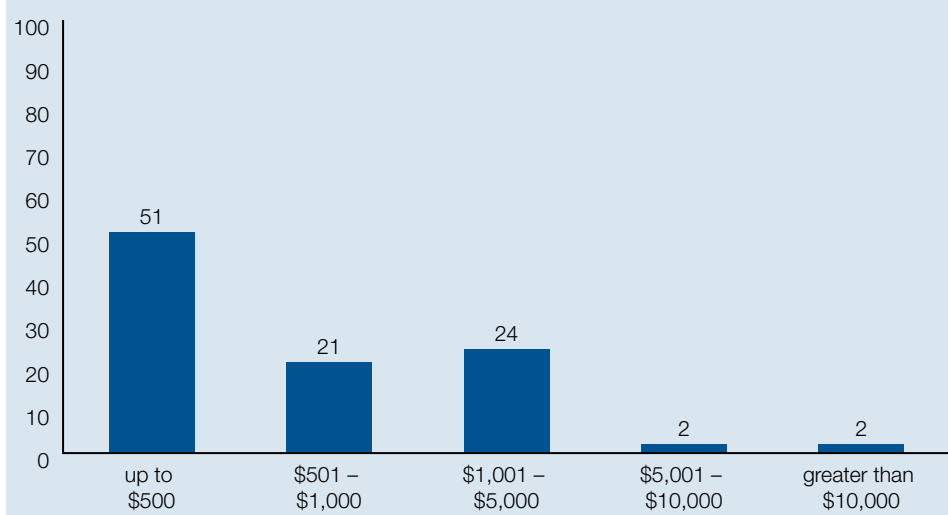
Nearly all charges in Queensland were recorded as resulting in a fine (99%; n=2,412). Information on fine amounts handed down in Queensland for the period 1999–2004 is presented in Figure 21. The average fine was \$1,312 with a maximum of \$30,000. Over half the charges (51%) resulted in fines of up to \$500, 21 percent resulted in fines of over \$500 and up to \$1,000, 24 percent resulted in fines of over \$1,000 and up to \$5,000, with four percent resulting in fines over \$5,000.

**Figure 20: Northern Territory, charge outcomes, 1999–2004 (percent)**



Source: AIC, Northern Territory prosecutions and sentencing data 1999–2004 [computer file]; n=448

**Figure 21: Queensland, fine amounts, 1999–2004 (percent)**



Source: AIC, Queensland prosecutions and sentencing data 1999–2004 [computer file]; n=2,383

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## Conclusion

The chapter has illustrated how prosecution and court outcome data provide useful information on trends, hot spots, repeat offenders, the nature of offences and offenders, the time between an offence and court outcome, and court outcomes. Some of the key points include:

- considerable seasonal variations in when illegal fishing activity is detected
- location hot spots where much of the illegal activity is detected
- many offenders receive, and offending events result in, multiple charges. For example, in Victoria in 2003 there were 1,365 charges, 357 unique offenders and 431 events, and in the Northern Territory there were 60 charges 29 offenders and 42 events
- a proportion of offenders are repeat offenders, with for example, 21 percent of defendants in the Northern Territory committing two or more offending events
- the commission of fisheries-related crime is not evenly distributed across the population; for example, in the Northern Territory 79 percent of defendants were non-Indigenous males
- few defendants plead not guilty, with for example, only 5 percent of defendants in Queensland making this plea
- the majority of matters result in a fine; for example in the Northern Territory 66 percent of charges resulted in a fine or a restitution order; in Queensland 51 percent of fines were on average less than or equal to \$500.

The data on prosecutions and court outcomes confirms stakeholder perceptions of court outcomes. There were very few serious penalties recorded. The reasons for this could include the nature of the offences, many of which seemed minor in nature, but could also relate to the lack of experience and knowledge of fisheries within the criminal justice system. Dealing with fisheries matters is only likely to be a very small proportion of the work undertaken by prosecutors and magistrates, except perhaps in towns or regions with a significant fishery or fisheries industry. The volume of charges prosecuted in courts is only one measure of detected illegal activity; it does not necessarily indicate whether more serious crime is being detected. To properly investigate whether this is the case would involve consistent and routine recording of incidents or episodes, offence details including the most serious charge and subsequent court disposition.

The consistent recording of core data items across jurisdictions would improve monitoring of illegal activity and the outcomes of detection, as well as improve targeting of hot spots and offenders. For example, it would have been very useful to have consistent recording of main offence types by species of fish in the data, to enable analysis of detected activity in vulnerable species. Such data could also inform evaluations or the ongoing impact of legislative reform or changes in operational practice and court process.

**Ways forward**

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Fisheries officers who participated in the national survey advocated a range of strategies to improve their capacity and level of effectiveness to address organised criminal activity, and echoed themes that emerged from the stakeholder consultations. These included:

- the use of informants (covert investigations/specialist investigations)
- improved legislation/powers
- more training
- specialist units
- better communication, for example, from field to base
- usage of liaison officers
- increased resources, including staff
- better, coordinated intelligence and more sharing of intelligence.

A New South Wales fisheries officer made this comment in the national survey:

[There is the need for a] greater emphasis on detection through more fisheries officers stationed at locations where high value low volume fisheries are located (i.e. New South Wales south coast) and the employment of intelligence and investigative fisheries officers to target the highly organised players. General duties district fisheries officers have 23 different fishery programs that place work and time constraints upon those officers. The element of organised syndicates that are involved in criminal activities are extremely counter surveillance conscious and require a great deal of time, resources and expertise to successfully detect and apprehend. Further, a closer working relationship needs to be improved between New South Wales Water Police units and Fisheries investigation units so that information sharing is taking place (Anonymous respondent to the AIC national survey of fisheries officers 2005).

Fisheries officers in the national survey identified interagency cooperation, legislative reform and powers afforded fisheries officers as equally important factors to enhance compliance and police methods/powers deal with organised criminal activity (Table 19). Specialist officers, such as forensic accountants, and the secondment of either fisheries or police officers were viewed as less important. Fisheries officers in Queensland and the Northern Territory were more likely than officers in other jurisdictions to nominate powers for fisheries officers, while AFMA officers were more likely to select the availability of forensic accountants and other specialist services. South Australian and Australian Capital Territory officers were more likely than other officers to nominate cooperation between agencies. Secondment, either of fisheries officers or of police, was most likely to be nominated by AFMA and Northern Territory officers. How these improvement can be delivered is discussed in this chapter.

**Table 19: Rating of strategies to enhance compliance/police methods and/or powers to deal with organised criminal activity (percent)**

Ways to enhance compliance/ police methods and/or powers	Very high			Very low	
	1	2	3	4	5
Cooperation between agencies	60	34	5	1	1
Legislation	60	32	8	0	0
Powers for fisheries officers	60	32	7	1	1
Availability of forensic accountants and other specialist services	47	36	14	3	0
Secondment of fisheries officers to police departments	26	42	20	9	3
Secondment of police to fisheries departments	24	40	24	8	4

Note: Percentages may not total 100 due to rounding

Source: AIC National Survey of Fisheries Officers 2005 [computer file] weighted data, n=567

## Legislation

In his report, Palmer (2004) recommended changes to regulations and legislation in New South Wales, some of which may also apply to other jurisdictions:

- reviewing the maximum penalties
- the use of court order provisions
- documentation for all commercially stored fish
- temporary closure of premises found in possession of illegally caught/undocumented fish
- expansion of confiscation of assets legislation
- new Customs legislation to circumvent exportation of illegal product via international air travel baggage
- clarification of ownership of fish found on board a vessel
- reduction in recreational bag limits
- revision of the system of reward payments to increase incentive to report illegal fishing
- validating the returns of fish receivers.

An examination of fisheries legislation across Australia suggests that it is, or is perceived to be, too complicated in its construction and content. It is clear from the nature and range of legislation on fisheries-related offences that such legislation is designed primarily to regulate the fishing industry. In legislation, there is a danger that offences have become amalgamated and the distinction between minor infringements such as licence breaches on the one hand, and major infringements such as illegal catching or possessing of species, on the other, may

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become less distinct. A perception may subsequently be created within the fishing industry that some offences are not more serious than others.

Further simplification and/or uniformity in legislation could involve the following:

- No division between recreational and commercial fishers in terms of the commission of offences. If the former are in possession of, or catch, more than the designated recreational quota they could be deemed to be commercial fishers with an onus to prove otherwise.
- No distinction made in legislation between the taking of fish and the possession of fish. In either case the quantity or size of the fish should be the issue. Whether the fisher caught, or simply had, the fish in question in his/her possession, would be immaterial. In addition, a focus placed upon the value of fish rather than the actual number of fish, with a penalty regime to reflect that value, may be more effective than the imposition of a fine limited by the number of fish found.
- An offence of trafficking (following Victoria's example) introduced into all states and territories (already in progress in some jurisdictions). The offence would ideally extend to those areas, such as processing plants, wholesalers and retailers, through which, or to whom, such fish are dispatched.

There seems to be little attempt in some jurisdictions to distinguish between the perceived or actual seriousness of offences in terms of the nature or severity of the penalty. In addition, there is no financial penalty regime applied universally in all states and territories. South Australia and Western Australia have systems of fines and expiation fees, while the Northern Territory has both penalty units and fines. The remaining states have penalty units although Tasmania further grades its penalties into three categories (1, 2 and 3) with grade 3 penalties relating in turn to two levels of offence.

It is noteworthy that jurisdictions provide for the suspension, revocation or adjustment of licences. For example, Victoria provides (*Fisheries Act 1995*) for the prohibition of a person from being on boats or in certain places and may suspend a licence for a period of up to 12 months and can cancel a person's entitlement to be allocated an individual quota or cancel the access licence (the latter two in relation to a third and subsequent offence, respectively). However, there needs to be provision in all legislation for an automatic ban from certain types of fishing activity, or fishing areas, or loss or adjustment of licences, for a person convicted of various offences. Arguably, the loss or adjustment of a licence should be considered in relation to first offences. Restrictions on fishing, or the inability to fish at all, are more likely to act as a disincentive than the prospect of a fine and/or imprisonment.

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## Law enforcement and compliance

It should be noted that most people are deterred not by the sentence they might receive but by the prospect of being caught. The actual or perceived low probability of detection and prosecution, combined with the relatively low penalties imposed, (in contrast to the high maximum penalties provided for in the legislation), may encourage some in the fishing industry to conclude that the potential economic benefits of overfishing or illegal fishing outweigh the risk of detection and penalty.

Australia has an extensive coastline and policing it requires targeted use of resources by each jurisdiction. As both theft and illegal marketing of fish are carried out by a small group of offenders, Palmer (2004) argued for targeted approaches:

... genuine opportunities, through sensible, properly targeted legislative reform, educational programs, culturally based equitable allocations and fisheries enforcement, to markedly reduce illegal activity and improve compliance levels (Palmer 2004: 6).

Budgetary constraints are likely to limit expansion of fisheries agencies and, instead, an intelligence-led policing strategy is required. This includes targeting resources upon more popular fishing areas, known recidivist offenders, vulnerable areas of the fishing industry's commodity chain (such as harvesting, processing, distribution and/or sale); fine tuning training needs; facilitating the finalisation of intra-jurisdictional and inter-jurisdictional agency agreements; ensuring a supportive occupational health and safety environment; use and development of specialist skills (for example, forensic accountants); and being open to new and emerging technological advances (for example, electronic identification systems/ docketing systems).

## Information and intelligence

Involving the community in reported suspected illegal fishing can, it seems, provide invaluable information. In Victoria a 40 percent increase in prosecutions and a 30 percent increase in penalty infringement notices has been attributed to a range of factors, including additional fisheries compliance resources, targeted intelligence driven investigations and tactical patrols, and the introduction of a 24/7 fisheries offence reporting telephone line (VDPI 2005).

There is no systematic collection of intelligence across jurisdictions, despite improvements in secure data holdings at a jurisdictional level. This means that there is no national monitoring of the nature and extent of the problem or of the detection and prosecution of offences, or monitoring of court outcomes.

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While four jurisdictions were asked to provide similar information on prosecutions and court outcomes, the way in which this was done differed by jurisdiction. The extent of information varied, as did the quality. Stage 1 of the project included a review of data holdings, which found weaknesses inherent in the systems, for example, the reporting systems for illegal, unregulated and unreported fishing. The lack of a uniform database for recording fishing offences limits the ability of agencies to track displacement and/or recidivism activities. A uniform database would also provide a rich source of material to map these activities in contiguous states generally and border areas specifically.

The project data did enable some useful analysis of, for example, seasonal variations and offence locations. There were, however, limitations to the analysis due to missing data. If ongoing and collaborative analysis is to be undertaken, it will be necessary for fisheries officers to provide full and accurate descriptions of offences and defendants. Jurisdictions need an opportunity to discuss the range of data to be included, as well as uniform descriptions.

## Operational collaboration

Because of the risk of growing involvement of organised crime activity in Australia's fishing industry, increased cooperation should be fostered between relevant agencies to ensure a more coordinated and targeted use of resources. The collaboration of agencies within a jurisdiction is generally considered effective by fisheries officers. However, at the multi-jurisdictional level when other agencies are involved, 50 percent of fisheries officers perceived the collaboration to be either ineffective or very ineffective. However, it could be argued that a range of interagency/inter-jurisdictional cooperative arrangements is paramount, given the borderless nature of this crime.

As an operational form of collaboration, the strategic use of multi-agency and multi-skilled taskforces to tackle serious and organised criminal activity could ensure effective and efficient use of resources. It might be useful to institute a permanent taskforce within each jurisdiction staffed by a core group of agencies. Other agencies could be seconded, as the need arose. The 'flying squad' model advocated by Palmer (2004) would involve a specialist mobile team conducting covert operations, building knowledge of recidivist offenders, and undertaking specialised training in intelligence-related activities.

The benefits of long term or permanent task forces, in some cases set up between two countries under a bilateral arrangement and involving a range of stakeholders, have been demonstrated here and overseas. For example, in the bilateral arrangement between Canada and the United States over the protection of Lake Erie, Indigenous tribal groups are included in an advisory committee (Great Lakes Fishery Commission 2003). The 2005

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Victorian operation, Operation Black Ice, demonstrated the success of a multi-agency approach which included the involvement of Fisheries Victoria, Victoria Police, Centrelink, the Department of Immigration and Ethnic Affairs, Workcover Authority and the Australian Tax Office. The arrest in 2005 of 36 people involved in illegal abalone activity was the result of planning and surveillance over a 12 month period (VDPI 2005). Another example has been a reduction of organised crime activity in the abalone sector through long term multi-agency operations in South Africa (Itano 2003).

Based on the national survey of fisheries officers, it would seem that differing priorities across agencies and jurisdictions are a major impediment to operational collaboration, along with limited resources and legislative differences. It is not within the scope of this project to identify the most effective policy responses that would foster collaboration and cooperation. However, any such initiatives should be mindful of stakeholder perceptions that there are very real barriers that need to be overcome to achieve success.

## **Specialist skills and training**

Because of the costs associated with specialist expertise, there may be some benefit in exploring the possibility of forensic accountants being made available for regular cross-jurisdictional investigations. These issues come back to the importance of developing and maintaining a high level of inter-jurisdictional cooperation which could result in the ready deployment of specialist services.

Fisheries agencies in South Africa, Canada and New Zealand have taken advantage of specialist police equipment and officers trained in covert activities for one off or ongoing assistance in operations (Johns & le May 2001). Increased cooperation between fisheries and police agencies is assumed to result in a wide range of benefits such as improved morale; greater efficiency, including more targeted use of resources; a better educated workforce; and an improved success rate in dealing with organised crime activity in the fishing industry.

The budget of the Ministry of Fisheries in New Zealand was increased to allow for the employment of extra staff, including the establishment of a special tactics team, specialist surveillance equipment and five extra vehicles. A multi-agency approach to dealing with fisheries-related organised crime was implemented between the Ministry of Fisheries, the Ministry of Agriculture and Forestry, Customs and the Aviation Security Service. These initiatives were introduced to deal more effectively with COC and OMCG activity, particularly in New Zealand's abalone fishery (New Zealand. Ministry of Fisheries 2005).

To help fisheries staff obtain specialist skills, the Victorian Department of Primary Industries sought the assistance of Victoria Police. Specifically, fisheries officers are seconded to

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relevant Victoria Police departments: six weeks working with Crime Department detectives; three weeks with the Tactical Response Squad; and two weeks with a crime investigation unit. Skills are gained in such areas as 'investigative methods, investigation, planning skills, interview skills, brief preparation, electronic surveillance methods and an improved understanding of the confiscation regime' (Arnold 2005). To encourage interagency cooperation, both agencies signed a Memorandum of Understanding, as well as a 'set of operating protocols for responding to jobs' (Arnold 2005).

In Queensland, six special investigators are located in Cairns, Townsville, Mackay, Brisbane, the Gold Coast and Hervey Bay, to enhance capacity to undertake complex investigations of fisheries infringements such as quota-related fraud offences. In addition, there are four specialist officers who can undertake covert or rapid response enforcement activities around the state (Queensland. Department of Primary Industries and Fisheries 2005).

Palmer (2004) emphasised improvements in training and changes to the operational focus of compliance officers including:

- more effective and better focused training programs
- improved operational methodologies, including the introduction and inculcation of an effective intelligence capacity, and analysis into operational targeting and planning
- a revised award and industrial framework to support improved operational practices
- less prescriptive work profiles, combined with the development of agreed outcomes based charters of performance
- an improved emphasis on quality over quantity
- increased operational flexibility
- corresponding opportunity for the exercise of individual discretion
- an overall improvement in the organisation's investigative skill profile.

If there is to be a change in operational focus and in recognition of the likelihood that fisheries officers may be required to confront dangerous offenders, then appropriate measures need to be taken to reduce the risk to officers. While the survey found that nearly 50 percent of officers believed their current occupational health and safety procedures provided a safe environment for compliance officers in dealing with organised crime, approximately one-third of respondents believed they did not. Officers suggested various measures to improve their safety including batons, capsicum sprays, guns, vests, training, self defence, fitness, and communications (phones – mobile or satellite).

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## Prosecution and court outcomes

Taking advantage of technological advances, South Australia and Western Australia have developed a new fisheries prosecution system, which is aimed at improving accountability and the tracking of information and intelligence (South Australia. Department of Primary Industry and Resources 2005). This initiative will presumably lead to better prepared briefs for prosecution.

Specialist courts are one way that relevant expertise could be developed and promoted in the justice system to successfully prosecute more serious forms of criminal activity in the fishing sector. The introduction of environmental courts in South Africa was primarily to process criminal activity in the abalone sector. Another aspect of South Africa's environmental court is the education and training of fisheries officers, police officers, investigating officers, compliance officers, as well as state advocates, and prosecutors. Training manuals have also been developed for use by inspectors, investigators and prosecutors, based on the activities of the environmental courts (South Africa. Department of Environmental Affairs and Tourism 2003).

In Australia there are environmental courts in several jurisdictions and it would be worthwhile investigating whether cases of fisheries crime or illegal activity are considered in them. Stakeholder consultations suggested not, but more investigation is required to ascertain if and why this is the case.

## Education

Palmer (2004) has argued that

... there is a need to fundamentally change the prevailing 'Australian' fishing culture, not only of the fishing community, but also of the judiciary, the government and the general public. In particular, many people within the industry expressed serious concern at the apparent lack of judicial recognition of the environmental impact and direct threat to the resource, caused by many forms of illegal harvesting and black marketing of fish ... and an underestimation of the seriousness of the offences by the judiciary when determining penalties (Palmer 2004: 5).

Educational and training initiatives may be appropriate for a broad range of stakeholders including the general public, the fishing community, fisheries officers/agencies and police officers/agencies. While it is unrealistic to expect that broad based educational strategies will bring about a higher level of compliance, it could create a heightened awareness of the impact of criminal activity and the vulnerability of Australian fish stocks to over- and illegal exploitation.

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## Conclusion

Overall, the research found that illegal activity in the fishing industry is widespread in both the commercial and recreational sectors. The consultations with stakeholders and the national survey of fisheries officers shows that much of this activity is low level, and that much of the work undertaken by fisheries officers is not directly concerned with criminal activity. This is not to say it is unimportant. Officers were clearly concerned about changes to their working environment, and the adequacy of a range of measures to effectively deal with criminal activity, particularly where it involves established criminal networks. A number of jurisdictions were concerned about the involvement of OMCGs or Chinese organised crime groups. For example, in Western Australia an OMCG was said to have been involved in the theft of pearls; in the Northern Territory OMCGs had purchased fishing licences; and in South Australia, enforcement stakeholders believed that an OMCG had been involved in the illegal abalone trade.

Consultations revealed that stakeholders were concerned about the potential vulnerability of key species to organised criminal activity – abalone, mud crab, coral, reef, and fin fish, rock lobster and shark fin. They also stressed what can be characterised as the endemic nature, Australia-wide, of pseudo-recreational fishing. Pseudo-recreational fishing is fishing activity carried out under the guise of recreational fishing, but using commercial equipment and/or harvesting commercial quantities. There are two major areas of concern. One is organised crime activity, with sophisticated trading networks, including underground banking. The other is seemingly less organised crime activity, but one that may have a detrimental impact on fish stock levels, for example, barramundi, KGW, abalone, rock lobster or prawns.

This study has revealed differences and some similarities across the jurisdictions in how they currently respond to illegal activity with respect to a range of indicators in the Terms of Reference. These include

- differing penalty regimes
- the use of summary versus indictable offences
- the degree of financial punishment
- the ability to confiscate assets or the proceeds of crime
- the imposition and/or severity of imprisonment.

Other differences and similarities include the use by fisheries officers of items such as capsicum spray or protective vests, the ability to search and make an arrest, and the degree of cooperation and information exchange with relevant government agencies.

It seems that the legislative framework in Australia is overly complicated. The legislative review notes that the statutes attempt to be all encompassing, in containing all possible

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infractions that a fisher might commit. As a result, the distinction between minor infringements and the illegal catching or possessing of species may become less distinct. Stakeholder consultations highlighted individual approaches by jurisdictions in the nature and extent of their legislation. This is supported by the legislative review which found that each jurisdiction operates as a self contained unit. The lack of even a general consistency of approach across jurisdictions may lead to displacement of organised crime activity as organised crime groups exploit differences in relation to species, licensing requirements, quotas, compliance regimes and enforcement capacity.

Arguably, people become fisheries officers to pursue a career in fisheries conservation and management. They also have a regulatory enforcement role under the Acts. However, the wide range of regulatory activities they are required to undertake in an environment of resource constraints may undermine their enforcement capacity, particularly given that the total number of fisheries officers in Australia is less than 600. That capacity is likely to be further diminished if they are required to police suspected organised crime activity. It might not have been anticipated that that enforcement role would entail involvement in curtailing organised crime activity. It is likely that the training of fisheries officers does not routinely prepare them for the intricacies or potential danger surrounding the investigation of organised criminal involvement in the fishing industry. In addition, the issuing of protective equipment, for example, capsicum spray or stab/bulletproof vests, varies across jurisdictions. This is further complicated by the differing approaches to enforcement taken by the jurisdictions. For example, in the Northern Territory and Tasmania, enforcement is undertaken by the police services. Moreover, the powers of arrest, search, entry and seizure accorded to fisheries officers vary between jurisdictions.

Several stakeholders advocated a process that would ensure a strategic approach to assess risk and to assign some measure of priority to the full range of illegal and criminal activities as part of the routine business of fisheries management and compliance. It is worth considering that the environmental damage of widespread minor infractions may be greater than the potential risk and impact of less frequent and less common organised criminal activity. Recognising that there is a finite capacity to respond to illegal activity and to minimise the harms it causes, various models were proposed in the literature and by stakeholders to create a cost effective approach to the less frequent but potentially more serious forms of organised criminal activity that exploits resources or is facilitated within the industry. Common themes highlighted during the consultations with all jurisdictions included the need for alternative or enhanced management/compliance strategies, for example, the need for forensic accountants and other types of staff, better links to police and other facilities, such as boats, which would help to tackle organised criminal activity. Better contact with police was linked to a greater capacity within state fisheries agencies for intelligence gathering, or to run investigations.

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There are a range of measures, viewed as important by fisheries officers who responded to the national survey, that would be instrumental in detecting and dealing with organised criminal activity, including:

- legislative changes, in the definition of offences, the extent and availability of powers granted to fisheries officers, and penalty regimes
- information and intelligence recording, sharing, collation and analysis
- operational collaboration, including taskforces and the use of specialist services
- specialist skills and training for fisheries officers.

The analysis of prosecution and court outcome data highlighted the potential use of such data. It also confirmed stakeholder perceptions that minor matters mostly reach the courts and very few serious penalties are meted out for fisheries crime. A contributing factor may be the way that courts deal with offences and offenders that stakeholders regard as serious. The prevailing view in the community and built into legislation, that much noncompliance in the fishing industry is of a minor nature or due to error, no doubt works against more serious matters being dealt with in the court process in a fashion that is commensurate with fisheries officers' perceptions of their seriousness. From the literature and in stakeholder consultations, several initiatives emerged that would assist in addressing this issue including:

- specialist courts
- educational strategies for a range of stakeholders, including the general community.

These are major commitments which would need considerable support from key sectors. Similarly, ameliorating widespread concerns about the vulnerability of Australia's fishing to organised criminal activity involves adopting measures and implementing reforms that may take some time and resources to achieve. Nevertheless, only with stakeholder and cross jurisdictional support will there be fisheries management arrangements, fisheries legislation and regime of penalties, policing methods and powers, court processes, cooperative arrangements and public support that can effectively prevent and stop organised criminal activity. At a national level, several strategic objectives of the Australian Fisheries National Compliance Strategy 2004–09 already represent a policy commitment to monitor and respond quickly to opportunistic and organised criminal involvement in fisheries, through cooperation between stakeholders and across jurisdictions. However, it is too soon to tell whether the implementation of the policy will occur on a national scale and whether it will have the desired impact on crime in the Australian fishing industry.

## **Appendix A**

### **Officers' powers under fisheries legislation**

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Note: Legislation was compiled in 2005.

## Western Australia

<b><i>Fish Resources Management Act 1994</i></b>		
<b>Section</b>	<b>Powers of fisheries officers</b>	<b>Penalty</b>
180	Police officers to have powers of fisheries officers	
181	Naval officers to have powers of fisheries officers in dealing with foreign boats	
182	Routine inspection	
183	Entry onto land	
184	Entry and search of non-residential premises in connection with offence	
185	Entry and search of residential premises in connection with offence	
186	Entry and search of tents, camps and unauthorized structures	
187	Warrants	
188	Warrants may be granted by telephone etc.	
189	Provision of information	
190	Production of authorisations etc.	
191	Other powers of fisheries officers (including power to detain a person while inspecting fish or fishing gear)	
191A	Additional powers of fisheries officers in relation to cruelty	
192	Arrest	
193	Seizure	
194	Fish may be returned to water etc.	
195	Seizure of abandoned etc. fishing gear	
196	Person not to interfere with seized property	Individual: \$10,000; body corporate: \$20,000
197	Giving of assistance	\$10,000
198	Fisheries officer to try to minimise damage	
199	False or misleading information	Individual: \$10,000 and imprisonment for 1 year; body corporate: \$20,000
200	Obstruction of fisheries officers	Individual: \$10,000 and imprisonment for 1 year; body corporate: \$20,000

## Queensland

### **Fisheries Act 1994**

Section	Powers of inspectors	Penalty
145	Entry to places	
146	Boarding of boats and entry of vehicles	
147	Boarding of boat, or entry of vehicle, that is moving or about to move	
148	Warrants	
148A	Monitoring warrants for abalone	
149	Warrants – applications made other than in person	
150	Inspector's general powers for places, boats and vehicles	
151	Power to seize evidence from places etc.	
152	Power to seize evidence after boarding a boat or entering a vehicle	
153	Additional power to seize fisheries resources etc.	
154	Seizure of fisheries resources in heap etc.	
155	Power to seize explosives etc.	
156	Powers in support of seizure	
157	Receipt to be given	
158	Inspector to allow inspection etc.	
159	Inspector may dispose of fisheries resources taken unlawfully	
170	Power to stop persons	200 penalty units
171	Power to require name and address	200 penalty units
172	Power to require information from certain persons	200 penalty units
173	In respect of a person who is required to have a document available for immediate inspection	500 penalty units
	In respect of a person who is required to keep a document	200 penalty units
175	False or misleading information	500 penalty units
176	False, misleading or incomplete documents	500 penalty units
181	Consent to entry	
182	Obstruction etc. of an inspector	1,000 penalty units
183	Impersonation of inspector	1,000 penalty units

## New South Wales

### ***Fisheries Management Act 1994***

<b>Section</b>	<b>Powers of fisheries officers</b>	<b>Penalty</b>
244	Police officers to be fisheries officers	
247	Obstructing, impersonating etc. fisheries officers	200 penalty units or imprisonment for 3 months or both
248	Power to board and search boats	
249	Power to require gear to be removed from water	50 penalty units
250	Power to enter and search premises	
251	Power to detain and search vehicles	50 penalty units
252	Entry into waters, and along banks etc.	
253	Entry into and examination of aquaculture farms	
254	Entry into residential premises	
255	Power to examine fishing gear or other equipment	
256	Production of records relating to commercial fishing activities and fish receivers	50 penalty units
257	Power to require production of fishing authority	25 penalty units
258	Power to require information	50 penalty units
259	False information	200 penalty units or imprisonment for 3 months, or both
260	Issue of search warrants	
261	Hot pursuit	
262	Power of arrest	
263	Care to be taken	
264	Seizure of things (other than boats and motor vehicles) connected with fisheries offence	
265	Seizure of boats and motor vehicles	
266	Seizure of fishing gear and other things (other than boats, motor vehicles or fish)	
267	Seizure of fish	
268	Reasonable cause for seizure a bar to action	
272	Forfeiture of things (other than boats and motor vehicles) where no relevant offence proceedings taken	
274	Disposal of perishable things	

## Victoria

### **Fisheries Act 1995**

Section	Power of authorised officers	Penalty if applicable
101A	Authorised officer (a person appointed as an authorised officer under the <i>Conservation, Forests and Lands Act 1987</i> for the purposes of this Act) may execute warrant to arrest	
101B	Powers of arrest	
101C	Power to arrest person in breach of an order	
101D	Arrest on reasonable grounds not to be taken to be unlawful	
101E	Power to arrest person released on bail	
101F	Power to arrest a person against whom a warrant has been issued	
101G	Power to search person for priority species	
101H	Records of searches	
102	Powers of entry and inspection	In respect of failure to provide a licence or permit: 4 penalty units
102A	Production of financial records	
103	Powers to search dwelling house	
104	Provisions relating to the seizure of items	
105	Powers of seizure	
106	Forfeiture or return of things seized	50 penalty units
106A	Magistrates' Court may extend 90 day period	
107	Disposal of live fish or perishable things	
108	Offence in relation to seized property	100 penalty units or imprisonment for 6 months or both
108A	Retention notices	100 penalty units or 6 months imprisonment or both
109	Power to require name and address	20 penalty units
110	Hot pursuit of person and boats beyond Victorian waters	
110A	Authorised officers do not commit offences in certain circumstances	
111	Offences with respect to authorised officers	20 penalty units

## Australian Capital Territory

### ***Fisheries Act 2000***

Section	Power of conservation officers	Penalty
54	Entry to places	
55	Consent to entry	
56	Routine inspection of business premises	
57	Warrants to enter	
58	Warrants – application made other than in person	
59	Powers on entry with consent	
60	Powers on entry for routine inspection of business premises	
61	Powers on entry under a warrant	50 penalty units
63	Entry into waters, and along banks etc.	
64	Requirement to give name etc.	5 penalty units
65	Power to require gear to be removed from water	50 penalty units
66	Seizure of fish etc.	
67	Seizure and destruction of noxious fish	
68	Procedure after thing seized	

## Tasmania\*

### ***Living Marine Resources Management Act 1995***

Section	Power of fisheries officers	Penalty
169	A fisheries officer has the powers and protection of a police officer with the rank of constable	
171	Naval officer	
172	Assistant fisheries officer	
173	Minimising damage	
174	Entry and inspection of land and premises	
175	Search of non-residential premises	
176	Search of residential premises	
177	Entry and search of train and aircraft	
178	Entry into waters	
179	Search of place	
180	Boarding and searching vessel	
181	Stopping vessel or vehicle	
182	Securing vessel, vehicle, land and premises	
183	Detaining vessel	
184	Use of vessel or vehicle	

### **Living Marine Resources Management Act 1995 continued**

<b>Section</b>	<b>Power of fisheries officers</b>	<b>Penalty</b>
185	Fisheries officer on board vessel	
186	Pursuit of vessel or person	
187	Examination of fish	
188	Apparatus and equipment	
189	Opening and unlocking vessel, door or container	
190	Production of things	
191	Production of records and documents	20 penalty units
192	Production of authorisation	
193	Photographs, sketches, measurements and recordings	
194	Examination and inquiry	
195	Assistance	
196	Information requirements	
197	Application and issue of warrant	
198	Urgent situations	
199	Arrest	
200	Seizure of fish, vessels and other things	
201	Seizure of abandoned apparatus and fish	
202	Interference with seized property	Fine not exceeding 200 penalty units
203	Offences against fisheries officer	Fine not exceeding 200 penalty units
204	Compliance with requirement, direction or signal	Fine not exceeding 50 penalty units
205	Refusing search	Fine not exceeding 50 penalty units
206	Impersonation of fisheries officer	Fine not exceeding 50 penalty units

\* Enforcement is undertaken by Tasmania Police Marine & Rescue Division

## South Australia

### ***Fisheries Act 1982***

Section	Powers of fisheries officers	Penalty
28(1) (a)	Enter and search and inspect premises, land, waters, boat or vehicle	
28(1) (b)	Seize and retain the fish, boat, vehicle, device, equipment, document, record or other thing	
28(1) (c)	Give any directions to the person in charge of, or any person in or on, any premises, land, waters, boat or vehicle	
28(1) (d)	Require the person to state his or her full name and usual place of residence and to produce evidence of his or her identity	
28(1) (e)	Require the person in charge of the boat to give information concerning the boat, the boat's crew and any person on board the boat	
28(1) (f)	Require any person required to hold an authority or to have an authority in his or her possession to produce the authority	

## Northern Territory\*

### ***Fisheries Act 2004***

Section	Powers of fisheries officers	Penalty
30	Fisheries officer may question and examine	
31	Search	
32	General matters relating to powers of Fisheries Officers	
33	Powers of seizure	

\* Enforcement is undertaken by Northern Territory Marine and Fisheries Enforcement Unit

## Commonwealth

### *Fisheries Management Act 1991*

Section	Power of officers	Penalty
84	Powers of officers	
84A	Detention	
84B	Searches	
84C	Customs officers may carry arms in exercise of powers under this Act	
85	When search warrants can be issued	
85A	The things that are authorised by a search warrant	
85B	Availability of assistance and use of force in executing a warrant	
85C	Copy of warrant to be given to occupier etc.	
85D	Specific powers available to officer executing warrant	
85E	Use of equipment to examine or process things	
85F	Use of electronic equipment at premises	
85G	Compensation for damage to electronic equipment	
85H	Copies of seized things to be provided	
85J	Occupier entitled to be present during search	
85K	Receipts for things seized under warrant	
86	Warrants by telephone or other electronic means	
87	Power to pursue persons and boats	
87A	Officers' powers: FSA boat on high seas after illegally fishing in AFZ	
87B	Officers' powers: FSA boat illegally fishing on the high seas	
87C	Officers' powers: FSA boat in Australian waters	
87E	Limits on exercising certain powers in relation to FSA boats	
87F	Procedures relating to exercise of powers on FSA boat	
87H	Officers' powers: boat on high seas without nationality	
87J	Use of force to exercise powers relating to boat	
88	Release of seized property	
88A	Release of FSA boats being investigation for high seas offences	

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## The Great Barrier Reef Marine Park Authority

### ***Great Barrier Reef Marine Park Act 1975***

<b>Section</b>	<b>Powers of inspectors</b>	<b>Penalty</b>
39S	Power to search aircraft and vessels	10 penalty units
39T	Powers of inspector in relation to premises	10 penalty units
39U	Warrant to enter premises	
44	Inspectors ex officio: every member or special member of the Australian Federal Police is an inspector	
45A	Power of inspectors to give directions	10 penalty units
46	Arrest without warrant	
46A	Power to conduct a frisk search of an arrested person	
46B	Power to conduct an ordinary search	
46D	Retention of things that are seized	
47	Confiscation and forfeiture	
47B	Notice requiring vessel, aircraft or article etc. to be delivered to inspector or other person	Imprisonment for 12 months
48	General powers of inspectors	
48AA	Power of inspector to copy, or take extracts from, documents	
48AB	Power of inspector to seize weapons	
48A	Limitation on exercise of powers – location	

## **Appendix B**

### **State and territory penalty regimes**

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Note: Penalty regimes were compiled in 2005.

## South Australia

### Penalties

Division 1 imprisonment	A term of imprisonment not exceeding 15 years
Division 1 fine	A fine not exceeding \$60,000
Division 2 imprisonment	A term of imprisonment not exceeding 10 years
Division 2 fine	A fine not exceeding \$40,000
Division 3 imprisonment	A term of imprisonment not exceeding 7 years
Division 3 fine	A fine not exceeding \$30,000
Division 4 imprisonment	A term of imprisonment not exceeding 4 years
Division 4 fine	A fine not exceeding \$15,000
Division 5 imprisonment	A term of imprisonment not exceeding 2 years
Division 5 fine	A fine not exceeding \$8,000
Division 6 imprisonment	A term of imprisonment not exceeding 1 year
Division 6 fine	A fine not exceeding \$4,000
Division 6 fee	An expiation fee of \$300
Division 7 imprisonment	A term of imprisonment not exceeding 6 months
Division 7 fine	A fine not exceeding \$2,000
Division 7 fee	An expiation fee of \$200
Division 8 imprisonment	A term of imprisonment not exceeding 3 months
Division 8 fine	A fine not exceeding \$1,000
Division 8 fee	An expiation fee of \$150
Division 9 fine	A fine not exceeding \$500
Division 9 fee	An expiation fee of \$100
Division 10 fine	A fine not exceeding \$200
Division 10 fee	An expiation fee of \$75
Division 11 fine	A fine not exceeding \$100
Division 11 fee	An expiation fee of \$50
Division 12 fine	A fine not exceeding \$50
Division 12 fee	An expiation fee of \$25

## Tasmania

### Penalty levels

Penalty level	Penalty regime
Grade 1 penalty	A fine not less than 1 penalty unit and not more than 20 penalty units
Grade 2 penalty	A fine not less than one penalty unit and not more than 1,000 penalty units for a first offence; or not less than 2 penalty units and not more than 1,000 penalty units for a second offence; or not less than 5 penalty units and not more than 1,000 penalty units for a third or subsequent offence
Grade 3 penalty	<i>For a level one offence</i> , a fine not less than one penalty unit and not more than 5 penalty units, for a first offence; or a fine not less than 2 penalty units and not more than 100 penalty units, for a second offence; or a fine not less than 5 penalty units and not more than 100 penalty units or a term of imprisonment not exceeding 6 months, or both, for a third or subsequent offence <i>For a level two offence</i> , a fine not less than 2 penalty units and not more than 5,000 penalty units or a term of imprisonment not exceeding 6 months, or both, for a first offence; or a fine not less than 5 penalty units and not more than 5,000 penalty units or a term of imprisonment not exceeding 12 months, or both, for a second offence; or a fine not less than 10 penalty units and not more than 5,000 penalty units or a term of imprisonment not exceeding 2 years, or both, for a third or subsequent offence

### Offence levels

#### Level one offence

Offence which involves less than –  
 10 rock lobster or giant crabs; or  
 3 rock lobster pots; or  
 4 rock lobster rings; or  
 3 fish traps; or  
 200 scallops; or  
 5 shark; or  
 20 abalone; or  
 20 kilograms of abalone; or  
 20 of any other fish or plant species; or  
 less than 1% of the total number of rock lobster, giant crab, abalone or scallops taken by, or in the possession of, the person convicted of the offence if the person was operating under a subsisting commercial licence for that species when the offence was committed.

## Offence levels continued

### Level two offence

Offence which involves not less than:

10 rock lobster or giant crabs; or

3 rock lobster pots; or

4 rock lobster rings; or

3 fish traps; or

200 scallops; or

5 shark; or

20 abalone; or

20 kilograms of abalone; or

20 of any other fish or plant species; or

not less than 1% of the total number of rock lobster, giant crab, abalone or scallops taken by, or in the possession of, the person convicted of the offence if the person was operating under a subsisting commercial licence for that species when the offence was committed.

### For any other case

a fine not less than one penalty unit and not more than 5,000 penalty units or a term of imprisonment not exceeding 6 months, or both, for a first offence; or

a fine not less than 2 penalty units and not more than 5,000 penalty units or a term of imprisonment not exceeding 12 months, or both, for a second offence; or

a fine not less than 5 penalty units and not more than 5,000 penalty units or a term of imprisonment not exceeding 2 years, or both, for a third or subsequent offence.

## Other jurisdictions

State	Fine	Penalty unit	Value of penalty unit if applicable
Queensland		✓	1 penalty unit = \$75
Great Barrier Reef Marine Park Authority		✓	1 penalty unit = \$110
Western Australia	✓		
Northern Territory	✓		
Commonwealth		✓	1 penalty unit = \$110
New South Wales		✓	1 penalty unit = \$110
Victoria		✓	1 penalty unit = \$104.81
Australian Capital Territory		✓	1 penalty unit = \$100 (individual) or \$500 (corporation)
Tasmania		✓	1 penalty unit = \$100

## **Appendix C**

### **National survey of fisheries officers**

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## The extent of organised criminal activity in Australia's fishing industry

The following survey questionnaire forms part of an ongoing study concerned with organised criminal activity in Australia's fishing industry. The questionnaire addresses questions which arose from the preliminary findings of the National Study into Crime in the Australian Fishing Industry. These findings have indicated that there is a high propensity for organised crime to be operating in the Australian fishing industry. The survey aims to obtain the views of fisheries officers to assist in determining whether there is a particular problem in Australian fisheries, the scope of the problem and what can be done to address this issue.

Organised crime in Australia's fishing industry is defined as being a structured group of three or more persons, who work together with the purpose of committing a serious offence. The fishing industry is defined as people who are involved in the taking, processing or transporting of fish by both licensed and unlicensed operators in the commercial, recreational and Indigenous sectors. The survey is interested in the more sophisticated, systematic and serious forms of illegal activity, rather than minor regulatory infringements.

The questionnaire is confidential. The information you provide will be reported only in the form of statistical summaries and your individual identity will not be revealed.

Should you have any queries regarding the survey questionnaire, please do not hesitate to call the following number during business hours: 02 6260 9248.

### The extent of organised criminal activity in Australia's fishing industry

1. Do you believe that there is organised criminal activity operating within the fishing industry of your State/Territory?
  - ☐ A lot of criminal activity
  - ☐ Some criminal activity
  - ☐ A little criminal activity
  - ☐ No criminal activity
  - ☐ Don't know

In your opinion, what proportion of the fishing industry in your work area/district/region is involved in fishing-related criminal activities?

- ☐ 0 – 20 per cent
- ☐ 21 – 40 per cent
- ☐ 41 – 60 per cent
- ☐ 61 – 80 per cent
- ☐ 81 – 100 per cent
- ☐ Don't know

In your opinion, what proportion of this criminal activity in the fishing industry in your work area/district/region is organised criminal activity?

- ☐ 0 – 5 per cent
- ☐ 6 – 10 per cent
- ☐ 11 – 20 per cent
- ☐ 21 – 30 per cent
- ☐ 31 – 40 per cent
- ☐ More than 41 per cent
- ☐ Don't know

2. Do you believe that the types of criminal activity encountered by fisheries enforcement agencies has changed over the past five years?

- ☐ Greatly changed
- ☐ Changed
- ☐ Somewhat changed
- ☐ Not changed at all
- ☐ Don't know

3. Do you believe your State/Territory is effective in detecting organised criminal activity in the fishing industry?

- ☐ Very effective
- ☐ Effective
- ☐ Ineffective
- ☐ Very ineffective
- ☐ Don't know

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What can be done to improve the effectiveness in detecting organised criminal activity in the fishing industry?

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4. Do you believe your State/Territory is effective in dealing with detected organised criminal activity in the fishing industry?

- ☐ Very effective  
☐ Effective  
☐ Ineffective  
☐ Very ineffective  
☐ Don't know

What can be done to improve the effectiveness in dealing with detected organised criminal activity in the fishing industry?

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5. Do you think that your State/Territory has adequate fisheries legislation to deal with organised criminal activity in the fishing industry?

- ☐ Very adequate  
☐ Adequate  
☐ Inadequate  
☐ Very inadequate  
☐ Don't know

If you believe that your State/Territory legislation is inadequate or very inadequate, please state why.

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6. Do you think your OH&S procedures provide a safe environment for compliance officers in your area to undertake the full range of tasks required when dealing with organised crime?

- ☐ Very safe
- ☐ Safe
- ☐ Unsafe
- ☐ Very unsafe
- ☐ Don't know

How often do you believe this is the case?

- ☐ Always
- ☐ Most of the time
- ☐ On the occasion
- ☐ Little of the time
- ☐ Never

If you feel the OH&S procedures do not provide a safe environment, what other/ additional things would you like to have in place?

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7. In your view, indicate how often offenders in your local area use each of the following strategies to avoid detection of their fishing-related criminal activity.

	Use a lot	Use sometimes	Use a little	Don't use at all
Counter surveillance, e.g. look-outs, or guards	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tampering with vessel monitoring systems	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Concealed spaces in boats, vehicles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pose as legitimate recreational fishers – operating alone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Post as legitimate recreational fishers – operating in concert with others	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pose as legitimate commercial fishers – operating alone	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Use a lot	Use sometimes	Use a little	Don't use at all
Pose as legitimate commercial fishers – operating in concert with others	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fisheries documentation fraud	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mixing legal with illegal catch during processing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mixing legal with illegal catch during transportation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dummy runs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
False identification and registrations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knowledge of fisheries' officers movement and equipment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What other strategies do offenders in your local area use to avoid detection of their fishing-related criminal activity?

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8. Please rate the importance of each of the following factors of monitoring and dealing with organised criminal activity in the fishing industry.

#### Level of importance

	highest			lowest	
	1	2	3	4	5
Financial/human resources	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Support resources (vehicles, boats, surveillance equipment)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal safety of officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Attitude of the courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Skills base of fisheries officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dedicated Investigators and Analysts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intelligence capacity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to related legislation: Assets Confiscation Act	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to related legislation: Surveillance Devices Act	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Access to related legislation: Crimes (Controlled Operation) Act	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Do you think there are other important factors that assist in monitoring and dealing with organised criminal activity in the fishing industry?

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9. Please rate the importance of each of the following in helping your organisation deter organised criminal activity in the fishing industry?

Level of importance	highest			lowest	
	1	2	3	4	5
Surveillance capacity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Number of fisheries officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Support services (vehicles, boats)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal safety of officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legislation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Education of the general public	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Education of the judiciary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Training for fisheries officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inter-agency cooperation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Do you think there are other important factors that influence the way your organisation works to deter organised criminal activity in the fishing industry?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

10. Please rate, in terms of their importance, how changes to or the introduction of the following could enhance compliance/police methods and/or powers to deal with organised criminal activity in the fishing industry?

**Level of importance**

	highest			lowest	
	1	2	3	4	5
Legislation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Powers for fisheries officers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cooperation between agencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Availability of forensic accountants and other specialist services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Secondment of police to fisheries departments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Secondment of fisheries officers to police departments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What other changes do you think are important?

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11. In your view, what species are most vulnerable to organised criminal activity in your local area? (Tick all that apply.)

- ☐ Shark
- ☐ Rock Lobster
- ☐ Prawns
- ☐ Perch
- ☐ Mud crab
- ☐ Dhufish
- ☐ Coral trout
- ☐ Bluefin tuna
- ☐ Barramundi
- ☐ Abalone
- ☐ Don't know

What other species are vulnerable to organised criminal activity in your local area?

Other

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12. In the past year, in your view, what proportion of organised criminal activity in the fishing industry in your work area/district/region also involved other illegal commodities?

- ☐ 0 – 20 per cent
- ☐ 21 – 40 per cent
- ☐ 41 – 60 per cent
- ☐ 61 – 80 per cent
- ☐ 81 – 100 per cent
- ☐ Don't know

Please specify what other illegal commodities may be involved.

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13. Do you believe that your work area/district/region is used as a transit point for the movement of illegal fish or fish product or other illegal commodities to interstate or international locations?

- ☐ Frequently
- ☐ Sometimes
- ☐ Occasionally
- ☐ Infrequently
- ☐ Never
- ☐ Don't know

14. In your view, how effective is the collaboration between agencies (within State/Territory or Multi-Jurisdictional) in dealing with organised criminal activity in the fishing industry?

	<b>Very effective</b>	<b>Effective</b>	<b>Ineffective</b>	<b>Very ineffective</b>	<b>Don't know</b>
Within State/Territory	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Multi-Jurisdictional (between fisheries agencies)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Multi-Jurisdictional (including other agencies)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

15. Please rate each of these agencies in terms of how often they refer information about criminal activity in the fishing industry to your agency?

	Frequently	Sometimes	Occasionally	Infrequently	Never	Don't know
Australian Federal Police	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Australian Crime Commission	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Australian Customs Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Australian Quarantine and Inspection Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Australian Department of Immigration and Multicultural and Indigenous Affairs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Australian Tax Office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Centrelink	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Australian Fisheries Management Authority	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Australian Department of Agriculture, Fisheries and Forestry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Director of Public Prosecutions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
State/Territory Fisheries Agencies	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
State/Territory Police Department	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Are there other agencies that refer information about organised criminal activity in the fishing industry to your agency?

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16. In your view, are you satisfied these agencies pass on information as a matter of routine?

- ☐ Very satisfied
- ☐ Satisfied
- ☐ Dissatisfied
- ☐ Very dissatisfied
- ☐ Don't know

17. Please indicate which of the following factors may inhibit the sharing of information between jurisdictions? (Tick all that apply.)

- ☐ Lack of formal agreements in place
- ☐ Unwillingness of State/Territory authorities to finalise formal agreements
- ☐ Unwillingness by other agencies to share information
- ☐ Uncertainty about other jurisdictions retaining confidentiality of the information
- ☐ Lack of uniform data storage systems between jurisdictions
- ☐ Lack of technology to facilitate secure transfer of information
- ☐ Legislation
- ☐ Privacy Laws
- ☐ Don't know

Please indicate other factors which may inhibit the sharing of information between jurisdictions.

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18. Please indicate which of the following factors may restrict the success of joint operations. (Tick all that apply.)

- ☐ Legislative differences (including powers of officers)
- ☐ Differing priorities
- ☐ Limited and varied resource allocation
- ☐ Inconsistent position descriptions, rates of pay and conditions of service
- ☐ Disagreement over command and control
- ☐ Don't know

What other factors may restrict the success of joint operations?

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19. What year were you born in?

Year

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20. Are you male or female?

☐ Male

☐ Female

21. What level of formal education have you achieved?

☐ Year 10 Certificate

☐ Year 12 Certificate

☐ TAFE or University Diploma

☐ Undergraduate degree

☐ Honours

☐ Postgraduate Diploma

☐ Master's degree

☐ Doctorate

☐ Investigation or law enforcement training qualification

☐ Other qualification (please list)

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22. How many years have you worked in fisheries enforcement?

Years

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23. What type of work are you primarily engaged in?

☐ Monitoring, surveillance and enforcement

☐ Compliance supervision/management

☐ Compliance policy

☐ Legal or prosecutorial

☐ Fisheries management

☐ Investigator

☐ Other

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24. Please indicate your level and frequency of involvement in fisheries investigations and prosecutions into organised criminal activity, over the last five years.

**Number of instances**

	Never	1–5	6–10	11–20	More than 21
Officer in charge of an investigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Team member in investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Strategic direction to investigation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intelligence collection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Intelligence analysis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal advice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

25. In your view, please indicate what change (if any) has occurred in the duties you have carried out in your position, over the last five years? (Please tick all that apply.)

	Increasing role	Decreasing role	No change
Law enforcement role	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Investigation of criminal activity	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fisheries conservation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fisheries management	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Compliance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

What other factors have played a lesser or greater role over the last five years?

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26. Please write any additional comments or information in the space provided below.

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The Australian aquaculture and fisheries industry is worth over \$2 billion annually, and supports numerous communities across the country. This report presents the results of research, funded by the Australian Government Department of Agriculture, Fisheries and Forestry, that sought to investigate the extent of illegal activity in Australia's fishing industry and the threat posed by more organised criminal activity. It includes results from a review of legislation, national consultations, a national survey of fisheries officers and an analysis of prosecution data. The report concludes with recommendations relating to legislative changes, increased resources, intelligence sharing between relevant agencies, and specialist skills training for fisheries officers.