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Firearm trafficking and serious and organised crime gangs

Samantha Bricknell

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Foreword

Despite strict regulations on the import, export, ownership, use, transfer and storage of licit firearms, there exists in Australia a potentially large pool of illicit firearms, some of which are acquired, stockpiled and used for serious and organised crime. The composition of this pool, the sources of these illicit firearms and the general sustainability of the illicit firearm market, however, remains a largely unexplored subject in Australia, outside of knowledge that is generated through intelligence. A series of drive-by and other shooting events in a number of Australian states since 2011 refocused attention on the illicit firearm market, in particular its consumers and the methods by which firearms were being trafficked.

This report follows a modest group of publicly released examinations of firearm trafficking operations in Australia, to describe what can be determined about the composition and maintenance of the illicit firearm market, its use by serious and organised crime groups and the diversity of transaction arrangements used to vend illicit firearms. As the report was limited to open source material, some of the nuances of, or emerging trends in, the illicit firearm trade are still to be drawn out. However, the report presents, using data on unregistered firearm seized by Australian state and territory police, a fuller picture of the type of firearms that serious and organised crime groups are actively obtaining and the common routes of supply from the licit to the illicit market.

Australia's strict firearm laws permit only controlled access to handguns and automatic and semi-automatic long-arms. Hence, restricted models are commonly elevated to items of choice. Just under half of firearms found in the possession of serious and organised crime groups were models that were the subject of buybacks that accompanied the major firearms agreements in 1996 and 2002. The majority of these were semi-automatic rifles and semi-automatic pistols, supplemented by smaller quantities of pump-action shotguns, revolvers,

semi-automatic shotguns, submachine guns and single shot pistols. Many of these restricted firearms were seized from entities involved in the illicit drug market and/or firearm trafficking ventures, or from members of outlaw motorcycle gangs—a criminal fraternity commonly connected to the sale and purchase of illicit firearms. Not all illicit firearms, of course, are purchased by persons engaged in serious and organised crime, and this group of consumers and their engagement with illicit firearms is worth further examination.

The tenure of firearms in the illicit market is not well understood, although the methods of diversion are. Illicit importation, diversion by some corrupt firearm dealers, deactivation loopholes (which enabled the diversion of poorly deactivated handguns out of the licit market), theft of legally owned firearms and the 'grey market' (ie long-arms that were not surrendered during the 1996 gun buyback but are not conveyed for criminal purposes) all represent legitimate sources of trafficked firearms. There has been some contention about the importance of these sources. Analysis conducted for this report suggested that the 'grey market' was the primary source for illicit long-arms, while many illicit handguns originated from theft and the Queensland deactivation loophole.

The completeness of the data used for the report requires the addition of caveats about the need to use care in interpreting the presented findings. Data, along with intelligence, play a crucial role in understanding the dynamics of firearm trafficking. Since the 1996 and 2002 firearm reforms, important steps have been made in the collection of firearm data in Australia. Further changes to improve the standardisation and harmonisation of these data will deliver the 'cradle to grave' benchmark crucial for accurately tracing firearms, and consequently the means to support targeted enforcement responses.

Adam Tomison
Director

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Acronyms

ACBPS	Australian Customs and Border Protection Service
ACC	Australian Crime Commission
AFP	Australian Federal Police
AIC	Australian Institute of Criminology
APMC	Australian Police Ministers Council
COAG	Council of Australian Governments
NFLRS	National Firearms and Licensing Registration System
NFMS	National Firearms Management System
NFTD	National Firearm Trace Database
OMCGs	outlaw motorcycle gangs
SOCG	serious and organised crime groups
SPPs	small pocket pistols

Executive summary

The size and composition of the illicit firearm market in Australia, and the methods by which firearms are trafficked, have been the subject of conjecture. This conjecture is born from the complexity of illicit firearm markets in general (Pierce et al. 2004), as well as limited open-source information on firearm supply networks. This report follows earlier, briefer studies of firearm trafficking (Alpers & Twyford 2003; Kerlatec 2007; Mouzou 1999) and was designed to describe more fully the characteristics of the illicit firearms market in Australia and its association with serious and organised crime groups (SOCG). Specifically it describes:

- the composition of the illicit firearm market, including the types of firearms commonly found in the possession of SOCG;
- the supply routes by which firearms are diverted, or are otherwise transferred, from the licit to the illicit market with a focus on restricted long-arms and handguns; and
- the legislative, procedural and technological systems that have facilitated (and may continue to facilitate) the diversion of firearms.

The aim was also to identify where improvements could be made in the tracing of firearms to better understand the nature and dynamics of both the licit and illicit market.

The project was undertaken by the Australian Institute of Criminology (AIC) in collaboration with the Australian Crime Commission (ACC) and the Australian Federal Police (AFP), and funded under the Research Support for National Security Program, which up until 2012 was administered by the Department of the Prime Minister and Cabinet. It involved:

- a review of open-source literature and court proceedings to provide an overview of the types

of firearm markets that operate in Australia; the types and known (or suspected) sources of illicit firearms; and the characteristics of participants (sellers and consumers) in the market;

- a review of Australian firearm laws to identify where legislative loopholes have been closed and where gaps that may facilitate diversion of firearms from the licit to the illicit market still exist;
- an examination of methods and systems for recording firearm data in Australia to illustrate where improvements could be made to enhance firearm tracing; and
- analysis of data compiled in the ACC's National Firearm Trace Database, which contains records of some of the unregistered firearms seized by federal, state and territory police, to describe the composition of, and major sources of supply to, the illicit firearm market.

Legislative provisions

Australia's firearm laws underwent extensive revision in response to the recommendations set by the then Australian Police Ministers Council (APMC) and Council of Australian Governments (COAG) in the National Firearms Agreement (1996), National Firearm Trafficking Policy Agreement (2002) and National Handgun Control Agreement (2002). These revisions aimed to consolidate firearm legislation in the states and territories (which have responsibility for the regulation of the use, possession and sale of firearms), and included the creation of new offences, or an increase in penalties for existing offences. The changes to offence provisions that were relevant to deterring firearms trafficking included:

- unauthorised possession, use, sale and disposal of a firearm;

- trafficking in firearms;
- unauthorised manufacture of firearms and firearm parts;
- unauthorised modification of a firearm;
- defacement or alteration of a firearm's identification marks; and
- wilfully making false entries in dealer records and employing prohibited persons in dealerships.

The reforms also influenced the introduction of new provisions on the import and export of restricted (prohibited) firearms and handguns and the creation of two new offences in the *Criminal Code Act 1995* (Cth) (Division 360 Part 9.4) concerning the illegal disposal or acquisition of firearms across a state/territory border.

A 2008 AIC review of Australian state and territory firearm legislation found that jurisdictions had substantially complied with these resolutions (Davies & Mouzos 2008) and a subsequent review undertaken for this report showed that further refinements had been made to correct the legislative inconsistency that had existed in the past. However, a number of legislative loopholes were identified post-reform as being responsible for, or facilitating, the diversion of firearms from the licit to the illicit market. The most significant of these was the deactivation loophole in Queensland, whereby dealers and owners exploited a loophole in the *Weapons Act 1990* (Qld) regarding the 'accountable' (ie registrable) status of deactivated handguns, in order to reactivate poorly deactivated handguns and reportedly to move thousands of them into the illicit market (Project stakeholder personal communication 24 September 2010).

An examination of the current legislation shows that inter-jurisdictional inconsistency, where it exists, is mostly localised, in that one or two states or territories have failed to incorporate amendments as they have been adopted elsewhere. It is difficult to rate the significance of these inconsistencies, yet it is likely that those with a comprehensive understanding of the legislation will continue to search for such inconsistencies or gaps and test them for weakness (Project stakeholder personal communication 4 May 2011). Areas where legislative accord could be improved concerns scrutiny around sale and disposal records maintained by dealers, and

specifically, increasing penalties on the wilful entry of false information. Diversion by the recording of false information has contributed to the trafficking of firearms in the past (see section on *Data analysis*). There is also a need to offset issues around vulnerabilities of firearm parts, as opposed to full firearms, in the illicit trade, particularly if there is an increase in illicit domestic manufacture. Some further standardisation across the state and territory firearms laws as to what constitutes a major firearm part or component for the purposes of regulation may be warranted to prevent instances of firearms being manufactured using non-registrable parts.

Characteristics of firearm trafficking

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

It is not possible to estimate the size of the illicit market. Describing the likely composition of illicit stock is, however, a more realistic objective. This study used data on some of the unregistered firearms seized by state and territory police, compiled in the ACC's National Firearm Trace Database, to quantify the types of firearms seized from SOCG, and as a comparison, persons or groups determined not to be involved in organised crime.

A high proportion of firearms seized from SOCG were restricted (alternatively referred to in the legislation as prescribed or prohibited) models—47 percent of all firearms recovered from entities involved in serious and organised crime were subject to either the 1996 long-arm or 2003 handgun buybacks. Seventy percent (n=368) of all restricted long-arms were

seized from SOCG, as were 68 percent (n=431) of restricted handguns. Semi-automatic rifles were the most common restricted long-arm recovered from SOCG, accounting for 69 percent (n=253) of all restricted long-arms. Semi-automatic pistols were the most common handgun item (72% (n=311) of all restricted handguns), for reasons likely related to their ease of concealment, capacity to quickly reload and (for some models) a large magazine capacity (up to 10–13 rounds).

Restricted long-arms and handguns were not as common among non SOCG-related seizures but still made up a sizeable proportion of firearms located. Indeed, the prevalence of restricted handguns as a proportion of all handguns seized for each of the two groups considered was the same for SOCG seizures (67%) as it was for non-SOCG seizures (65%). The preference for restricted handguns among persons not associated with serious and organised crime is probably, in many cases, an acquisition to fulfil a curiosity rather than a criminal need. Historically stricter regulations around handgun use, and legal ownership dependent on the granting of formal membership to a pistol club, would have barred some enthusiasts from acquiring a handgun. The more determined ones may have then looked to the illicit market to satisfy this aspiration.

Overall, the trafficking network is not considered to be overly organised in structure, but largely dominated by serious and organised criminal entities (such as outlaw motorcycle gangs (OMCGs)) who traffic illicit firearms as a side venture and smaller operators, who move firearms around by word of mouth (ACC 2011; Alpers & Twyford 2003; Kerlatec 2007; Mouzos 1999; Qld CMC 2004). An examination of court appeal proceedings for persons charged with trafficking or other relevant firearm offences from the last 10 years distinguished two categories of suppliers—more committed operators who relied on the trafficking of firearms as a regular or primary source of income (and generally had access to a larger supply of sale items, including illegally manufactured firearms) and part-time vendors, who sold illicit firearms on a more ad hoc basis, often to support a drug habit or as a minor side business to their main occupation of dealing in illicit drugs.

The supply lines to the illicit market also consist of a mix of organised and opportunistic transferral. Illegal

importation, theft, illicit manufacture, some corrupt dealers, legacy legislative loopholes and interstate transfer are all recognised methods of supply to the illicit firearm market (ACC 2009; Kerlatec 1999; Mouzos 1999; Qld CMC 2004) but the importance of these, historically and in the present time, is disputed. From the analysis of the aforementioned seizure data, it was evident that the grey market was the predominant source of long-arms to the illicit market—it accounted for 92 percent of all restricted long-arms and 86 percent of all non-restricted long-arms. Theft or loss contributed to 12 percent of non-restricted long-arms entering the market and just four percent of restricted models. The grey market is likely to continue as a legitimate source of long-arms to the illicit market but this all-capturing reservoir, which inadvertently emerged from the 1996 firearm reforms, potentially masks where diversion or other illegal methods of supply have actually occurred.

There is better differentiation of the methods used to traffic illicit handguns but issues around the quality of the data qualify the strength of the findings. Based on the available information, the deactivation loophole was an important contributor to the illicit handgun market, identified as the source for 39 percent of restricted handguns and 21 percent of non-restricted handguns. Theft has been just as important a source. Half of all non-restricted handguns seized by state and territory police (where information was available) were stolen items, as were 31 percent of restricted handguns. The data indicated that illegal importation, however, has played a minor role (despite predictions elsewhere) and illicit domestic manufacture contributed to around one in 10 of both restricted and non-restricted handguns entering the market. These findings, however, need to be treated with caution due to the large number of cases (70%) that had unknown information on the diversion pathway.

Tracing firearms

These data give an indication of historically important supply routes (the deactivation loophole being a relevant example) but are possibly less reliable in predicting future patterns of supply. Further, the issues of data completeness that affected many

variables in the dataset mean that there are limitations to some of the findings, in particular the source of illicit handguns. Firearm data are recorded across numerous sites, including police administered firearm registers, material inventories, ballistic library inventories and firearms in police possession records, such as:

- the Integrated Cargo System, Firearms Tracking System and Detained Goods Management System operated by the Australian Customs and Border Protection Service (ACBPS);
- the Defence Export Control System administered by the Defence Export Control Office; and
- the National Firearms and Licensing Registration System (NFLRS) administered by CrimTrac.

A recommendation from the National Firearms Agreement (1996) was not only to establish an integrated licence and firearm registration system in each jurisdiction but to promote the collation and exchange of data between jurisdictions. This is also a provision outlined in the 2001 United Nations *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition* (UNGA 2001).

The original and existing model stemming from this particular National Firearms Agreement (1996) recommendation is the abovementioned NFLRS, but considerations (and actions) have since been made to improve and expand on this concept to better facilitate and simplify current capacities to trace the movement of firearms. However, the establishment of an all-encompassing National Firearms Management System (NFMS) or its equivalent, through which an array of relevant data custodians can upload, update and trace information on individual firearms and track individual firearms using a shared authoritative identity record, is still to be realised.

To ensure an NFMS operates well, attention must also be drawn to improving the recording of firearm data. Tracing firearms through an integrated system will be compromised if fundamental identification data are not recorded accurately or recorded in a myriad of formats. Correct initial capture data on serial number (the ‘fingerprints’ of a firearm) and other identifying markers are paramount to the efficacy of a system such as NFMS, as is conformity to the standardisation of terms. Discussion with stakeholders to the project indicated that these fundamentals continue to plague the accurate capture of firearm data, because persons involved in data recording do not always have the technical expertise for firearm identification procedures and/or previous and current data capture systems have permitted the entry of inconsistent (often wrong) information which cannot necessarily be validated post-entry.

In its most complete sense, firearm tracing refers to the tracking of a firearm from ‘cradle to grave’, recording different stages in the tenure of a firearm’s legal custodianship (eg manufacture, import, sale, deactivation, lawful export). When firearm data are captured consistently and comprehensively, they can be used to denote where firearms have been lost to the system and to recognise preferences in the types of items being transferred out of the licit market and the methods by which they are diverted. Data-recording practices (mostly in the past) have however, resulted in certain data useful or critical to firearm tracing being captured only recently, being captured inconsistently or not being captured at all. Implementing the suggested improvements to both the recording and dissemination of firearm data has the potential to assist law enforcement in identifying and disrupting the flow of firearms into the illicit market and refine targeting of enforcement activity.



Introduction

Firearm trafficking in its most general sense, and as defined in the United Nations *Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition*, refers to the unauthorised '...import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition...' across internal or state borders (UNGA 2001: 4). The term *trafficking* can also be used to designate the 'intentional diversion of (firearms) from legal to illegal commerce' (Wright, Wintermute & Webster 2010: 353), without involving the movement of item(s) across a physical border.

Tied to the venture of firearm trafficking is illicit manufacture which, according to the UN Protocol, incorporates the 'manufacture or assembly of firearms, firearm parts and components or ammunition' from illicitly produced parts and components and/or without the appropriate authorisation (UNGA 2001: 3–4). The Protocol (as per Article 8) also recognises a firearm as illicitly manufactured if, at the time of manufacture, it was not given a unique mark that enables it to be identified and traced.

Despite strict regulations on the import, export, ownership, use, transfer and storage of licit firearms, there exists in Australia a potentially large pool of illicit firearms, some of which are acquired,

stockpiled and used in organised crime. Calculating the size of this illicit pool has proved impracticable, not least because even verifying the number and type of *legal* firearms in Australia was not possible until the late 1990s with the implementation of compulsory registration schemes for *all* firearms. It has also remained unclear to what extent the current illicit pool requires replenishment and is serviced by the movement of firearms from the licit market. These aspects of the Australian illicit firearms market will, most likely, continue to evade estimation, yet other features of the market, such as:

- firearm composition and preferences;
- the methods by which illicit firearms are sourced;
- the patterns of reliance on these methods and their future sustainability; and
- the legislative, law enforcement and procedural environment that impede (or in some cases, facilitate) the illegal trade in firearms.

All represent equally crucial and importantly, more feasibly examined elements of inquiry. It is these features of firearm trafficking, its operation in Australia and the connection with serious and organised crime, that will form the basis of the research presented in this report.

Aims

In this study, an examination is undertaken into legislative, procedural and technological systems related to firearm registration and tracing in order to identify loopholes and gaps that facilitated and may continue to facilitate the diversion of firearms, firearm parts and ammunition into the illegal market. Investigation is also made of the extent to which SOCG have relied on various trafficking channels and how this relates to the types of firearms they favour. This research will add to a modest collection of Australian studies that have examined the routes by which firearms are transferred from the legal to the illegal pool and how this transfer is facilitated.

Methods

The research was undertaken as a collaborative project involving the AIC, ACC and AFP, and was funded under the Department of the Prime Minister and Cabinet’s Research Support for National Security grants program. The project was approved by the AIC Human Research Ethics Committee on 19 May 2010.

The project consisted of:

- a review of open-source literature and compilation of case studies and court findings for prosecuted cases of firearm trafficking and other, relevant firearm offences;
- a review of Australian state and territory firearm/ weapons legislation;
- analysis of the ACC’s National Firearm Trace Database (NFTD); and
- compilation of data on the importation of selected calibre ammunition (ie 25 ACP, 32 ACP and 380 ACP) from ammunition distributors and ACBPS.

Literature review

The literature review used information contained in open-source documents (mostly peer-reviewed papers and government publications) that described the characteristics and dynamics of firearm trafficking and illicit firearm markets in Australia and other selected regions (England and Wales, the United States, New Zealand and Western Europe). The literature was supplemented with an examination of transcripts of court proceedings available on publicly accessible legal databases—Australasian Legal Information Institute (ie AustLii), NSW LawLink and

Table 1 Australian firearm legislation

State and territory legislation

Firearms Act 1996 (NSW)

Firearms Act 1996 (Vic)

Weapons Act 1990 (Qld)

Firearms Act 1973 (WA)

Firearms Act 1996 (SA)

Firearms Act 1996 (Tas)

Firearms Act 1996 (ACT)

Firearms Act (NT)

Provisions contained within Commonwealth legislation

Criminal Code Act 1995 (Cth)^a

Customs Act 1901 (Cth)^b

Customs (Prohibited Imports) Regulations 1956 (Cth)^c

a: Amended by *Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Act 2002* (Cth)

b: Amended by *Customs Legislation Amendment (Criminal Sanctions and Other Measures) Act 2000* (Cth)

c: Amended by Customs (Prohibited Imports) Amendment Regulations 2000 (No. 7) (Cth) and Customs (Prohibited Imports) Amendment Regulations 2002 (No. 4) (Cth)

the Supreme Court of Victoria Court of Appeal Registry. Search terms used to identify relevant court cases were *firearm trafficking, prohibited firearm, unregistered firearm, prohibited person, manufacture*, as well as relevant sections of state and territory firearm or weapons legislation. It must be noted that most Australian court proceedings are only made available for cases heard in higher courts (generally, those that have gone to appeal) and hence represent a subset of actual relevant cases heard. Indeed, a number of ‘high profile’ court cases reported in the media were not found in the legal databases, the details of which could not be confirmed or expanded upon.

Review of Australian firearm/ weapons legislation

The review of Australian firearm and weapons laws included an examination of relevant Commonwealth, state and territory legislation listed in Table 1. This work referenced and updated an earlier review undertaken by the AIC (see Davies & Mouzos 2008) to:

- describe the extent of compliance of Australian firearm laws with the resolutions specified in the National Firearms Agreement (1996), National Firearm Trafficking Policy Agreement (2002) and the National Handgun Control Agreement (2002); and
- identify where legislative inconsistencies still exist that could potentially facilitate firearm diversion.

Analysis of the Australian Crime Commission’s National Firearm Trace Database

The NFTD, the primary data source for this study, is a compilation of unit record data on some unregistered firearms recovered by federal, state and territory police agencies. The data compiled by the ACC were supplemented over the course of the project, with records collected by the AFP on some of the firearms that had been the subject of police investigations in four jurisdictions (New South Wales, Victoria, Queensland and Tasmania) over the period 1 January 2003–31 December 2010. There were a total of 2,750 records on individual firearms in the

data used for analysis. Almost all of these (ie 99% and where information was recorded on the date of seizure (n=2,341)) were seized by police between June 2002 and October 2011.

Data was de-identified by the ACC before it was provided to the AIC. Individual firearms recorded in the database were also categorised by the ACC before transmission as being recovered in association with SOCG or not (referred to herein as non-SOCG). A SOCG is an entity engaged in an activity described as serious and organised crime as defined in the *Australian Crime Commission Act 2002* (Cth) (see Table 2). Of the 2,750 firearm records used in the analysis, 61.9% (n=1,701) were categorised by the ACC as firearms seized from SOCG.

Each unit record in the NFTD refers to an individual firearm and includes information on:

- the make, model, calibre, action and category of the firearm;
- modifications made to the firearm;
- the country in which the firearm was manufactured and date of import;
- registration history;
- whether the firearm was subject to the 1996 gun buyback (long-arms) or the 2003 handgun buyback;
- the date and state or territory the firearm was recovered;
- the reason or activity by which the firearm became illicit; and
- the illicit context in which the firearm was recovered.

Restricted firearms were defined as those long-arms that were subject to the 1996 buyback and those handguns that were subject to the 2003 buyback. The findings from this analysis were described in the Milestone 1 progress report.

Some of the variables in the NFTD were compromised by missing information. The high ‘unknown’ return for these variables, which ranged between 11 and 98 percent of responses, depending on the variable considered, was likely related to the absence, until recent years, of a systematic method of recording and disseminating information on the importation, acquisition and disposal of firearms. This affected the validity of

Table 2 Definition of serious and organised crime

Serious and organised crime is defined under s 4 of the *Australian Crime Commission Act 2002* as:

an offence

- (a) that involves 2 or more offenders and substantial planning and organisation; and
 - (b) that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques; and
 - (c) that is committed, or is of a kind that is ordinarily committed, in conjunction with other offences of a like kind; and
 - (d) that is a serious offence within the meaning of the *Proceeds of Crime Act 2002*, an offence against Subdivision B or C of Division 471, or D or F of Division 474, of the *Criminal Code*, an offence of a kind prescribed by the regulations or an offence that involves any of the following:
 - (i) theft;
 - (ii) fraud;
 - (iii) tax evasion;
 - (iv) money laundering;
 - (v) currency violations;
 - (vi) illegal drug dealings;
 - (vii) illegal gambling;
 - (viii) obtaining financial benefits by vice engaged in by others;
 - (ix) extortion;
 - (x) violence;
 - (xi) bribery or corruption of, or by, an officer of the Commonwealth, an officer of a State or an officer of a Territory;
 - (xii) perverting the course of justice;
 - (xiii) bankruptcy and company violations;
 - (xiv) harbouring of criminals;
 - (xv) forging of passports;
 - (xvi) firearms;
 - (xvii) armament dealings;
 - (xviii) illegal importation or exportation of fauna into or out of Australia;
 - (xix) cybercrime;
 - (xx) matters of the same general nature as one or more of the matters listed above; and
- (da) that is:
- (i) punishable by imprisonment for a period of 3 years or more;
 - (ii) a serious offence within the meaning of the *Proceeds of Crimes Act 2002*;

but

- (e) does not include an offence committed in the course of a genuine dispute as to matters pertaining to the relations of employees and employers by a party to the dispute, unless the offence is committed in connection with, or as part of, a course of activity involving the commission of a serious and organised crime other than an offence so committed; and
- (f) does not include an offence the time for the commencement of a prosecution for which has expired.

some of these variables, a number of which had to be removed from the final analysis. The nature of the data allowed only for simple statistical treatment.

Importation and distribution of ammunition

Twelve ammunition importers and suppliers in Australia were contacted regarding the provision of data on the quantity of various calibres (25 ACP, 32 ACP and 380 ACP) of ammunition sold during 2008–10. These calibres can only be used in small pocket pistols (SPPs), which are restricted under Australian firearm laws. Of the group of importers/suppliers contacted, nine responded to the request but only four were able to provide any data. The two major importers/dealers, responsible for the majority of ammunition imported into and sold in Australia, declined the request on the grounds that they did not have the resources to commit to the collation of such a large volume of data.

A data request was also made to ACPBS for information on the importation (legal or illegal) of these selected ammunition calibres. ACBPS was able to provide this information for the period 1 January 2009 (when ACBPS commenced collecting electronic data on import matters) to 31 December 2011.

Role of the Project Committee

The Project Committee was made up of representatives from the three research partners—the AIC, ACC and AFP—as well as representatives from the Department of the Prime Minister and Cabinet, the Attorney-General's Department and ACBPS. The Committee met five times over the course of the project (between November 2010 and April 2012) to discuss project methodology and scope, milestone findings and their interpretation, and recommendations stemming from the final analysis. Draft and final versions of the milestone and substantive reports were circulated to the Project Committee for their comment.

Observations from Project Committee members and other personnel from their respective agencies were included as personal communication citations in this report where open-source material was not available and the subject was of relevance to the discussion. The author of these citations is not identified in this report.

Legislative reforms

Starting in the late 1990s, Australia underwent an extensive national firearm law reform process, primarily in response to specific incidents such as the Port Arthur shootings in Tasmania in 1996 and the Monash University shootings in 2002. Following these events, the Australian, state and territory governments, through the then APMC and COAG, entered into three national agreements that became responsible for the shaping of contemporary Australian firearm laws.

These agreements were the:

- National Firearms Agreement (1996);
- National Firearm Trafficking Policy Agreement (2002); and
- National Handgun Control Agreement (2002).

The aim of these agreements was to encourage the adoption of consistent firearms legislation in all states and territories to ensure a uniform national approach to the regulation of firearms. While the Australian Government has constitutional power to legislate in relation to the importation of firearms, the responsibility for regulation of the use, possession and sale of firearms in each jurisdiction is held by the relevant state or territory government. Many of the provisions adopted in response to these three agreements were relevant to disrupting the diversion of firearms to the illicit market and facilitation of illegal transactions.

Also shaping Australia's firearm laws is its commitment to international controls. Australia is a signatory to, although has yet to ratify, the United Nations *Protocol against the Illicit Manufacturing and Trafficking of Firearms, Their Parts and Components and Ammunition 2001* (herein referred to as the UN Protocol; UNGA 2001), and is thus committed to find measures to handicap the illegal trade in firearms and their diversion into the illicit market. The preventive provisions specified in the UN Protocol recommend signatory states to make legislative changes around manufacturing, marking, record keeping, deactivation and licensing (or similar type of control) on the import and export of firearms. These obligations include:

- the establishment of a criminal offence for the unauthorised manufacture of firearms;
- ensuring firearms are marked at time of manufacture (and preferably also at time of import, time of disposal [other than destruction], time at deactivation and time at transfer from government stocks to civilian use);
- the maintenance of records (for not less than 10 years) on firearm transactions;
- the establishment of criminal offences to prevent the illicit reactivation of deactivated firearms; and
- the establishment or maintenance of an effective system of export and import licensing or authorisation for the transfer of firearms, their parts and components and ammunition.

National agreements

National Firearms Agreement (1996)

The first of the national agreements—the National Firearms Agreement (1996)—emerged in response to the mass shootings that occurred at Port Arthur in 1996. The Agreement resulted in restricted legal possession of automatic and semi-automatic firearms and further restricted the legal importation of non-military centrefire self-loading firearms to those with a maximum magazine capacity of five rounds. The Agreement further committed all states

and territories to a firearms registration scheme and licensing of persons in order to legally possess and use firearms. Previously, only handguns needed to be registered; obligations around long-arm registration varied between jurisdictions. In addition was the introduction of laws that were designed to minimise the legal acquisition of firearms by unsuitable persons. The resolutions passed by the APMC on 10 May 1996 are summarised in Table 3.

The National Firearms Agreement (1996) was implemented by the states and territories in stages in the following years, including a provision for a

Table 3 National Firearms Agreement (1996) resolutions

Bans of specific types of firearm

All jurisdictions to ban the sale, resale, transfer, ownership, possession, manufacture and use of automatic and semi-automatic long-arms banned or proposed to be banned from import other than in exceptional circumstances.

All jurisdictions to ban competitive shooting involving the aforementioned firearms.

Nationwide registration of all firearms

States and territories to establish an integrated licence and firearms registration system or review existing registration systems to ensure compatibility.

Genuine reason for owning, possessing or using a firearm

Personal protection will not be regarded as a genuine reason for owning, possessing or using a firearm.

'Genuine reason' must be demonstrated to own, possess or use a firearm (eg recreational shooters/hunters who produce permission from a landowner; bona fide collectors of lawful firearms; sporting shooters with a valid membership of an approved club).

Applicants for a licence for a Category B, C, D and H firearm must also demonstrate a 'genuine need' for the particular type of firearm.

Category C firearms will be limited to primary producers.

Basic licence requirements

In addition to the demonstration of 'genuine reason', a licence applicant should be aged 18 years or over, be a fit and proper person, be able to prove identity (ie 100 point system) and undertake an adequate safety test.

The licence bears a photograph of the licensee and the holder's address, be endorsed with the category of firearm, be issued after a waiting period of not less than 28 days and for a period of no more than five years, be issued subject to undertakings to comply with storage requirements and submit to inspection by licensing authorities and be subject to immediate withdrawal of licence and confiscation of firearms in certain circumstances.

The following categories be used in the licensing of firearms:

- Category A—air rifles; rimfire rifles (excluding self-loading); single and double barrel shotguns
- Category B—muzzle-loading firearms; single shot, double barrel and repeating centre fire rifles; break action shotguns/rifle combinations
- Category C (prohibited except for occupational purposes)^a—semi-automatic rimfire rifles with a magazine capacity no greater than 10 rounds; semi-automatic shotguns with a magazine capacity no greater than five round; pump action shotguns with a magazine capacity no greater than five rounds
- Category D (prohibited except for official purposes)—self-loading centre fire rifles designed or adapted for military purposes or a firearm which substantially duplicates those rifles in design, function or appearance; non-military style self-loading centre fire rifles with either an integral or detachable magazine; self-loading shotguns with either an integral or detachable magazine and pump action shotguns with a capacity of more than five rounds; self-loading rim-fire rifles with a magazine capacity greater than 10 rounds
- Category H—all handguns, including air pistols.

Table 3 (continued)**Training as a prerequisite for licensing**

All jurisdictions require the completion of an accredited course in safety training for firearms for all first time licence applicants (the course will be comprehensive and standardised across Australia for all licence categories).

All jurisdictions establish a specialised course for training of persons employed in the security industry.

Grounds for licence refusal or cancellation and seizure of firearms

Among other provisions, jurisdictions set out in legislation circumstances in which licence applications are refused and licences cancelled. These would include:

- General reasons—not of good character, conviction for an offence involving violence within the past five years, contravene firearm law, unsafe storage, no longer genuine reason, not in public interest, not notifying change of address, licence obtained by deceptions.
- Specific reasons—applicant/licence holder has been the subject of an Apprehended Violence Order, Domestic Violence Order, restraining order or conviction for assault with a weapon/aggravated assault within past five years.
- Mental or physical fitness—reliable evidence of a mental or physical condition which would render the applicant unsuitable for owning, possessing or using a firearm.

Permit to acquire

Separate permits will be required for the acquisition of every firearm and the issue of a permit should be subject to a waiting period of at least 28 days to enable appropriate checks.

Uniform standard for the security and storage of firearms

It should be a precondition to the issuing of a new firearms licence that the licensing authority be satisfied as to the proposed storage and security arrangements.

Legislation should include an offence relating to failure to store firearms in the manner required.

Introduce legislative provisions regarding the storage of specific category firearms (Cat A/B and Cat C/D/H).

Introduce legislative provisions regarding the safekeeping of firearms when temporarily away from their usual place of storage.

Recording of sales

Firearm sales to be conducted only by or through licensed firearm dealers.

Firearm dealers should follow specified principles regarding the recording of firearm transactions, including ensure purchaser is appropriately licensed, record detailed records of each firearm purchased and sold, provide records to firearms registries, allow police personnel investigating a crime or checking dealer compliance to inspect records.

Ammunition should be sold only for those firearms for which the purchaser is licensed. There should also be strict limits put in place on the quantity of ammunition that can be purchased in a defined period and the purchaser must produce the relevant licence.

Mail order sales

Mail order arrangement to apply only to licensed gun dealer to licensed gun dealer exchange.

Advertisement for sales will be prohibited unless conducted by or through a licensed gun dealer.

The movement of Category C, D and H firearms must be in accordance with prescribed safety requirements.

The commercial transportation of ammunition will be prohibited.

a: The APMC later resolved to add a restricted case of shooters—clay target shooters who possess a semi-automatic or pump action shotgun and affiliated with the Australian Clay Target Association—to gain access to Category C firearms

Table 4 National Firearm Trafficking Policy Agreement (2002) resolutions

1. Increase border protection against illegal firearms.
2. Consider the need for a national ballistics information system.
3. Clarify legislation governing safety testing of imported firearms.
4. Examine legislative or administrative changes required to prevent the release of large quantities of handguns that entered Australia prior to recent changes in importation laws.
5. Ensure that provisions in the *Australian Postal Corporation Act 1989* (Cth) do not render invalid provisions in state and territory legislation regarding the sending of firearms through the mail.
6. Ensure substantial penalties for the illegal possession of a firearm
7. Introduce nationally consistent regulation of the manufacture of firearms
 - To include provisions encompassing (a) the commercial manufacture of whole firearms (b) small volume whole firearm manufacture and (c) the manufacture of firearm parts.
8. Introduce offences relating to defacing serial numbers:
 - To possess a firearm with a serial number that has been defaced or removed.
 - To remove or deface a serial number.
9. Introduce an offence of illegal manufacture which attracts substantial penalties.
10. Extend the definition of possession of a firearm.
 - To include circumstances where an illegal firearm is found in premises with a person or persons but not actually physically possessed by any person.
11. Introduce close associate provisions for firearm dealers.
12. Proscribe certain persons from employment in firearm dealerships.
 - Includes persons (a) who have had a firearms dealer licence revoked in preceding 10 years or had an application for a firearm licence or permit refused or revoked, based on the grounds of being not fit and proper and not to be trusted to have possession of firearms without danger to public safety or to the peace; or that issue of the licence or permit would be contrary to public interest or (b) are subject to an apprehended, domestic or family violence order or (c) are the subject of a good behaviour bond relating to an offence of violence or (d) subject to a firearm prohibition order.
13. Provide for increased recording, reporting and inspection of firearm part dealings.
14. Introduce laws designed to restrict the illegal supply of firearms.
 - To expand the definition of 'sell' and 'purchase' a firearm.
 - To establish an offence of selling, or knowingly taking part in the sale of a firearm to another person unless the purchaser is authorised to possess the firearm by licence or permit and the seller has inspected the purchaser's licence or permit and, if the purchaser is not a licensed firearms dealer, the purchaser's permit to acquire the firearm.
 - To establish an offence of a person other than a licensed dealer selling, or knowingly taking part in the sale of, a firearm to a person who is not a licensed dealer unless (a) the sale has been arranged by a licensed dealer or (b) the sale is witnessed by a police officer (if a dealer is not available).
 - A person taking part in the sale of a firearm to include (a) a person who takes, or participates in, any step, or causes any step to be taken, in the process of the sale (b) a person who provides or arranges finance for any step in the process or (c) a person who provides the premises in which any step in that process is taken.
15. Make it an offence to conspire to commit an interstate firearm offence.
16. Introduce substantial penalties for firearm record falsification.
 - To establish an offence of making, with intent to deceive, a false or misleading entry in, or altering, a record regarding a transaction or dealings concerning firearms or firearm parts.
 - To establish an offence of making, with intent to deceive, a false or misleading entry in, or altering, any record required by law to be made in relation to a firearm.
17. Establish a Commonwealth cross-border firearms trafficking offence.

12 month national amnesty and a compensation buyback scheme. During this period, the Australian Government continued to work with state and territory governments to develop new legislative and policy initiatives in support of the National Firearms Agreement and to improve community safety through the regulation of firearms more generally.

National Firearm Trafficking Policy Agreement (2002)

In July 2002, the APMC further resolved that additional provisions be made to control the illegal trade in firearms in Australia. The Trafficking Agreement sought to achieve this purpose through:

- increased border protection;
- the introduction of nationally consistent regulation of the legal manufacture of firearms;
- the establishment of new offences or substantial penalties for matters relating to:
 - the illegal possession and supply of firearms;
 - the defacing of serial numbers;
 - conspiracy to commit interstate firearm wrongdoings; and
- tighter recording and reporting provisions for dealer transactions involving firearm and major firearm parts.

The resolutions derived from the National Firearm Trafficking Policy Agreement (2002) are summarised in Table 4.

National Handgun Control Agreement (2002)

Following the death of two students in a handgun shooting at Monash University in October 2002, the Australian, state and territory governments implemented further legislative reforms through the introduction of the National Handgun Control Agreement (2002). The Agreement comprised 28 resolutions aimed at restricting the availability and use of handguns, particularly those that are easily concealable. The resolutions included a restriction on the possession of handguns based on calibre, barrel length and magazine capacity, a system of graduated access to handguns for legitimate sporting shooters and provisions to

prevent 'club shopping', through the introduction of requirements for a person wishing to join a club to provide details to the club of any other shooting clubs to which they belonged and the firearms they owned. Handguns would be limited to a maximum of .38" calibre (up to .45" calibre for shooters attending specially accredited sporting events), with prohibition on semi-automatic handguns with a barrel length of less than 120mm and revolvers and single shot handguns with a barrel length of less than 100mm. In reference to the National Firearms Trafficking Policy Agreement (2002), the resolutions reiterated the need to establish substantial penalties for illegal possession.

The National Handgun Control Agreement (2002) was accompanied by a national handgun buyback scheme which ran from 1 July to 31 December 2003. This scheme provided compensation to owners surrendering handguns, handgun parts and accessories to state and territory authorities during the specified six month period. States and territories providing compensation were reimbursed by the Australian Government under the *National Handgun Buyback Act 2003* (Cth) which enabled the Commonwealth to 'appropriate funds for the purpose of providing financial assistance'.

Specific legislative changes

Australian firearm laws consequently went under considerable revision to implement the reforms as specified in the aforementioned Agreements. These amendments included the introduction of new offences and increases to penalties for existing offences; many of these amendments were directly relevant to deterring the trafficking of firearms or were 'defacto' responses to this activity (eg increasing penalties for illegal possession).

New offence provisions were introduced relating to:

- unauthorised possession (or use) of a prohibited firearm;
- unauthorised possession of firearms in 'traffickable' quantities;
- unauthorised sale or purchase of a firearm;
- 'trafficking' in firearms;
- unauthorised manufacture of a firearm or firearm parts;

- unauthorised modification of a firearm (eg shortening, conversion);
- defacement or alteration of identification marks or possession of a firearm with defaced identification marks;
- failure to record dealer transactions on firearm and firearm parts;
- wilful entry of false records; and
- conspiracy to commit a firearm offence outside jurisdiction of residence.

In 2008, the AIC undertook a review of Australian, state and territory government legislation to examine the extent of compliance with the resolutions specified in the National Firearms Agreement, the National Firearms Policy Trafficking Agreement and the National Handgun Control Agreement (see Davies & Mouzos 2008). This review found general compliance across the states and territories but highlighted where differences in laws between the jurisdictions still existed. A re-examination of inter-jurisdictional compliance and comparability, incorporating the further changes made to firearms laws in the interim period, is presented in Table 5 and below.

State and territory amendments

Unauthorised possession of (a) an unregistered firearm and (b) a prohibited or prescribed firearm

The resolutions from the National Firearms Agreement (1996) concerning the nationwide registration of firearms and the establishment of restricted categories of firearm were accompanied by the creation of offences relating to the possession of an unregistered firearm and the possession of a prohibited or prescribed firearm or pistol. Offence provisions regarding unregistered firearms are extended in New South Wales, Western Australia, Tasmania, the Australian Capital Territory and Northern Territory to include the use, sale and purchase of such firearms. A separate offence to possess, carry or use a prohibited or prescribed firearm does not exist in Queensland weapons legislation; instead more substantial penalties are applied to the possession of standard restricted firearm/weapon categories (ie Category D, H and R). In Victorian firearms legislation, there is a separate

offence to possess etc a prohibited handgun (*Firearms Act 1996* (Vic), s 7A) but not a prohibited long-arm. Penalties for the latter offence are, as in Queensland, dealt with through the application of more substantial penalties for restricted firearm categories in the generic possession offence (*Firearms Act 1996* (Vic), s 6A).

Tasmania has yet to include provisions regarding the possession or use of a prohibited or prescribed firearm. Section 9 of the *Firearms Act 1996* (Tas) refers to the offence of possessing or using a firearm without the appropriate licence but there is no provision for possession or use of a prohibited firearm, through either a separate offence or application of a greater maximum penalty.

Unauthorised possession of firearms in ‘traffickable’ quantities

Four jurisdictions—New South Wales, Victoria, Queensland and the Australian Capital Territory—have created offences or introduced more substantial penalties for the unauthorised possession of multiple numbers of firearms. In New South Wales, the prescribed quantity is three or more firearms; in Victoria, Queensland and the Australian Capital Territory it is 10 firearms, although in legislation from the latter two jurisdictions there is an intermediate penalty attached to the possession of 10 firearms, of which three are prohibited or restricted models. The creation of this offence in the *Firearms Act 1996* (NSW) (through the *Firearms Amendment (Public Safety) Act 2002* No 47 (NSW)), and presumably the rationale for its inclusion in firearms laws in the other three jurisdictions, was to prevent the ‘warehousing’ or stockpiling of firearms and the potential accumulation for the purposes of trafficking. There are no stipulations in firearm laws in the remaining jurisdictions to deter warehousing of firearms.

Unauthorised sale or purchase of firearms

New South Wales and the Australian Capital Territory are the only jurisdictions to have fully complied with the legislative requirements relating to the sale and purchase of firearms. Most jurisdictions have included some form of legislative definition for selling (disposing of) and purchasing (acquiring) a firearm, although they vary in their conformity with that

recommended in the National Firearm Trafficking Policy Agreement (2002). Western Australia has yet to implement a definition for either.

All jurisdictions have complied with the creation of an offence to sell a firearm unless the purchaser is authorised; and an offence for a person, other than a dealer, to purchase a firearm from a person other than a licensed dealer, unless the transaction has been arranged by a licensed dealer or other approved authority. There is variability, however, among the jurisdictions regarding requirements to physically inspect a seller's or purchaser's licence or permit, with these conditions most explicitly stated in NSW and ACT firearm laws.

Among the resolutions in the National Firearm Trafficking Policy Agreement (2002) around new laws to restrict the illegal supply of firearms was one to expand the definition of involvement in an illegal sale to include:

- any person who takes, or participates in, any step, or causes any step to be taken, in the process of sale;
- any person who provides or arranges finance for any step in the process; or
- any person who provides the premises in which any step in the process of sale is taken.

New South Wales, South Australia and the Australian Capital Territory are the only jurisdictions to have implemented the full definition. Victoria has, however, established a specific offence for 'providing financial accommodation' to the illegal acquisition or disposal of firearms (*Firearms Act 1996* (Vic), s 101B).

Trafficking in firearms

All jurisdictions except South Australia have an offence of firearms trafficking or the illegal sale of firearms on three or more separate occasions. Differences exist between the jurisdictions in the quantity of firearms specified, the number of sales that need to occur and the time period over which sales are to take place for an offence to be committed. For example, the offence of unlawful trafficking in firearms in Tasmania simply refers to the unauthorised sale of unregistered firearms (quantity not stipulated) on 'one or more occasions' (*Firearms Act 1996* (Tas), s 110A), whereas in New South Wales and the Northern Territory, the illegal sale is to occur

on three or more separate occasions, although like Tasmania there is no provision regarding the quantity of firearms trafficked. For a trafficking offence to be committed in the Northern Territory, those three sale events must occur within a 30 day period, while in New South Wales and the Australian Capital Territory, that timeframe has been extended to 12 months. It was noted in the second reading speech to the *Firearms and Crimes Legislation Amendment (Public Safety) Act 2003 No 92* (NSW) that the extension of the timeframe from three illegal firearm sales in 30 days to a period of 12 months was to reflect the different *modus operandi* used to traffic firearms compared with drugs, on which the 30 day turnaround was based. Unlike other jurisdictions, New South Wales has also created an additional offence of trafficking in firearm parts (*Firearms Act 1996* (NSW), s 51BB).

Western Australian firearm laws define what is ostensibly a trafficking offence in prescribing the volume of firearms that can be sold—s 19(1)(1aa) of the *Firearms Act 1973* (WA) refers to the sale of three or more firearms without a licence or permit entitling the sale of any of the firearms tendered. Victorian and ACT firearm laws also attach volume stipulations to trafficking offences—s 110A of the *Firearms Act 1996* (Vic) defines a 'traffickable quantity' of firearms as 10 or more unregistered firearms, which for an offence to be committed must be acquired or disposed of by a person without a dealer's licence within a seven day period. In the *Firearms Act 1996* (ACT), the offence specified in s 220 comprises either the contravention of a dealing provision (per ss 177, 226 or 227—see Table 4) on three or more separate occasions over a 12 month period (similar to the trafficking offence specified in New South Wales) or the contravention of a dealing provision involving four or more firearms on the same occasion.

Illegal manufacture of firearms

The scale of domestic illegal manufacture of firearm and firearm parts is unknown but, as described in the following section, is likely to comprise mostly small-scale, made-to-order operations. Nonetheless, it was recognised as being a potentially important contributor to the illicit firearms market and hence the offence of illegal manufacture was to be established in state and territory firearm laws, with substantial maximum penalties attached.

Table 5 Specific offences introduced or modified into Australian state and territory firearm/weapons legislation^a to deter firearm trafficking

Offence	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
<i>Unregistered firearms</i>	s 36 Offence to sell, purchase, possess or use unregistered firearm	s 6A Offence to possess, carry or use unregistered longarm s 7B Offence to possess, carry or use unregistered handgun	s 50A Offence to possess an unregistered weapon	s 19(1) Offence to sell, deliver, dispose, purchase or possess an unlicensed firearm	s 23 Offence to possess an unregistered firearm	s 74 Offence to sell, acquire, possess or use unregistered firearm	s 177 Offence to dispose, acquire, possess or use an unregistered firearm	s 59 Offence to sell, purchase, possess or use an unregistered firearm
Unauthorised possession of a restricted firearm	s 7 Possession or use of a <i>prohibited</i> firearm or pistol	s 7A Possess etc <i>prohibited</i> handgun s 7B Possess etc unregistered handgun	s 50 Unlawful possession of a weapon	s 19(1) Unauthorised possession of a firearm or ammunition s 19(1)(1ac)(b): Possession of a handgun or <i>prescribed</i> firearm	s 11 Unauthorised possession or use of a firearm	s 9 Unauthorised possession or use of firearms	s 42 Unauthorised possession or use of a <i>prohibited</i> firearm	s 58(6) Unauthorised possession or use of a <i>prohibited</i> firearm
Unauthorised possession of firearms in 'traffickable' quantities	s 51D Unauthorised possession of firearms in aggravated circumstances ie three or more firearms that are not registered and owner is not authorised to possess by licence or permit s 51D(1) non-prohibited firearms s 51D(2) prohibited firearm or pistol	s 7C Possession of a traffickable quantity of unregistered firearms, that is more than 10 firearms that are not registered	s 50(1a) Unlawful possession of 10 or more weapons (5 of which are Category D, E, H or R) s 50(1b) Unlawful possession of 10 or more weapons	–	–	–	s 42(a) Unauthorised possession or use of 10 or more prohibited firearms s42(b): Unauthorised possession or use of three or more prohibited firearms but less than 10 prohibited firearms s 43(a)(i) Unauthorised possession or use of 10 or more firearms other than prohibited firearms	–

Table 5 (continued)

Offence	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Unauthorised sale and purchase of firearms	<p>s 50 Unauthorised purchase of a firearm</p> <p>s 50AA Unauthorised purchase of firearm parts</p> <p>ss 51(1) & 51(1A) Sale of firearm/prohibited firearm or pistol to person not authorised to purchase</p> <p>s 51(2) & 51(2A) Sale of firearm/prohibited firearm between persons that are not licensed firearm dealers</p> <p>s 51A(1) & 51A(2) Purchase of firearm from unauthorised seller</p> <p>s 51BA Unauthorised sale of firearm parts</p> <p>s 65 Unauthorised sale and purchase of ammunition</p>	<p>s 93 Persons from whom a dealer can acquire firearms</p> <p>s 94 Persons to whom a dealer can dispose firearms</p> <p>s 95 Prohibition on acquisition of a firearm except from licensed firearms dealer</p> <p>s 96 Prohibition on disposal of firearm except to licensed firearms dealer</p> <p>s 101B Prohibition on providing financial accommodation</p> <p>s 125 Disposal of cartridge ammunition to unauthorised persons</p>	<p>s 35(1) Unauthorised acquisition of a weapon</p> <p>s 36(1) Unauthorised disposal of a weapon</p> <p>s 50B Unlawful supply of weapons</p>	<p>s 19(1) Unauthorised sale, disposal, delivery or purchase of a firearm or ammunition</p> <p>s 19(2) Sale, disposal or delivery of a firearm or ammunition to unauthorised purchaser</p>	<p>s 14 Unauthorised acquisition of a firearm</p> <p>s 14a Unauthorised supply of a firearm</p> <p>s 16 Dealing in firearms and ammunition without a dealer's licence</p> <p>s 21B Unauthorised acquisition of ammunition</p>	<p>s 10 Unauthorised acquisition of a firearm</p> <p>s 11 Unauthorised dealing in firearms (eg sell, possess for purpose of sale)</p> <p>s 24 Purchase by unlicensed dealer</p> <p>s 25 Licensed dealer purchase or sale from unauthorised person</p> <p>s 105(1)(2) Unauthorised sale and acquisition of ammunition</p>	<p>s 177 Unlawful disposal or acquisition of an unregistered firearm</p> <p>s 226 Unlawful disposal of a firearm</p> <p>s 227 Unlawful acquisition of a firearm</p> <p>s 248 Unlawful acquisition of ammunition</p>	<p>s 62 Unauthorised purchase of a firearm</p> <p>s 63 Unauthorised sale of a firearm</p> <p>s 68A Unauthorised sale and acquisition of ammunition</p>

Table 5 (continued)

Offence	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Trafficking in firearms	s 51B Contravene s 51 (unauthorised sale of firearms) on three or more occasion over 12 month period s 51BB Contravene s 51BA (unauthorised sale of firearm parts) on three or more occasions over 12 month period	s 101A Prohibition on the acquisition or disposal of traffickable quantities of firearms	s 65 Unlawful trafficking in weapons	s 19(1)(1aa) Unauthorised selling, delivering or disposing of three or more firearms	–	s 110A Unlawful trafficking in firearms	s 220 Trafficking in firearms	s 63A Contravene s 63 on three or more separate occasions during course of 30 day consecutive period
Unauthorised manufacture	s 50A(1) Unauthorised manufacture of a firearm s 50A(2) Unauthorised manufacture of a prohibited firearm or pistol	s 59 Carry on the business of being a firearms dealer without licence or permit (note: includes manufacturing a firearm or possessing any parts to manufacture a firearm)	s 69(1A) Manufacture of a weapon by person other than licensed armourer	s 19(4) Manufacture a firearm without authorising licence	s 27 Unauthorised manufacture or taking part in manufacture of firearm or firearm part	s 11 Unauthorised dealing in firearms (note: dealing includes manufacture firearms and firearms parts)	s 228 Unauthorised manufacture of a firearm	s 61(1) Manufacture a firearm without a licence or permit s 61(2) Manufacture a prohibited firearm or pistol without a licence or permit

Table 5 (continued)

Offence	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Unauthorised modification	s 62 Unauthorised shortening of a firearm s 63 Unauthorised conversion of a firearm (1) shorten to a pistol (1A) alter construction or action to convert to prohibited pistol (2) alter construction or action to convert to non-prohibited firearm (3) alter construction or action to convert to prohibited firearm	s 134 Alteration of a firearm (1) shorten barrel (2) reverse inoperability s 134A Unauthorised conversion	s 61 Shorten a firearm s 62 Modify construction or action	s2 3(5)(c) Unauthorised alteration—from design or characteristics, calibre etc	s 29A(2)(a) Possession of mechanism to convert firearm to automatic	s 116 Shorten a firearm <65cm s 117 Unauthorised alteration of construction or action of firearm	s 240 Unauthorised shortening of a firearm s 241 Unauthorised conversion of a firearm (1) shorten into a pistol (2) alter construction or action to convert prohibited firearm to non-prohibited firearm	s 61A Unauthorised modification (or repair) of a firearm s 68 Unauthorised alteration of safe operation or conversion to another category
Alteration of identifying marks	s 66 (a) Deface or alter identification mark on firearm or barrel (b) Possess firearm or barrel with deface or altered ID	s 134(3) Deface or alter any number, letter or other identifying symbol or mark on firearm s134C Unauthorised possession of a firearm without a serial number	s 63 (a) Deface or alter identifying serial number of mark (b) possess such a weapon (c) acquire or sell such a weapon	s 23 (5)(a) Defaces or removes any number or identification mark (b) possesses such a firearm	s 24A(7)(a) Defaces, alters or removes identifying characters (b) possesses such a firearm	s 124 Intentionally or recklessly deface or alters any number, letter or identification mark on any firearm or firearm part	s 252 (1) Defaces, alters or removes a number, letter or other identification mark on a firearm or firearm barrel (2) possesses such a firearm and knows a number, letter or other identification mark has been defaced etc	s 74 (1) Alter an identifying mark (2) Knowingly possess such a firearm (3) Deface or remove an identifying mark (4) Knowingly possess such a firearm
Conspiracy to commit offence outside jurisdiction of residence	s 51C Conspire to commit or aid commission of offence outside New South Wales	s 124AA Conspiring to commit and aiding the commission of an offence outside Victoria	—	—	—	s 120A Conspiracy to commit firearms offence in another jurisdiction	—	s 60A Conspiring to commit and aiding commission of offence outside Territory

Table 5 (continued)

Offence	NSW	Vic	Qld	WA	SA	Tas	ACT	NT
Close associate provisions for firearm dealers	s 44(4) Provision of false or misleading information about close associates	s 75A Requirement to notify Commissioner of close associates	s 10C Licensed dealers associate to be fit and proper person s 25A Provision of information on dealer's associate if requested	s 6D Information about close associates of applicant for issue or renewal of dealer's licence s 6G Provision of information on close associates	s 17(3)(a)(1a) Register to refuse application for dealers licence if close associate is not a fit and proper person s 20 Cancellation etc of licence if close associate is not a fit and proper person	s 99A(1b) Cancellation of licence—close associate is not fit and proper person s 93A Failure to provide Commissioner with business management declaration (including information on close associates)	s 186 Information about close associates of certain firearm dealers ^b	s 16A Failure to keep or provide false and misleading information about close associates
Proscribe certain persons from employment in firearm dealership	s 44A Proscribed persons not to be involved in firearms dealing business	s 75B Offence to employ prohibited persons in management of business	s 70 Employees of dealers and armourers to be qualified weapons employee	s 6F Persons not to be involved in firearm dealership	—	s 96A Employment restrictions—proscribed persons	s 190 Prohibited persons not to be involved in firearms dealing business	s 20 Restriction on employing proscribed persons
Increased recording	s 45(1) Ensure recording of transactions and dealings concerning firearms and firearm parts	s 87 Requirement to keep register of transactions	s 71 Licensed dealers and armourers to keep register	ss 17–18 Maintain records of ammunition sales and firearm dealings	s 18 Failure to keep records on dealings in firearms and ammunition	s 89 Keep records of all dealings with firearms, firearm parts and ammunition	s 193 Failure to keep records on each acquisition and disposal of firearm and firearm parts	s 18 Records to be kept by dealers

a: *Firearms Act 1996* (NSW), *Firearms Act 1996* (Vic); *Weapons Act 1990* (Qld); *Firearms Act 1973* (WA); *Firearms Act 1996* (SA); *Firearms Act 1996* (Tas); *Firearms Act 1996* (ACT); *Firearms Act* (NT)

b: Criminal Code offences for giving false or misleading information

Six of the eight jurisdictions have introduced an offence of unauthorised manufacture; the offence in South Australia also includes the manufacture of firearm parts as well as complete firearms. The exceptions are Victoria and Tasmania, which include manufacturing under the definition of 'carrying on the business of being a firearms dealer' (*Firearms Act 1996* (Vic) s 59(3)(d)) or 'deal, in relation to a firearm' (*Firearms Act 1996* (Tas) s 3) respectively. Depending on jurisdiction, maximum penalties vary according to the class or restricted status of the firearm being manufactured.

Unauthorised modification/alteration of identifying marks

The implementation of restricted categories of firearm was later accompanied with the inclusion of offences relating to the modification of firearms, specifically the shortening of firearms and alterations to the construction or action of a firearm to convert it from a non-prohibited to prohibited model or vice versa. Most jurisdictions have complied with these provisions, although Western Australia has not included an offence related to the shortening of a firearm, and in Tasmanian legislation the sole modification offence relates only to the possession of a mechanism to convert a firearm to automatic firing.

An additional measure recommended in the National Firearm Trafficking Policy Agreement (2002) was to create an offence of altering or defacing a firearm's identifying marks. Illicit firearms often have obliterated serial numbers or similar identifying markers. There has been cross-jurisdictional compliance in the creation of an offence of altering or defacing a firearm's identifying mark, or in Victoria of possessing a firearm without a serial number, but Tasmania has not implemented a complementary offence of possessing a firearm with defaced markings. The offence in New South Wales and Australian Capital Territory extends to defacing an identifying mark on a firearm barrel, not just the complete firearm, as well as possessing a firearm barrel with an obliterated identifying mark. Possession offences in the Australian Capital Territory and the Northern Territory stipulate the owner knowingly possessing a firearm with a defaced or obliterated identifying mark, whereas

in New South Wales, Queensland, Western Australia and South Australia this intention is not explicitly stated (and presumably must be established for an offence to occur).

Commission of an interstate firearm offence

Four jurisdictions (New South Wales, Victoria, Tasmania and the Australian Capital Territory) have complied with the resolution to establish an offence to conspire to commit an interstate firearms offence. In these jurisdictions, the offender is subject to the same penalty that the offender would be subject to had the offence been committed within the jurisdiction of residence.

The remaining four jurisdictions have no such provisions. While some jurisdictions do have offences relating to conspiracy to commit an offence and aiding or abetting in the commission of an offence, such as the ACT's *Criminal Code 2002*, these extensions of criminal responsibility relate only to offences against the jurisdiction's laws and not to an interstate offence as intended by the resolution.

Record keeping

It was resolved in the National Firearms Agreement (1996) that dealers should be required to record and maintain details of each firearm purchased or sold (against the prescribed particulars of the client) and to provide records to the state/territory licensing authority on a consistent (usually quarterly) basis. These records must also be made available for inspection to police when requested.

All jurisdictions have complied with the requirement for dealers to record and maintain the details of all transactions and dealings, to send these records to the licensing authority for inclusion in the register and to allow police to inspect dealers' records. These provisions comprise dealings relating to both firearms and firearm parts—these are either expressly included under the recording requirements or comprise major component parts under the definition of a firearm.

The provision of false or misleading information has been established as an offence in firearm legislation or, as in the case of Western Australia, in reference to the general offence of giving false or misleading

information as stipulated in the Criminal Code. Only New South Wales, Queensland and Western Australia have additionally established a specific offence for a firearms dealer making a false or misleading entry or altering a record in the dealer's register.

Close associations and employment of proscribed persons

To prevent the potential exploitation of firearm dealerships, state and territory firearm laws have been amended so that applications for (or renewal of) dealer licences can be refused where a close associate of the applicant is deemed not to be a fit and proper person. Close associate provisions also prevent ineligible persons from using eligible persons to 'front' a firearms dealership. A 'close associate' is defined as someone who holds or will hold any relevant financial interest (or other relevant power) in the business or holds or will hold any relevant position. In all jurisdictions, the disclosure of this information is incorporated in stipulations on acquiring a firearm dealers' licence and forms the basis of offences of failure to provide, or provision of false or misleading, information.

South Australia is the one jurisdiction that has not introduced provisions prohibiting the employment of proscribed persons in dealerships. A proscribed person is one that:

- has, within the preceding 10 years, had a firearm dealer licence revoked; or
- has, within the preceding 10 years, had an application for a firearms licence or permit refused or revoked, on the grounds of not being fit and proper and not to be trusted of having possession of a firearm without danger to public safety or peace; or that issue of the licence or permit would be contrary to the public interest; or
- is subject to an apprehended, domestic or family violence order (or similar); or
- is the subject of a good behaviour bond relating to an offence of violence; or
- is subject to a firearms prohibition order.

Queensland has legislated to restrict dealers from employing a person who will have access to weapons unless the person is a 'qualified weapons employee', meaning a person who is 18 years or

over and holds a firearms licence. This scheme substantially complies with the requirements not to employ proscribed persons, as 'proscribed persons' as defined would also be disqualified from obtaining a licence. The one difference is the period of restriction, which in Queensland only refers to the past five years and not 10 years as specified elsewhere.

Commonwealth amendments

Together with the changes to state and territory firearm and weapons laws, which absorbed the bulk of these reforms, were amendments to Commonwealth law, specifically the import and export of firearms and the cross-border trafficking of firearms.

In 2000, the *Customs Act 1901* (Cth) was amended by the *Customs Legislation Amendment (Criminal Sanctions and Other Measures) Act 2000* (Cth) to introduce special criminal offences relating to the import and export of Tier 1 and Tier 2 goods (ss 233BAA and 233BAB respectively). Offences relating to the importation and exportation of restricted firearms (as specified under s 4F of the Customs (Prohibited Imports) Regulations 1956 (Cth), Tier 2 goods) were now made punishable on conviction by a penalty of up to \$250,000 fine and/or 10 years imprisonment.

Restrictions on the importation of handguns and handgun parts were introduced first with the Customs (Prohibited Imports) Amendment Regulations 2000 (No. 7) (Cth) so that handguns were 'released into the community on an 'as needs' basis [only] and once a legitimate end user ha[d] been established' (Explanatory Statement: np). The Regulations also ensured that only a limited number of handguns, as well as Category C firearms, could be imported as dealer stock for the purposes of testing and demonstration. The Customs (Prohibited Imports) Amendment Regulations 2002 (No. 4) (Cth) imposed further controls on the importation of handguns and handgun parts, specifically prohibiting the importation of handguns (and handgun parts) for models with a calibre greater than .38", a barrel length of less than 120mm for semi-automatic handguns and less than 100mm for revolvers and single-shot handguns, and/or a magazine/shot capacity exceeding 10 rounds.

The firearms provisions of the *Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Act 2002* (Cth) amended the *Criminal Code Act 1995* (Cth) and commenced on 16 January 2003. The changes to the Act established a criminal offence, in the course of trade or commerce between any states and territories, to illegally dispose of or acquire a firearm, or to take or send a firearm from one state or territory to another, intending that the firearm will be disposed of illegally (see Division 360 Part 9.4 *Criminal Code Act 1995* (Cth)). The maximum penalty on conviction for either offence is 10 years imprisonment, a fine equivalent to 2,500 penalty units or both.

Specific loopholes

Part of the National Firearms Agreement (1996) resolved that jurisdictions were to establish an integrated system for the registration of firearms. All states and territories complied; however, variations in the legislative definition of a firearm resulted in inconsistencies arising between jurisdictions in the requisite registration of deactivated firearms and of specified firearm parts.

Deactivation

A deactivated (or inoperable) firearm is one that has been rendered incapable of discharging shot, bullets or other projectiles by means of an explosive charge or compressed gas and cannot be returned to its original firing condition (without modifying the appearance of the firearm; see Customs (Prohibited Imports) Regulations 1956—Reg 4F). The legislation in New South Wales and the Australian Capital Territory describes a firearm as a gun or other weapon that is (or at any time was) capable of propelling a projectile by means of an explosive; deactivated or inoperable firearms are thus included in the definition of a firearm. Similarly, in Victoria, Tasmania and the Northern Territory, the definition of a firearm is broad enough to include deactivated or inoperable firearms. In these jurisdictions, firearms remain ‘accountable’ even when deactivated. This means that a firearm’s registration status is not invalidated if it is deactivated and record of the firearm is retained with the relevant firearm register.

Deactivated firearms, however, do not fall within the legislative definition of a firearm in South Australia and Western Australia. Deactivated Category H firearms in Queensland are still considered a firearm but not deactivated long-arms. A firearm in these two former states, and a long-arm in Queensland, loses its accountability status on being certified as deactivated. This poses a problem where deactivation standards are not uniform or verified by the licensing authority. One way ‘deactivated’ firearms that have been deemed unaccountable may enter the illicit pool is through the transfer of the serial number from the deactivated firearm to another, operable firearm, with the purpose of concealing the identity of the latter firearm. The other is through the reactivation of (deliberately) poorly deactivated firearms. A deactivation loophole in Queensland legislation inadvertently led to the deactivation of reportedly thousands of handguns by Queensland-based dealers and based on firearm seizure data, the transfer of some of these handguns into the national illicit pool (Project stakeholder personal communication 24 September 2010). Prior to amendments to the *Weapons Act 1990* (Qld) and *Weapons Regulation 1996* (Qld), a handgun if rendered inoperable lost any requirement to remain registered in Queensland. Compounding this vulnerability was the lack of inspection of the firearm once the deactivation process had taken place and many thousands of poorly deactivated handguns were reactivated by firearm enthusiasts and criminals, and made their way into the illicit market (Project stakeholder personal communication 24 September 2010). Of note is the inclusion now in Queensland legislation of an offence to reverse the inoperability of a firearm that has been proscribed under the Act to be rendered inoperable (*Weapons Act 1990* (Qld), s 62(2)).

State and territory firearm laws now stipulate deactivation standards that *generally* align with each other and those prescribed in the Australian Federal Police Firearm Deactivation Standards, which were endorsed by the then APMC in 2006. Depending on jurisdiction, these standards apply to specific firearm types, categories and/or models. In Queensland, the *Weapons Amendment Act 2011* (Qld) amended the *Weapons Regulation 1996* (Qld) to include firearm deactivation standards consistent with the aforementioned AFP Firearm Deactivation Standards

(Schedule 2A), while in South Australia, a SAPOL deactivation policy stipulates deactivation procedures to be adhered to. The latter policy requires deactivated firearms, irrespective of whether an owner or dealer has undertaken the deactivation, to be inspected by the SAPOL Armoury Section. A 'Certificate of Deactivation' is issued only where the deactivation has been completed according to standard.

Registration of firearm parts

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

Legislation regarding the registration of firearm parts is not clear but it appears that jurisdictions excluding Western Australia, Tasmania and the Australian Capital Territory have made (at least some) firearm parts subject to registration. Jurisdictional variation exists as to whether specified firearm parts are contained within the definition of a firearm; for example, Queensland includes 'a major component of a firearm' in its definition of a firearm (*Weapons Act 1990* (Qld), sch 2) and South Australia includes 'a receiver of a firearm and any device, which if in working order, would be a firearm' (*Firearms Act 1977* (SA), s 5). The Northern Territory also includes firearm parts in its definition of a firearm. In New

South Wales and Victoria, specified parts require registration.

The registration of firearm parts was not considered by the National Firearm Agreements (1996) and regulation of all firearm parts is not necessarily a feasible option. However, ensuring the mandatory registration of major component firearm parts (eg frames and receivers) in all jurisdictions would enable police to more easily trace ownership history and the movement of firearms constructed illegally from firearm parts.

Conclusion

Prior to the firearm law reforms described above, it could be argued that opportunities to divert firearms were inadvertently facilitated by legislative loopholes or oversights and/or a general lack of deterrence based on the offences proscribed and the maximum penalties attached. The extensive nature of the reforms and the subsequent amendments to close identified gaps and further increase penalties suggest a considerable amount has already been accomplished in legislatively deterring the flow of firearms from the licit to the illicit market. This is not to suggest that inconsistencies in firearm laws, particularly between jurisdictions, cannot or will not be tested. For example, it has been suggested by stakeholders consulted for this project that dealers who are involved in the illegal diversion of firearms will continue to test the legislation to identify avenues for exploitation (Project stakeholders personal communication 4 May 2011; 28 November 2011). These avenues may not be detected by law enforcement agencies until after the fact, such as occurred with the Queensland 'deactivation' and New South Wales 'firearm receiver' loopholes described previously.


Areas where legislative accord could be improved concern the activities of dealerships and registration and manufacture of firearm parts. Resolutions specified in the National Firearm Trafficking Policy Agreement (2002) aimed to deter dealer involvement in the illicit market by prohibiting certain persons being employed in dealerships, requiring the provision of close associate information, enabling better scrutiny of firearm dealings (through

mandatory recording and provision of transaction records) and making it an offence to wilfully record a false or misleading entry in records on firearm and firearm part transactions. Strengthening provisions around false entries, such as recording false disposal or sales notices, false interstate transfer or failure to record receipt of goods, may deter (some) dealers from making wilful false entries to conceal the diversion of firearms. The maximum penalty for this offence, usually a relatively minimal fine, may not produce the adequate deterrence to offset the temptation to falsify records.

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

Inter-jurisdictional inconsistencies in legislation, however, tend to be localised in that one or two jurisdictions have failed to introduce specific offences that have been implemented elsewhere (eg the absence of an offence of trafficking in firearms in South Australia or the possession of a prohibited or prescribed firearm in Tasmania). The significance of these inconsistencies is debatable, although as noted in Davies and Mouzos (2008: 55), the 'departures from the resolutions of the firearm agreements...are potentially detrimental to the integrity of the scheme' and standardisation would 'give full effect to the national principles of firearm controls as envisaged'.

Nonetheless, the review undertaken by Davies and Mouzos (2008) and revisited for this study, suggests that most of the past legislative looseness has been tightened and outside of increasing penalties, which *might* produce further deterrence, other avenues of scrutiny and control are better served by revision or improvement.



Characteristics and dynamics of firearm trafficking

In their study of illegal firearm markets in the United States, Pierce et al. (2004: 392) emphasised that the ‘complexity’ of these markets and the paucity of information about how illicit firearm markets operate ‘presents substantial challenges to policy makers and law enforcement agencies in disrupting supply’. Information on firearm trafficking and the intricate workings of the illicit market in Australia is similarly limited. There is general agreement on the likely sources of illicit firearms, and the conduits through which they are trafficked, but less consensus on the importance of these in supplementing the illicit market. Some of this difference in opinion relates to the viewpoint of different interest groups, in particular whether market replenishment is mostly derived from ‘internal’ sources (such as the theft of legal firearms) or reliant on a consistent flow of items from outside Australia (through illegal importation). Yet much of this uncertainty ultimately derives from the difficulty in estimating contribution in the absence of complete data.

Type and size of markets

Three primary firearm markets exist in Australia—the licit, grey and illicit markets. These are as follows:

- The licit market comprises all firearms that have been registered with the relevant authority and held by an owner with the appropriate licence(s) to possess and use the specified firearm(s).
- The ‘grey market’ comprises unregistered firearms. Prior to the National Firearms Agreement (1996), only handguns had to be registered in all Australian jurisdictions; mandatory long-arm registration varied between the states and territories. Grey market firearms are those firearms that should have been registered or surrendered (for restricted models) in the gun buybacks that have occurred since the National Firearms Agreement (1996), but for a multitude of reasons were not. In some cases, this was probably because the owner chose not to comply with the new legislative requirements but in others because the firearms had been misplaced, lost or forgotten about. Grey market firearms are not held, used or conveyed for criminal purposes but have been identified as often ending up in the illicit market.
- The illicit market comprises any firearm that has been illegally imported into Australia, illegally manufactured in Australia or diverted from the licit or grey markets. Illicit firearms may be used in criminal activities.

The introduction of mandatory registration requirements with the firearm reforms now provides a count of the legal market—there were over 2.7 million firearms registered in Australia as of December 2011. It is not possible, however, to estimate the size of either the grey or illicit markets. The grey market may be substantial but there are no reliable estimates of the volume of it or the illicit market.

Sources and conduits

Illegal importation, theft, illicit manufacture (albeit small), the activities of some corrupt dealers, and legacy legislative and procedural loopholes all represent recognised methods by which firearms, firearm parts and ammunition have been or currently are trafficked into or within Australia (ACC 2011, 2009, 2008; Kerlatec 2007; Mouzos 1999; Qld CMC 2004). The trafficking of illicit firearms might be described as being dependent on two sources of supply—point sources and diffuse sources (Braga et al. 2002). Point sources represent the more organised spectrum of illegal firearm transfer, best typified by ongoing diversion of firearms from some corrupt firearm dealers or illegal importation. Diffuse sources are less routine or less dependable ‘acquisitions’, for example, from theft or informal, clandestine sales. These recognised methods of trafficking are described here.

Illegal importation

Many, if not the majority of, firearms in both the grey and illicit markets were most likely legally imported into Australia prior to the firearm and related reforms (see next section). In 2010–11, a total of 85,035 firearms were legally imported into Australia and 4,540 were exported (ACBPS 2011a). In the same period, ACBPS recorded the detection of 5,922 undeclared firearms/airguns, parts and accessories, although not all of these undeclared items were brought in through deliberate, illegal import activity and most of these items were described as ‘low risk’ (Project stakeholder personal communication 7 December 2011).

Aside from the concern that restricted firearm models are being illegally brought into the country is the risk surrounding the illegal importation of parts and accessories which can then be used to manufacture restricted firearms or modify existing

Table 6 Reported illegal importation of firearms, parts and ammunition 2004–11

Item	Method of import
Parts for Uzi sub-machine gun	Post
‘Handgun’ parts	Post
MG42 machine gun parts	Post
Airsoft handgun and ammunition (with other prohibited weapons)	Luggage
Rifle barrel for M1 carbine	Post
Replica handguns/replica flintlock rifles	Not specified
Frame and 3 15-round 9mm magazines for semi-automatic pistol	Post
76 replica flintlock pistols/22 replica flintlock rifles	Sea cargo
9mm semi-automatic pistol	Post
Six handguns (4 x .32 semi-automatic pistols, 1 x .25 semi-automatic pistol and 1 x .22 revolver)	Sea cargo
Handmade shotgun	Air cargo
9mm semi-automatic pistol	Sea cargo
AK-47 assault rifle (dismantled)	Post
Airsoft firearm parts	Luggage
15 military style firearm magazines and stock for ‘Steyr’ rifle	Post
Air rifle (disassembled)/air rifle ammunition	Post
Four magazines for semi-automatic pistol and firing pin	Post
2,000 airsoft BB guns	Sea cargo
‘Parts’ for a semi-automatic pistol	Post
1,500 BB guns	Sea cargo

Source: ACBPS 2011b, 2009, 2008a–f, 2007a–c, 2006a–d, 2005a–c, 2004a–b

firearms. Media reports from the ACBPS (see Table 6) and AIC discussions with stakeholders indicate that it is the illegal importation of parts which is the more common scenario. The servicing of the current illicit market through illegal imports is not an unproven channel but may not be as important a trafficking route as some commentators expect or assert (eg see ABC 2011) and despite more recent high-profile cases (eg see AAP & Davies 2012). This may be because the process of illegal importation is possibly perceived as a less reliable option for firearm acquisition due to increased surveillance from the ACBPS, in combination with police agencies, and thus a greater chance of detection (Project stakeholders personal communication 28 November 2011; 7 December 2011).

Theft

Theft is cited as an important source of illegal firearms in countries such as the United States (Kleck & Wang 2009; Pierce et al. 2004; Wright & Rossi 1994) and inferred in other jurisdictions such as England and Wales (Hales, Lewis & Silverstone 2006) and within the European Union (Spapens 2007). Data collected for the AIC's National Firearm Theft Monitoring Program showed that over the five years between 1 July 2004 and 30 June 2009, an average 1,545 firearms were reported stolen to Australian state and territory police (Borzycki & Mouzos 2007; Bricknell 2011, 2009, 2008a; Bricknell & Mouzos 2007), less than half the average number of firearms reported stolen during the previous decade (Mouzos 2002). Around three-quarters of thefts were from private residential premises, with a mix of targeted and opportunistic incidents recorded. Less restricted firearms (eg Category A and B firearms—see Table 8) comprised the majority of firearms stolen in this period, most likely a reflection of the prevalence of these firearms among the Australian firearm-owning community rather than a necessary preference for such models. Handgun theft has remained consistently below 10 percent and restricted Category C and D firearms (such as pump action shotguns and semi-automatic rifles) rarely featured in firearm theft reports (less than 1% of all reported stolen firearms). Firearms from just 12–14 percent of reported theft incidents between 2004–05 and 2008–09 were recovered by police in

the 12 months following the report of the theft (Borzycki & Mouzos 2007; Bricknell 2011, 2009, 2008a; Bricknell & Mouzos 2007), indicating a sizeable, annual contribution of stolen firearms to the illicit market.

Illicit manufacture

Illicit manufacture refers to the unauthorised production of a firearm from raw materials or assembly using disassembled and/or new firearm parts. It has been predicted that the illicit firearm market will (increasingly) be supplied by a 'growing domestic market of locally manufactured firearms' (Kerlatec 2007: 160), presumably as other methods for diversion become less viable. The current scale of illicit domestic manufacture is unknown, although the ACC (2011: 76) lists 'backyard manufacturers' as a source of firearms for SOCG. Given the risks associated with detection, illicit manufacture is likely to occur in small-scale, made-to-order operations.

Corrupt licensed dealers

Licensed firearm dealers are well placed to divert firearms—they have access to large firearm collections, and their familiarity with legislation and processes around the importation, sale and distribution of firearms will have revealed where vulnerabilities exist and can be best exploited. This form of diversion often relied upon the abuse of legislative or administrative inconsistencies and weaknesses (such as the deactivation loopholes described below), which was nominated as a key conduit in the supply of handguns to the illicit markets in New South Wales and Queensland (ACC 2011; Qld CMC 2004).

Legislative loopholes

The exploitation of legislative and procedural loopholes primarily by, although not confined to, some corrupt licensed dealers contributed in the past to the diversion of reportedly thousands of legal firearms, notably handguns (Project stakeholders personal communication 24 September 2011; 30 November 2011). Legislative and procedural anomalies recognised as being particularly damaging concerned the 'accountable' status of

deactivated firearms, the definition of a firearm and mandatory registration of frames and receivers, and the historical non-existent recording of firearms transferred across state and territory borders.

Deactivation/reactivation

In all but two jurisdictions, firearms remain 'accountable' even when deactivated. This means that a firearm's registration status is not invalidated if it is deactivated and the firearm remains 'on the books' of the relevant firearm registry. Deactivated firearms, however, do not fall within the legislative definition of a firearm in South Australia and Western Australia. A firearm in these two states loses its accountability status on it being certified as deactivated. Once a deactivated firearm is unaccountable and reactivation occurs, its transfer out of the legal pool is complete.

A deactivation loophole in Queensland weapons legislation inadvertently led to the deactivation of a substantial number of handguns (estimated to be upwards of 4,000) by Queensland-based dealers and probably the transfer of some of these handguns into the national illicit pool (Project stakeholders personal communication 24 September 2011; 30 November 2011). Prior to amendments to the *Weapons Act 1990* (Qld) and *Weapons Regulation 1996* (Qld), a handgun if rendered inoperable lost any requirement to remain registered in Queensland. Compounding this vulnerability was the lack of inspection of the firearm once the deactivation process had taken place. Subsequently, many thousands of poorly deactivated handguns were reactivated by firearm enthusiasts and criminals, and made their way into the illicit market (Project stakeholders personal communication 24 September 2011; 30 November 2011).

Technical loopholes

Prior to the implementation of the *Firearms Amendment (Trafficking) Act 2001 No 24* (NSW), a technical error in the definition of a handgun in New South Wales legislation enabled the diversion of many handguns to the illicit market (Project stakeholders personal communication 24 September 2011; 30 November 2011). The *Firearms Act 1996* (NSW) as originally enacted required firearm barrels,

but not frames or receivers, to be registered under Part 3 (Registration of Firearms) of the Act. The exemption of frames and receivers meant handguns without barrels could be sold without having to observe regulations on firearm disposal, and frames/receivers could be purchased without need to register them. This opened up opportunities to convert or build up new handguns using non-registrable parts purchased in New South Wales with parts purchased elsewhere. Among the amendments prescribed in the *Firearms Amendment (Trafficking) Act 2001 No 24* (NSW) was the stipulation that registration now 'applies to every firearm frame and firearm receiver in the same way as it applies to a firearm' (s 93(1)).

Interstate transfer

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

Illicit market suppliers and consumers

The trafficking of illicit firearms in Australia is not considered to be organised in structure (Alpers & Twyford 2003; Kerlatec 2007; Mouzos 1999; CMC 2004). Rather, it is dominated by a collection of criminal gangs (OMCGs are frequently nominated) in which illicit firearm trafficking is run as a side business to the primary criminal venture (eg the drugs market) and small networks or individual operators, such as corrupt licensed dealers, who move illicit firearms around by word of mouth.

The consumers of the illicit market comprise much the same group again, consisting of persons, gangs

or more sophisticated entities acquiring firearms to commit crime, for protection of themselves or their assets, to perpetuate gang rivalry and violence and/or for stockpiling purposes. It is fair to assume that few, if any, consumers of illicit firearms sit outside criminal networks but it is quite probable there are collectors or other firearm enthusiasts who might look to the illicit market for restricted firearms if they wish to acquire them.

There is a predilection for handguns among the criminal fraternity, in acquisition and to use to commit crime (Blumstein 1995; Braga et al. 2002; Hales, Lewis & Silverstone 2006; Kleck & Wang 2009; Smith et al. 2010; SOCA 2006; Spapens 2007; Williams & Poynton 2006; Wright & Rossi 1994; Wright, Wintermute & Webster 2010). While the large-scale, cross-border trafficking franchises are occupied with the movement of military-style firearms and similar firearms, there is 'limited use' for such items in domestic criminal enterprise (UNODC 2010: 129). Military-style firearms (such as Bren Light Machine Guns, AK-47 assault rifles, M1 carbines) do permeate the domestic illicit market but they are bought for different reasons (possibly stockpiling) and generally do not feature in the commission of crime. Handguns dominate firearm-perpetrated violent crime statistics from the United States (FBI 2010), England and Wales (Smith et al. 2010) and Canada (Mahoney 2011), despite differential rates of firearm crime overall in these jurisdictions. This has not been the case in New Zealand where long-arms were often used in the commission of violent crime, but this apparent preference for long-arms could be related to the comparative scarcity of handguns, compared with long-arms, in New Zealand (Newbold 1999). More recent data on firearm violent crime in New Zealand, however, are not available.

In Australia, the number of victims of firearm-perpetrated homicide (ie murder and manslaughter) has declined by half between 1989–90 and 2009–10 from 24 to 12 percent (Chan & Payne forthcoming). The predominance of handgun-perpetrated homicide, as a proportion of all firearm homicide, rose from 17 to 45 percent between 1992–93 and 2006–07 (Bricknell 2008b; Dearden & Jones 2008) but dropped again in the following three years to a little over 10 percent. For the most recent year

available (2009–10), handgun homicide comprised 13 percent of all homicides that were committed with a firearm (Chan & Payne forthcoming). Data on weapon use from the AIC's National Armed Robbery Monitoring Program show that armed robberies involving a firearm comprised 14 percent of all armed robberies reported in 2009. This percentage has remained stable over the seven year period from 2003 to 2010. More than half of all firearm-perpetrated armed robberies in 2009 were committed with a handgun (56%, n=2,708), with long-arms used in 10 percent or less of firearm armed robberies reported that year (eg shotguns 10%, n=490; rifles/airguns 5%, n=5; AIC unpublished data).

Hales, Lewis and Silverstone (2006) have differentiated between two types of 'gun culture' that sustains the illicit firearms market in England and Wales. The first is the *instrumental* criminal firearm culture where firearms are obtained specifically for offensive criminal purposes, armed robbery being the most common criminal pursuit. The second is the *complex* criminal firearm culture, in which firearms are procured for often a mix of offensive, defensive and symbolic functions. It is the latter group of purchasers that Hales, Lewis and Silverstone (2006) have argued is becoming the dominant culture in illicit firearm ownership and use, and that is often connected to, or immersed within, the illicit drugs market. This is a credible scenario for Australia too and may help to explain the type of firearm that comprises the illicit firearm market here.

Handguns, as noted earlier, are the firearm of choice for many criminal groups. Handguns are preferred by the very fact they are concealable and some models have large magazine capacities (Blumstein 1995; Hales, Lewis & Silverstone 2006; Lizotte et al. 2000; Wright & Rossi 1994). Long-arms, in particular sawn-off shotguns, are chosen probably because of general availability but also because of the intimidatory effect they have on victims (Hales, Lewis & Silverstone 2006; Newbold 1999). Select-fire firearms (ie firearms that have at least 1 automatic and semi-automatic mode) hold a 'symbolic value' among criminal users that 'conform(s) to gangster stereotype(s)' (Hales, Lewis & Silverstone 2006: 55); their power and quick reloading capacities are equally attractive.

Access to the illicit firearm market, or a broader selection of items within the market, usually depends on the extent and strength of criminal connections and length of service in criminal enterprise (Hales, Lewis & Silverstone 2006; Newbold 1999). Older, established consumers tend to be more technically savvy and more discerning in their choice of firearm. Younger or less experienced purchasers may be less knowledgeable about firearms and possibly more impulsive in their selection (Cook et al. 2006; Hales, Lewis & Silverstone 2006).

The reasons for acquiring illicit firearms can be related to the 'gun cultures' described before. Some firearms are bought primarily to commit a criminal offence. Others, particularly handguns, are acquired for self-defence or protection and, for younger users, as status symbols (Blumstein 1995; Bricknell 2008b; Cook et al. 2006; Hales, Lewis & Silverstone 2006; Lizotte et al. 2000). Cook et al. (2006) noted that gang members often possessed firearms so that their rivals knew they had a firearm—just showing someone your firearm was sufficient for being left alone. Self-defence and the avoidance of future victimisation were regularly mentioned reasons for firearm ownership by gang members involved in the drugs market, particularly those at the retail end of the market. Then there are purposes related to establishing and maintaining control of illegal economic activities (Markowski et al. 2009), such as handling territorial disputes and 'sanctioning' acts of trespass (Hales, Lewis & Silverstone 2006). Finally, there is the acquisition of firearms for stockpiling, to be used when and if more serious skirmishes arise. Military-style firearms may be more likely to be obtained for stockpiling purposes.

Australian cases of firearm trafficking

The nature of firearm trafficking in Australia can be discerned from examining open-source material but with the caveat that the absence of intelligence prevents the construction of a more complete picture. As noted earlier, there is a paucity of open-source literature addressing the illicit firearm trade within Australia, indeed on firearms in general, outside the occasional report (usually) prepared by

government agencies or interest groups. The Queensland Crime and Misconduct Commission's assessment of the illicit firearms trade in Queensland in the early 2000s described the market as 'not large or overly organised' and was mostly supplied, at least in the past, by the diversion of firearms from the legal market, 'boosted by opportunistic theft' (Qld CMC 2004: 203).

Similarly dated assessments of firearm trafficking (Alpers & Twyford 2003; Mouzos 1999) supported the opinion that the illicit market was not organised and supply was predominantly from 'domestic leakage' of legal firearms, rather than wholesale illegal importation. A more recent report, on firearm trafficking in New South Wales (Kerlatec 2007), listed diversion, a growing industry in domestic manufacture (presumably unlawful), and illegal importation as methods of supply, although it also predicted an increase in the use and acquisition by criminal elements of imitation and replica firearms. The ACC (2011: 76), in its 2011 assessment of organised crime in Australia, stated that the trafficking in firearms is largely furnished by 'corrupt licensed dealers, loose networks of criminal gangs and 'backyard' manufacturers' but did not predict any escalation in activity into the near future.

Missing from these more generalised accounts of firearm trafficking is the identity and backgrounds of suppliers and consumers, and specificities around the type of firearms that are bought and sold. Media reports can only go so far in revealing these identities, not least because this form of source material may tend to focus on the more substantial (or sensationalist) cases (eg see AAP & Davies 2012; ABC 2012, 2009; Bell 2008; Earley 2009; Hughes 2007; Nankervis 2012; Nicholson & Ziffer 2004; O'Brien 2007; Robertson 2011; Rule 2009; Trembath 2009; Trenwith 2009). From these, it is clear that some trafficking syndicates have access to significant caches of (usually) restricted firearms (and other weapons) and the link to OMCGs and other criminal groups involved in the drugs trade is readily advanced. The role of licensed firearm dealers and armourers is also apparent, either as a channel by which firearms are moved into the illegal market or as on-sellers. However, the scenarios presented in these reports simply confirm stereotypes around firearm trafficking without detailing the different typologies of involvement. The following discussion

examines transcripts from court proceedings to ascertain whether more can be established from this source about suppliers and different levels of trafficking enterprise.

The 'business of selling'

Among the recommendations specified in the National Firearm Trafficking Policy Agreement (2002) was the introduction into law of new offences or an increase in penalties for activities connected with the illicit firearms trade. These were described in full in the previous section but briefly include, where they were not present in the legislation before:

- the creation of offences related to the defacement of identifying marks (eg serial numbers) and the illegal manufacture of firearms;
- an increase in penalties for illegal possession;
- new provisions for licensed dealers in the recording, reporting and inspection of firearm part transactions and close associate arrangements; and
- the addition of an offence for employing a prohibited person in a dealership business.

The sample of court proceedings assembled for this report was expectedly small (n=20) and therefore the description of illicit firearm sales contained in these transcripts can only be taken as indicative of trafficking operations. As noted in the *Methods* section, court proceedings are generally available only for cases heard in higher courts and those cases reported here were mostly those that went to appeal. It was not possible to establish the proportion of cases that proceeded to prosecution that were represented by the cases described here. Indeed, a number of high profile firearm trafficking cases reported in the media in recent years could not be located in publicly available court records.

Two categories of suppliers might be distinguished from the compiled cases. The first category comprised individuals or groups of individuals who were evidently in the 'business of selling'—the sale or supply of firearms was a regular or major form of income, at least for a sustained period of time. These suppliers were known or suspected to have engaged in multiple, illegal sales of firearms, usually restricted models, to persons who did not have the appropriate licence to own the firearms being

disposed of or were designated a 'prohibited person' under the relevant state or territory law. For example, in *The Queen v NP* [2003] NSWCCA 195 (17 July 2003), the defendant was described as clearly 'being in the business of supplying firearms [and prohibited drugs]' and that 'business had been good and profitable' (Transcript of proceedings, *The Queen v NP*, New South Wales Court of Criminal Appeal, Hodgson JA, 17 July 2003: 8). In a number of cases, the appeals judge represented the seriousness of the matter with the defendant's apparent disregard for the identity of the eventual purchaser of the firearm or the reason for the purchase. In *The Queen v Nash* [2008] SASC 48 (29 February 2008), Justice David noted it was 'clear that the respondent acquired the firearms illegally' and on the respondent's plea the act of sale 'was made on the basis of recklessness, it [was] difficult to imagine that these firearms were to be used by the purchasers for anything other than a sinister purpose' (Transcript of proceedings, *The Queen v Nash*, Supreme Court of South Australia, David JJ, 29 February 2008: 127).

Nash had been found guilty of taking part in the supply of a prescribed firearm (an Uzi 9mm submachine gun), 12 Category H firearms (6 handguns on 2 separate occasions) and two Category D firearms, contrary to s 14A(1)(b) of the Firearms Act 1977 (SA). Similarly, in *The Queen v Dunn* [2003] NSWCCA 169 (13 August 2003), in which it was determined in the sentence hearing that 40 firearms had been illegally sold, Justice Meagher, while acknowledging the specifics of the sale(s) were not established, stated 'one might be forgiven for speculating that the purposes were hardly likely to be benign or the participants to be savoury' (Transcript of proceedings, *The Queen v Dunn*, New South Wales Court of Criminal Appeal, Meagher ACJ, 13 August 2003: 19).

The sale of firearms to persons who had the intention of taking firearms to a state other than the jurisdiction of sale informed in part the decision to dismiss the appeal in *The Queen v Howard* [2004] NSWCCA 348 (12 October 2004). In this case, the offender, who lived in Queensland, had sold two handguns and was offering to sell another two handguns with silencers (contrary to s 51(1A) of the *Firearms Act 1996* (NSW)), to a buyer (an undercover police officer) who had made it known

to the offender he was from New South Wales and intended to take the firearms back across the border. While the offender had no previous criminal history, the appeals judge agreed with the district court judge's summation that:

...like others of his ilk, he regards personal financial gain as of more importance than the safety of the community. I am totally satisfied that he knew exactly what he was doing; that he was deeply steeped in his love for firearms and felt no sense of responsibility, so long as he did not pull the trigger (Transcript of proceedings, *The Queen v Howard*, New South Wales Court of Criminal Appeal, Spigelman CJ (citing Ducker ADCJ): 8).

The second category of supplier could be defined as part-time vendors, who sold firearms on a more ad hoc basis. While involvement in the drug market, either as a user or dealer, was not unique to this group of suppliers, the available cases suggest that the sale of firearms were for these offenders, a means to support an existing drug habit or a minor side-business to dealing in drugs. In *Baxter v the Queen* [2007] NSWCCA 237 (10 August 2007), the respondent was described as a heavy drug user who purchased and sold amphetamine and methylamphetamine. Telephone intercepts indicated the offender was also occasionally occupied in sourcing and selling firearms; he was convicted, along with drug offences, for the sale of a shotgun, contrary to s 51(1) of the *Firearms Act 1996* (NSW), as well as possession of a replica Smith & Wesson handgun, contrary to s 7(1) of the Act. Supporting a drug habit was the primary factor in the illegal sale of firearms in *Regina v Justin Van Turnhout* [2007] NSWDC 363 (9 November 2007). The firearms the respondent sold were his own or that of a friend, rather than items acquired elsewhere, which he sold along with various quantities of methylamphetamine. Joint sales of firearms with prohibited drugs is also described in *The Queen v DJM* [2002] NSWCCCH 493 (9 December 2002), in which a self-acknowledged drug dealer was involved, on two separate occasions, in the sale of heroin and semi-automatic pistols to a police operative.

A separate group of participants involved in the illicit movement of firearms are those not directly involved in the selling of firearms, or the procurement of firearms for sale, but rather engaged in the exchange

or receipt of firearms in return for another illegal commodity. In *The Queen v Gasmier* [2011] SASCFC 43 (20 May 2011), it was noted that 'the appellant was sentenced on the basis that he had been approached by a friend who asked him to take the guns and 'move them on', in exchange for drugs' (Transcript of proceedings, *The Queen v Gasmier*, Supreme Court of South Australia (Court of Criminal Appeal), Sulan JD: 5). The firearms were a Category A 12-gauge single barrel shotgun and a Category D .22 calibre semi-automatic rifle, which were located in the boot of the appellant's car. Similarly, in *Howlett v Tasmania* [2010] TASCCA 15 (12 October 2010), the appellant was shown to have been involved in the exchange of drugs for firearms, in this case brokering the exchange of two ounces of methylamphetamine for five firearms. The appellant was to receive one of the five firearms as commission; he was ultimately not charged with an offence contrary to s 110A of the *Firearms Act 1996* (Tas) (unlawful trafficking in firearms). However, the appellant's 'motive' for possessing the methylamphetamine—'to facilitate the crime of trafficking in firearms'—was noted at sentencing and in the subsequent appeal as an influential factor for sentencing purposes (Transcript of proceedings, *Howlett v Tasmania*, Supreme Court of Tasmania (Court of Criminal Appeal), Blow: 16).

Sale items

The origin of the trafficked firearms was not commonly stated in appeal proceedings. Theft was cited as the source of firearms in *R v Mundy* [2011] QCA 217 (2 September 2011) (55 firearms stolen from an Ipswich dealer), *R v Anderson* [1998] QCA 272 (11 September 1998) (theft of 45 firearms from a residential property) and *R v Nash* [2008] SASC 48 (29 February 2008) (firearm specifics and quantity not cited) but outside these and the handful of cases regarding import offences, the method by which the firearm was trafficked was not known or only inferred. It was evident that all but a few of the firearms listed were unregistered.

Where information was available regarding the firearms offered for sale or sold, the great majority were handguns, mostly semi-automatic pistols. Other, less commonly tendered items were Category D semi-automatic rifles, submachine guns and a mix

of restricted and less restricted (eg Category A bolt action rifles) long-arms. In incidents of trafficking categorised above as involving the more ‘committed’ seller, the serial numbers and other identifying features on the vended firearms (again, predominantly semi-automatic pistols) had been defaced or obliterated and some of the pistols had been modified for or were fitted with silencers (eg *The Queen v NP* [2003] NSWCCA 195 (17 July 2003); *The Queen v Dunn* [2003] NSWCCA 169 (13 August 2003); *The Queen v Howard* [2004] NSWCCA 348 (12 October 2004); *The Queen v Nash* [2008] SASC 48 (29 February 2008); *The Queen v Mundy* [2011] QCA 217 (2 September 2011); *Samac v The Queen* [2011] VSCA 171 (17 June 2011). Evidence of long-arm modification—shortening of the barrel and/or the stock to render the firearm (more) concealable—was described in *Regina v Justin Van Turnhout* [2007] NSWDC 363 (9 November 2007); *The Queen v Dogan* [2011] NSWDC 86 (28 July 2011); and *Yammine v The Queen* [2010] NSWCCA 123 (23 June 2010). Many of these firearms were loaded at the time of sale, or when located, and ammunition and/or magazines were generally proffered with the sale item.

Warehousing

A number of trafficking cases revealed that suppliers (or potential suppliers) stored or had access to substantial numbers of firearms. In *The Queen v Mark Isaac Shane Brown* [2006] NSWCCA 249 (17 August 2006), the offender was described as a ‘warehouse’ of prohibited weapons, contrary to s 51D(2) of the *Firearms Act 1996* (NSW) (unauthorised possession of prohibited firearms or pistols in aggravated circumstances). The warehousing of firearms also formed the charges referred to in *Yammine v The Queen* [2010] NSWCCA (23 June 2010) where seven prohibited firearms were found on the appellant’s property, allegedly accumulated due to a build-up of tension between rival OMCGs.

Similar stockpiling of firearms was described in *The Queen v Henderson and Warwick* [2009] VSCA 136 (16 June 2009) and *DPP v Fleiner* [2010] VSCA 143 (18 June 2010). In the former case, a search warrant executed on a storage unit frequented by the appellants discovered seven firearms, five of which

were unregistered. The amount located was less than the 10 stipulated under s 7C of the *Firearms Act 1996* (Vic) (ie possession of a traffickable quantity of firearms) but the appellants, who were convicted of drug trafficking offences, were both prohibited persons as defined under the Act and hence disqualified from owning any type of firearm. An explanation for the firearms was not provided at the appeal hearing.

In *DPP v Fleiner* [2010] VSCA 143 (18 June 2010), the respondent concerned, also designated a prohibited person for the purposes of s 5 of the *Firearms Act 1996* (Vic), was found to have amassed 45 unregistered firearms, a ‘large amount’ of ammunition and ‘dozens’ of firearm parts. The respondent’s counsel in the sentence hearing described the firearms as collector’s items, to which the Crown demurred, arguing ‘this number in one place could accurately be described...as an arsenal’ (Transcript of proceedings, *DPP v Fleiner*, Supreme Court of Victoria (Court of Appeal), Harper J (citing the Crown): 29). While the respondent pleaded guilty to an offence against s 7C of the *Firearms Act 1996* (Vic), along with various offences related to the possession and trafficking of a drug of dependence, there was no evidence the owner was vending the firearms nor where they were obtained from.

The vulnerability of warehoused firearms, even if amassed by persons with no apparent ‘sinister intent’, underlined the case in *The Queen v Cromarty* (2004) NSWCCA 54 (22 March 2004) and highlights the grey area between the accumulation and possession of large numbers of firearms and trafficking. The firearm collection at the centre of this case was described as the ‘largest cache of weapons ever taken from a private individual in Australia’ (Transcript of proceedings, *The Queen v Cromarty*, New South Wales Court of Criminal Appeal, Kirby J: 11). Among the firearms collected by the respondent were 35 firearms prohibited under Schedule 1 of the *Firearms Act 1996* (NSW), 103 unregistered firearms, 10 pistols on which the serial number had been defaced, two shortened self-loading rifles, 147 firearm parts, 2,850 cartridges of ammunition and seven silencers for rifles and pistols. The firearms were distributed throughout the house and garage and none were secured according to legal requirements. Among the five counts Cromarty pleaded guilty to was the unauthorised possession

of firearms in aggravated circumstances, contrary to s 51D(2) of the *Firearms Act 1996* (NSW).

The respondent, who had a dealer's licence and licences to possess Category A, B and H firearms, was not thought to have been involved in the trafficking of illegal firearms; however, 'he was certainly conscious of his obligations under each Act, and understood the security risk that he ran' (at 55) by cultivating such a large collection of firearms. In considering the appeal against sentence from the Crown, Justice Kirby stated:

...although the primary object of s 51D...may have been the punishment of criminals who warehouse illegal firearms, the objective was, I believe, broader than that. The measures...were 'designed to inhibit the illegal supply of firearms'. The purpose of the amendments extended to the stockpiling of weapons, as happened here, where that stockpile was vulnerable and, if violated, may feed the market in the illegal supply of firearms (Transcript of proceedings, *The Queen v Cromarty*, New South Wales Court of Criminal Appeal, Kirby J: 86).

Conclusion

Past descriptions of the illicit firearm market in Australia have suggested the market is not highly organised and combines the activities of criminal gangs trafficking in firearms as sideline commerce and individual players (such as corrupt dealers) who organise illegal sales (or diversion of firearms) on a personal-order basis. This general depiction is more or less confirmed based on what can be ascertained from other open-source materials although the cast of suppliers is not as neatly defined. It includes those who utilise the sourcing and sale of illicit firearms as a major (rather than secondary) form of revenue; those with no formal links to trafficking networks but who move or broker the occasional sale of a firearm, often as part of a drug transaction; and provisional contributors who act based on need (eg to support a drug habit). Handguns, mostly semi-automatic

pistols, appear to be the primary commodity, supplemented with military-style long-arms (such as Category D semi-automatic rifles) and less restricted long-arms. The differentiation in activity likely reflects a combination of factors, including sophistication in the establishment of networks of access and supply, the types of customers, product volume available and consumer preferences.

The illicit firearm consumer in Australia is not so easily drawn from the literature cited, although they may match those described by Cook et al. (2006) and Hales, Lewis and Silverstone (2006), with firearms acquired for offensive and defensive functions, to instil status and to amass arsenals. What is not clear is the extent of consumption by persons not engaged in criminal activity but who have looked to the illicit market to obtain their firearms. The presence of the grey market probably offsets some acquisition of long-arms from the illicit pool but handguns, if denied to consumers through legal avenues, are generally only available from the illegal supply.

Numerous sources for illicit firearms have been identified, yet different commentators have elevated the relative importance of these in stocking the illicit market. The contribution of legislative loopholes and stolen firearms is probably the least disputed of these sources, although more could be learned about the incidence of genuine targeted theft incidents versus opportunistic theft (ie where an array of goods found by the offender are stolen with the firearms). Other sources, such as illegal importation, illicit domestic manufacture and the role of corrupt dealers are less clear, not so much because their contribution is necessarily considered negligible but because evidence is not as complete, is not publicly available or is largely anecdotal, is less likely to be detected, or is a combination of these. A clearer understanding of the relative importance of different avenues of supply could be used not just to determine the success of targeted responses (eg the closing of legislative loopholes) but potentially to predict future vulnerabilities and changes in the dominance of supply pathways.



Illicit market firearms and organised crime

There has been considerable speculation in the public sphere, particularly in response to apparent increases in drive-by shootings and other gang-related shooting offences, on the nature of the illicit firearms market in Australia, specifically the sources of these firearms. However, little formal examination of what this market comprises, how it is replenished and its relationship to SOCG has been available to test this speculation. This lack of analysis is partly due to universal difficulties in quantifying and describing illicit good markets, particularly in the absence of comprehensive information sources.

The best available data to assist in the construction of the illicit firearms market in Australia is that compiled by the ACC on seized firearms. Using analysis of data from the ACC's NFTD, this section describes the characteristics of firearms found in the illicit market, where these firearms originated and the means by which these firearms ended up in the illicit market. The section focuses on firearms acquired by SOCG (see Table 1 for a definition of serious and organised crime), the prevalence of prohibited firearms in SOCG caches and whether similar patterns of supply to the illicit market are used for restricted and non-restricted models.

General firearm characteristics

A total of 2,750 seized firearms were recorded in the NFTD as of March 2012 (see *Methods* in first section on the compilation of this data). Where information was recorded on the date of seizure (n=2,341), all but 10 were seized between June 2002 and October 2011. Of the 10 that were recovered earlier, one was seized in 1977 and the others between 1995 and 1999.

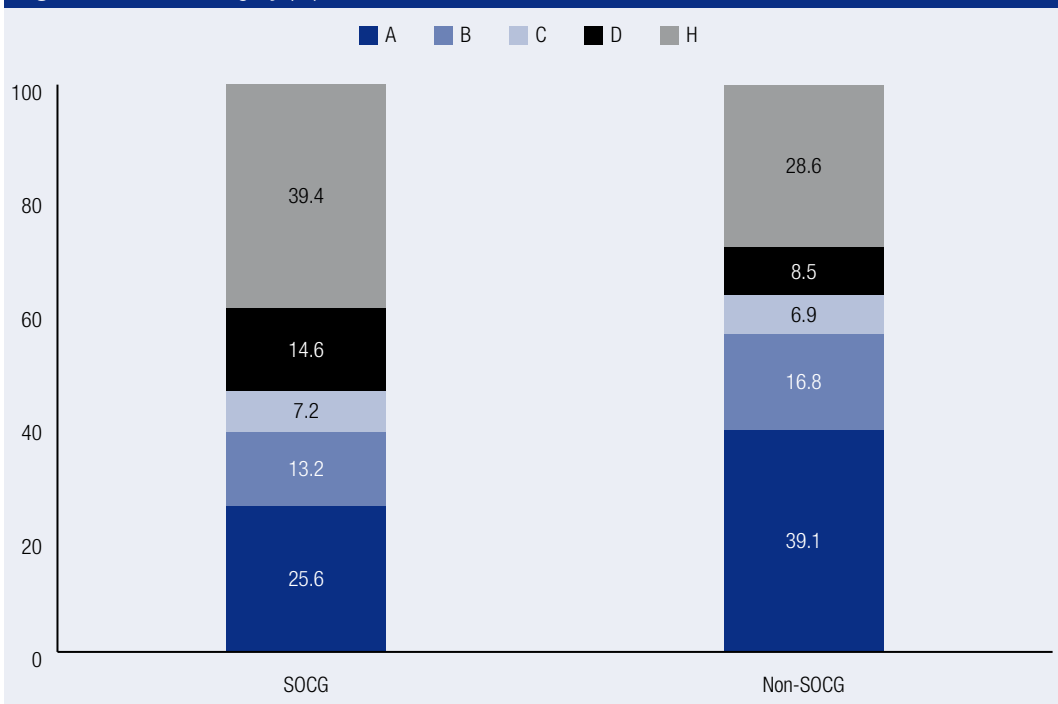
Of these seized firearms, 43 percent (n=1,184) were rifles, 34 percent (n=960) were handguns and 16 percent (n=448) were shotguns (see Table 7). Only a small number of prohibited machine gun models have been recorded, comprising less than one percent (n=26) of all seized firearms. Some of these firearms were seized as part of multiple-firearm recovery events, but the quality of the data precluded determining how many firearms were seized individually or as part of a larger assemblage and what these multiple seizures consisted of. The largest number of firearms seized as a collection was 102, recovered in New South Wales from individuals involved in firearms trafficking. Other larger seizures

Table 7 Firearm type seized from SOCG and non-SOCC^a

Firearm type	SOCG		Non-SOCC		All	
	n	%	n	%	n	%
Rifle	672	40	512	49	1,184	43
Shotgun	278	16	170	16	448	16
Air rifle	48	3	58	6	106	4
Handgun	665	39	295	28	960	34
Other	26	2	10	1	36	1
Sub-machine gun	16	1	3	<1	19	<1
Light machine gun	4	<1	2	<1	6	<1
Heavy machine gun	0	0	1	<1	1	<1
Combination firearm	6	<1	4	<1	10	<1
Unknown	12	1	4	<1	16	1
Total	1,701		1,049		2,750	

a: Percentages may not total 100 due to rounding

Source: ACC National Firearm Trace Database

Figure 1 Firearm category (%)^a

a: Excludes unknown category (n=16)

Note: Percentages may not total 100 due to rounding

Source: ACC National Firearm Trace Database

associated with SOCG included the recovery of 85, 45 and 35 firearms, all from entities involved in the illicit drugs market, and 60 firearms from a firearms trafficking venture. There was a small group of large seizures from non-SOCG too—55 unregistered long-arms from a licensed firearm owner in New South Wales and seizures of 21 and 22 grey market-sourced long-arms from individuals in Queensland.

Similar proportions of rifles (40%) and handguns (39%) were recorded from SOCG seizures, while in non-SOCG seizures, rifles were significantly more commonly recovered (and hence it can be assumed more commonly acquired) than handguns (49% of all firearms seized compared with 28% respectively; $\chi^2 = 35.26$ $df=2$ $p<0.01$). SOCG and non-SOCG seizures contrasted solely in the prevalence of handguns, with a significantly greater proportion of handguns found in association with SOCG.

Both SOCG and non-SOCG firearms were disproportionately skewed towards restricted firearm categories (ie Category C, D and H firearms as classified in the National Firearms Agreement (1996); see Figure 1 and Table 8). Category C and D

long-arms comprise self-loading (ie semi-automatic and automatic) rifles and pump action shotguns that were subject to the 1996 gun buybacks and Category H comprise handguns. Altogether, Category C, D and H firearms make up less than 10 percent of all registered firearms in Australia but comprised over 50 percent of all seized firearms. This skew towards restricted models was significantly more marked among firearms seized from SOCG, where 61 percent of all seized firearms were Category C, D or H compared with 44 percent of non-SOCG firearms ($\chi^2=78.2$ $df=2$ $p<0.01$).

Category H handguns comprised the largest proportion of restricted firearms in both SOCG and non-SOCG seized firearms but, as described earlier, were significantly more prevalent among firearms recovered from the former group. There was little difference in the percentage of Category C firearms between SOCG and non-SOCG but the proportion of Category D firearms seized from SOCG (15%) was almost double that of non-SOCG firearms (9%).

Thirty different firearm types were seized from SOCG and non-SOCG alike and, while there were similarities in the predominance of specific firearm

Table 8 Firearm classification according to the National Firearms Agreement 1996

Category A
Air rifles
Rimfire rifles (excluding self-loading)
Single- and double-barrelled shotguns
Category B
Muzzle-loading firearms
Single shot, double-barrelled and repeating action centre-fire rifles
Break-action shotgun/rifle combinations
Category C (Prohibited except for occupational purposes)
Self-loading rimfire rifles with a magazine capacity no greater than 10 rounds
Self-loading shotguns with a magazine capacity no greater than five rounds
Pump-action shotguns with a magazine capacity no greater than five rounds
Category D (Prohibited except for official purposes)
Self-loading centre-fire rifles
Self-loading shotguns and pump-action shotguns with a capacity of more than five rounds
Self-loading rimfire rifles with a magazine capacity greater than 10 rounds
Category H
All handguns, including air pistols

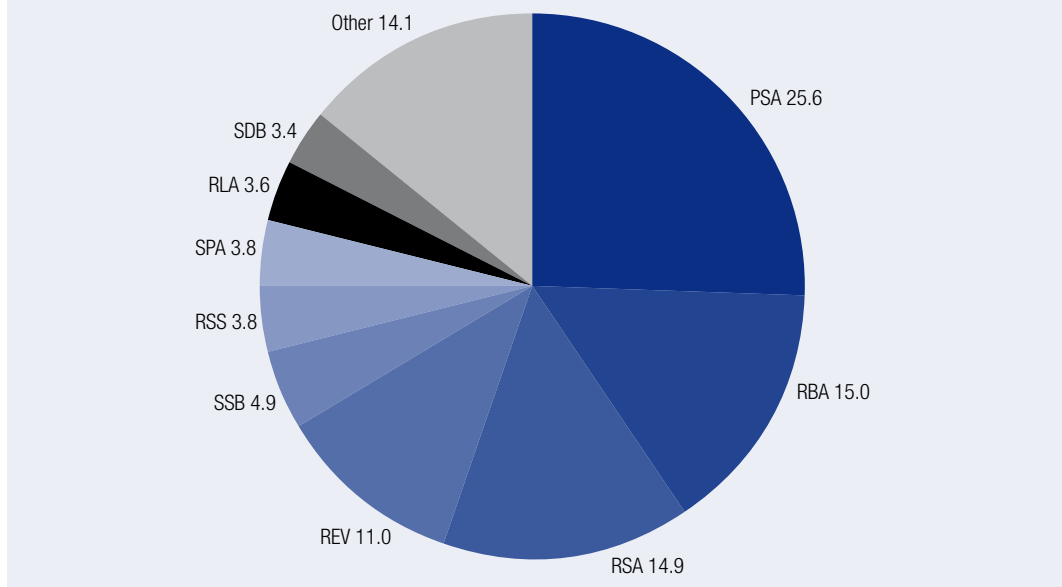
types in both groups, the proportional composition was significantly different between the two ($\chi^2=135.13$ df=2 $p<0.01$). Just over a quarter (26%, n=436) of all SOCG-seized firearms were semi-automatic pistols and 15 percent each were bolt action rifles (either Category A or B, n=255) and restricted semi-automatic rifles (either Category C or D, n=253; see Figure 2). Semi-automatic pistols and semi-automatic rifles were also among the more common firearms seized in non-SOCG contexts, making up 18 percent (n=191) and 11 percent (n=116) of all non-SOCG firearms (see Figure 3). Bolt action rifles, the most widely held rifle type among legal owners, were the most common firearm type recovered from non-SOCG (21%, n=217).

Defacement or obliteration of serial numbers is used to conceal the identity of a firearm (eg if used to commit a violent crime or stolen from a victim of violent crime such as armed robbery) and disguise the method of diversion. A total of 542 firearms or a fifth of all firearms seized were recorded as having the serial number defaced. Three-quarters of these

were handguns, possibly reflecting the long-prescribed legal requirement for handgun registration and hence the impetus to conceal the identity of items leaving the licit market. Although the difference was not statistically significant, of note is that the larger percentage of firearms (53%) with defaced serial numbers was seized from non-SOCG.

Other, typical modifications come in the form of shortening or converting long-arms to produce a handgun-like model. Around one in 10 (9%) of seized long-arms had undergone a category change (to Category H), the overwhelming majority of which (77%) were found in the possession of SOCG. When it can physically be achieved, shortening the barrel and butt stock of a firearm makes it easier for criminals to conceal it in the commission of crimes. One seized semi-automatic rifle had been modified to a Category R firearm as classified under the Weapons Categories Regulation 1997 (Qld). While the specifics of this conversion were not available in the data, Category R weapons include fully automatic machine or submachine guns.

Figure 2 Firearm action type^a—SOCG (%)^b



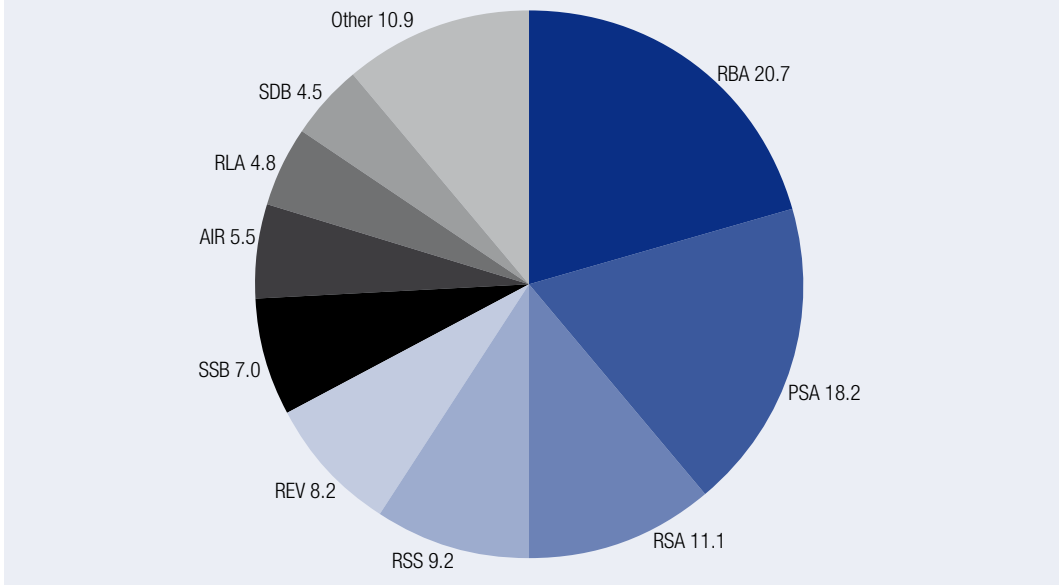
a: PSA=semi-automatic pistol; RBA=bolt action rifle; RSA=semi-automatic rifle; REV=revolver; SSB=single barrel shotgun; RSS=single shot rifle; SPA=pump action shotgun; RLA=lever action rifle; SDB=double barrel shotgun

b: Percentages may not total 100 due to rounding

Note: Excludes unknown action type (n=12)

Source: ACC National Firearm Trace Database

Figure 3 Firearm action type^a—non-SOCG (%)^b



a: RBA=bolt action rifle; PSA=semi-automatic pistol; RSA=semi-automatic rifle; RSS=single shot rifle; REV=revolver; SSB=single barrel shotgun; AIR=air rifle; RLA=lever action rifle; SDB=double barrel shotgun

b: Percentages may not total 100 due to rounding

Note: Excludes unknown action type (n=4)

Source: ACC National Firearm Trace Database

Restricted firearms

Through the National Firearms Agreement (1996), states and territories amended their firearms legislation to restrict the importation and use of military-style automatic and semi-automatic firearms to designated occupational and official purposes. Firearms now restricted are:

- self-loading automatic or semi-automatic rimfire rifles;
- self-loading automatic or semi-automatic centre fire rifles;
- self-loading shotguns; and
- pump action shotguns.

The National Firearms Agreement (1996) was accompanied by a 12 month firearms amnesty and compensation scheme whereby owners and dealers were compensated for the surrender of newly restricted firearms. Approximately 642,000 firearms were surrendered during this period.

New restrictions around the ownership and use of handguns were brought in with the National

Handgun Control Agreement (2002). Restricted handguns were any model that had:

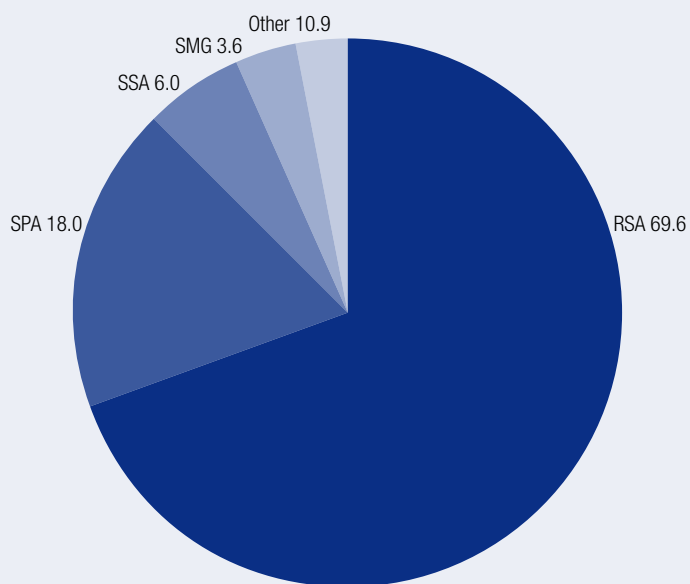
- a calibre greater than .38"; or
- a minimum barrel length of less than 120mm for semi-automatic handguns or less than 100mm for revolvers and single shot pistols; or
- a magazine capacity of greater than 10 rounds.

Approval for handguns with a calibre of .45" may be granted for use in specialised accredited sporting events. A six month nationwide handgun buyback was held between 1 July 2003 and 1 January 2004 to primarily compensate owners of registered handguns rendered restricted by the new laws. An amnesty was run concurrently for unlicensed owners or owners of unregistered handguns.

Restricted long-arms and handguns

Restricted long-arms are defined here as any long-arm denoted in the NFTD as being subject to the 1996 buyback. Altogether, 529 or 30 percent of all seized long-arms recorded in the NFTD were

Figure 4 Firearm action type of restricted long-arms^a (%)



a: RSA=semi-automatic rifle; SPA=pump action shotgun; SSA=semi-automatic shotgun; SMG=submachine gun; Other includes select fire rifle, light machine gun and heavy machine gun

Source: ACC National Firearm Trace Database

Table 9 Firearms by category and action type of restricted long-arms by SOCG status

Category	SOCG		Non-SOCG	
	n	%	n	%
C	122	33	72	45
D	246	67	89	55
Total	368		161	
Action type ^a	n	%	n	%
RSA	253	69	115	71
SPA	64	17	31	20
SSA	26	7	6	3
SMG	16	4	3	2
RSF	5	1	3	2
LMG	4	1	2	1
HMG	0	0	1	1
Total	368		161	

a: RSA=semi-automatic rifle; SPA=pump action shotgun; SSA=semi-automatic shotgun; SMG=submachine gun; RSF=select fire rifle; LMG=light machine gun, HMG=heavy machine gun

Note: Percentages may not total 100 due to rounding

Source: ACC National Firearm Trace Database

restricted long-arms. The majority of these restricted long-arms were Category D firearms (63%, n=335), which are prohibited under Australian law except for official purposes (mostly related to animal control and welfare). Semi-automatic rifles comprised 70 percent (n=368) of these restricted long-arms and pump action shotguns a much less prevalent 18 percent (n=95; see Figure 4).

Restricted long-arms were predominantly associated with SOCG—70 percent (n=368) of all restricted long-arms were seized from entities associated with serious and organised crime. The composition of restricted long-arm types in SOCG and non-SOCG seizures was comparable and the majority of restricted long-arms (mostly semi-automatic rifles) were highly restricted Category D firearms, but the proportions of these were significantly greater among SOCG seizures (67% compared with 55%; see Table 9). Two-thirds (77%, n=194) of semi-automatic rifles seized from SOCG were classified as Category D firearms compared with 62 percent (n=72) of non-SOCG semi-automatic rifles.

Restricted handguns are defined as any handgun denoted in the NFTD as being subject to the 2003 handgun buyback (ie they had a calibre greater than 38", a barrel length shorter than the length prescribed and/or a magazine capacity greater than 10 rounds). Compared with long-arms, a much higher proportion of recovered handguns were restricted models (65%, (n=631) compared with the 30% for long-arms). Most (68%) of these 631 restricted handguns were seized from SOCG. Semi-automatic pistols were favoured by SOCG

and non-SOCG alike, making up 72 and 74 percent respectively of seized restricted handguns (see Table 10). Revolvers comprised around a fifth of restricted handguns for SOCG, as they did for non-SOCG.

Another way of differentiating the acquisition of restricted firearms by SOCG and non-SOCG entities is to compare the proportions these firearms represent in the individual firearm pools. With regard to handguns, around two-thirds of all handguns seized from SOCG were restricted forms (65%) as was the case for handguns seized from non-SOCG (67%). This suggests that, while most restricted handguns were associated with SOCG, as stated above, either there was no overwhelming predilection for restricted models by SOCG entities or access to restricted models was equally open to both SOCG and non-SOCG buyers. However, a different pattern emerges with long-arms. Over a third (36%) of all SOCG long-arms were restricted models, significantly higher than the 21 percent found for non-SOCG long-arms ($\chi^2=43.3$ df=2 $p<0.01$).

Restricted ammunition

As noted under *Methods*, attempts were made to acquire data on the import of 25 ACP, 32 ACP and 380 ACP ammunition, calibres of ammunition that can only be used in SPPs, a restricted handgun model that is attractive to criminals due to its small size. SPPs are also manufactured in other calibres but as ammunition for these SPPs can be used in other firearms (such as rifles) the actual quantity of

Table 10 Firearm category and action type of restricted handguns by SOCG status^a

Action type	SOCG		Non-SOCG	
	n	%	n	%
PSA	311	72	148	74
REV	95	22	39	20
PSS	13	3	4	2
BPR	7	2	3	2
Other	5	1	6	3
Total	431		200	

a: Percentages may not total 100 due to rounding

Note: PSA=semi-automatic pistol REV=revolver PSS=single shot pistol BPR=black powder revolver Other=air pistol, black powder pistol, derringer, double barrel pistol, multi barrel pistol

Source: ACC National Firearm Trace Database

ammunition associated with the use of SPPs cannot be identified. A total of 143 SPPs chambered for these calibres were seized, 63 percent (n=90) of which were denoted as SOCG seizures. Issues with the quality of import and registration data collected in the NFTD (see below) prevents determining when these SPPs entered the country (ie before or after the 2002 handgun reforms) or whether the import was legal or not.

An examination of quantities of ammunition seized by police (n=62,133 rounds) found the most common ammunition calibres recovered were .22 (rimfire; 44% n=27,587), followed by .30 calibre (7.62mm; 13% n=8,211), .38 calibre (9mm; 12% n=7,597) and 12 Gauge (10%, n=6,359). Of the .32 calibre ammunition seized (n=2,065; 3% of all ammunition seizures), 63% was restricted 32 ACP. Almost all of the .25 calibre ammunition, which made up just one percent (n=838) of all ammunition seizures, was restricted calibre 25 ACP (90%). Of the 27 cases that involved the use or ownership of a pistol chambered for one of these calibre, 10 were seized from individuals charged with drug offences, another

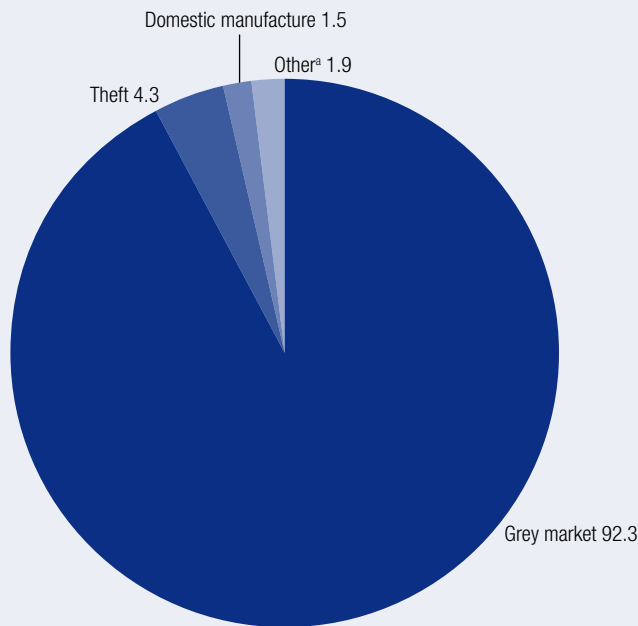
10 for the commission of a violent crime (homicide and armed robbery), six from individuals involved in the supply of a prohibited firearms and one for a drive-by shooting.

Firearms among outlaw motorcycle gangs

OMCGs are involved in a variety of illicit markets, including the stockpiling and trafficking of illicit firearms (ACC 2011, 2008). Just 218 of the illicit firearms recorded in the NFTD were recovered from OMCGs, 13 percent of all SOCG firearms and eight percent of all seized firearms recorded in the NFTD.

Handguns were more common among OMCG-recovered firearms (55%) than among firearms recovered from SOCG in general (39%). Semi-automatic pistols were not just the handgun of choice but the firearm of choice for OMCGs—40 percent of the firearms recovered from OMCGs were semi-automatic pistols. Semi-automatic rifles and revolvers each comprised less than half the number of semi-automatic pistol numbers seized

Figure 5 Source or method of diversion for restricted long-arms (%)



a: Other includes deactivation, failure to notify interstate transfer, illegal import, diversion by reporting false loss and serial number transfer (n=8) n=467

Note: Excludes unknown source or method of diversion (n=62)

Source: ACC National Firearm Trace Database

from OMCs. Eighty-two percent (n=73) of these semi-automatic handguns were restricted models, significantly higher than the proportion found for SOCG more generally and non-SOCG. Long-arms were correspondingly a less prevalent item (45%) but 50 percent of these were restricted models.

Source of illicit firearms

The grey market, as described earlier, comprises long-arms that should have been registered or surrendered, depending on the restricted status of the firearm, following the 1996 firearm reforms. Grey market firearms were the main source of both restricted (92%) and non-restricted (86%) long-arms (see Figures 5 and 6). Where recognised forms of diversion had been identified, theft was the most common method of transfer, although accounting for just 10 percent of non-restricted long-arms and four percent of restricted long-arms seized from the illicit market. Other methods of supply included illicit domestic manufacture, false deactivation, failure to notify interstate transfer of a long-arm and illegal

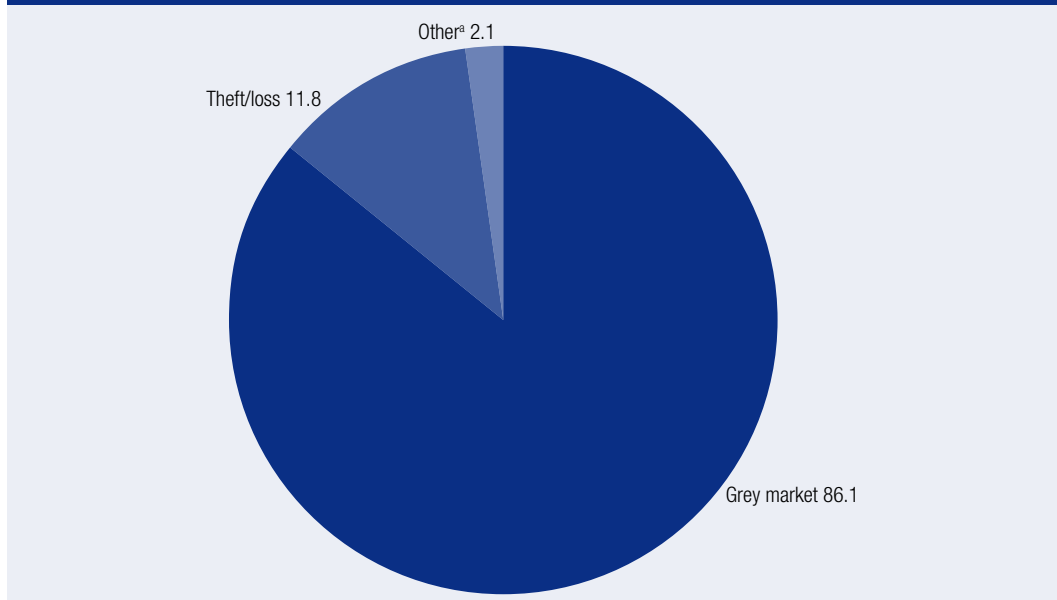
import—but only for a few of the seized long-arms recorded in the NFTD.

The data on the source or method of diversion for restricted and non-restricted handguns returned very high unknown responses rates (70% and 68% respectively). This is problematic on two levels:

- the relative importance of trafficking pathways described below may be skewed, producing an over- or underestimation of probable supply routes; and
- it emphasises where there has been a failure to record or retain relevant tracing information. Some degree of caution is hence required when interpreting this data.

The sources of restricted handguns, and the means by which they were trafficked, stand in contrast to those found for long-arms and reveal the role exploitable legislative provisions had in facilitating the transfer of handguns into the illicit market. False deactivation (39%) and theft or loss of (31%) were the primary sources of restricted handguns that had entered the illicit market where a method of diversion was known (see Figure 7). Other less common forms

Figure 6 Source or method of diversion for non-restricted long-arms (%)

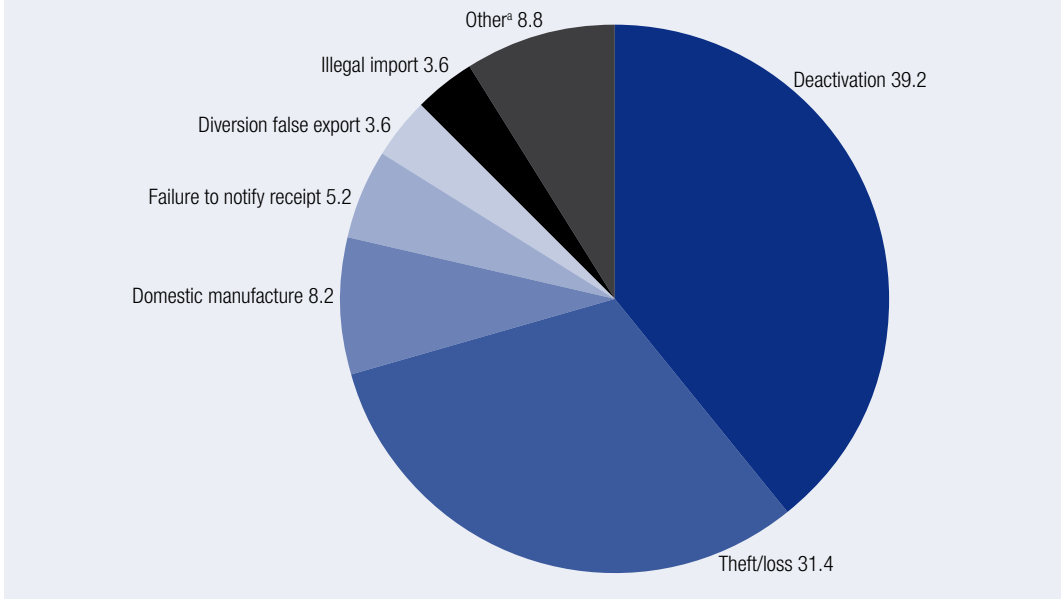


a: Other includes failure to notify interstate transfer, diversion by reporting false loss and nfa (n=9)
n=1,098

Note: Excludes unknown source or method of diversion (n=158)

Source: ACC National Firearm Trace Database

Figure 7 Source or method of diversion for restricted handguns (%)



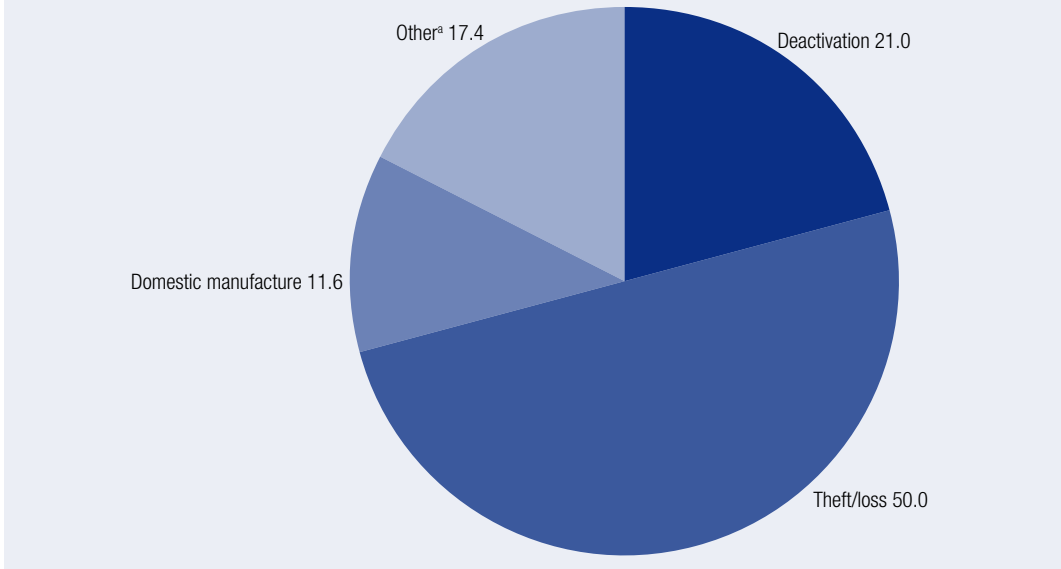
a: Other includes diversion by false theft, diversion by false frame, failure to notify interstate transfer, serial number transfer, theft staged, diversion nfa and information pending (n=17)

n=194

Note: Excludes unknown source or method of diversion (n=301)

Source: ACC National Firearm Trace Database

Figure 8 Source or method of diversion for non-restricted handguns (%)



a: Other includes diversion false export, diversion by spare frame, failure to notify disposal or false disposal notice, failure to notify interstate transfer, illegal import, false loss claim and diversion nfa, (n=24)

n=138

Note: Excludes unknown source or method of diversion (n=136)

Source: ACC National Firearm Trace Database

of diversion collectively made up around a fifth of all seized restricted handguns and included illicit domestic manufacture (mainly of single shot pen guns), dealers failing to record the receipt of a handgun or diverting handguns through false export claims and illegal import.

Theft or loss, rather than false deactivation, was the primary method of supply for non-restricted handguns—50 percent (n=69) of all non-restricted handguns were items stolen from legal owners (see Figure 8). Just over a fifth (21%, n=29) of non-restricted handguns were displaced to the illicit market by reactivating inadequately deactivated handguns. This difference in diversion methods for restricted and non-restricted handguns was significant ($\chi^2=909.5$ df=2 $p<0.01$).

Illicit link

Illicit link data refers to the criminal entity or activity in which the firearm was seized. Any firearm seizure from an individual or group involved in the illicit drug market and/or firearm trafficking, or associated with an organised criminal entity (such as OMCGs), was assigned to SOCG, based on the definition used by the ACC in compiling the NFTD. Other matters, such as seizures of firearms following an incident of violent crime, are assigned to SOCG or non-SOCG depending on the identity or activities of the individuals or entities involved. Illicit link data is not directly comparable between SOCG and non-SOCG.

There was a significant difference in the seizure circumstances for restricted long-arms compared with restricted handguns ($\chi^2=365.7$ df=2 $p<.01$). Of the 368 restricted long-arms recovered from SOCG, 41 percent were seized from entities involved in

Table 11 Illicit link for restricted long-arms and handguns^a

	n	%
Restricted long-arms		
Firearm trafficking	150	41
Drug	125	34
OMCG	49	13
Violent crime	24	7
Firearm offences	12	3
Illegal import	2	1
Other	6	2
Total	368	
Restricted handguns		
Drug	165	39
Firearm trafficking	92	22
OMCG	89	21
Violent crime	40	9
Firearm offences	27	6
Illegal import	3	1
Other	11	3
Total	427	

a: Percentages may not total 100 due to rounding

Source: ACC National Firearm Trace Database

Table 12 Last known registration status for restricted and non-restricted long-arms^a

	Restricted long-arms		Non-restricted long-arms	
	n	%	n	%
Australian dealer at import	140	53	124	26
Australia dealer stock	32	12	46	10
Australian individual licence	25	10	187	39
Local commercial manufacture	27	10	96	20
Other	9	3	6	1
Australia (all)	233	89	459	95
Overseas dealer	8	3	5	1
Overseas manufacture	18	7	15	3
Other	3	1	2	<1
Overseas (all)	29	11	22	5
Total	262		481	

a: Percentages may not total 100 due to rounding

Note: Excludes unknown=1,023

Source: ACC National Firearm Trace Database

firearm trafficking, 34 percent from persons involved in the illicit drug market and 13 percent were seized from members of OMCs (see Table 11). Less than 10 percent were used in the commission of a violent crime. Restricted handguns were mostly seized from persons or groups involved in the illicit drug market. The proportion of handguns seized from persons involved in the drug market was almost double that seized from OMCs (21%) and persons engaged in firearm trafficking ventures (22%).

Last known registration status

Detail on the last known registration status of a firearm, combined with data on the location of firearm recovery, can provide information on the transfer of firearms before they are recovered by law enforcement agencies. Pierce et al. (2004) used United States Alcohol, Tobacco, Firearms and Explosives data to do just this, although the data includes records of sales from dealers rather than registration status. In their analysis, Pierce et al. (2004) attempted to calculate:

- the proportion of recovered firearms that were still in the possession of the original purchaser;

- the location of first sale and recovery (evidence for jurisdiction transfer); and
- the length of time between first sale and recovery (time-to-crime).

Unfortunately, the absence until recently of a systematic method of recording Australian firearm imports and domestic sales/transfers and the mandatory registration of all firearms means the data collated on last known registration status not only contains a large number of unknown responses but may not always represent the actual last legal ownership of a firearm before it was diverted into the illicit market. The findings described below can therefore only suggest the possible point or penultimate point of diversion.

From the results presented in Tables 12 and 13, where information was recorded, the last known registration status for the majority of restricted long-arms and handguns was with an Australian dealer, either at import or registered as stock (65% and 56% respectively). By contrast, the last known registration status for non-restricted long-arms was comparably divided between Australian dealers (36%) and individual licence holders (39%). This was not the case for non-restricted handguns which, like restricted handguns, were more likely to have been

Table 13 Last known registration status for restricted and non-restricted handguns^a

	Restricted handguns		Non-restricted handguns	
	n	%	n	%
Australian dealer at import	23	11	18	11
Australia dealer stock	96	45	58	36
Australian individual licence	30	14	43	27
Other	9	4	14	9
Australia (all)	158	74	133	83
Overseas dealer	18	9	5	3
Overseas manufacture	33	16	20	12
Other	4	2	4	2
Overseas (all)	55	26	29	18
Total	213		162	

a: Percentages may not total 100 due to rounding

Note: Excludes unknown=582

Source: ACC National Firearm Trace Database

last registered with an Australian dealer than a private owner (47% compared with 27%). It is difficult to determine whether these findings suggest there was a genuine risk of diversion of restricted firearms by some dealers or whether they are an artefact of previous issues with sales and registration records.

A difference also existed between long-arms and handguns in the site of the last registration, with a larger proportion of handguns having a last known registration with an overseas dealer or manufacturer. This was the case for both restricted and non-restricted handguns.

Conclusion

The results presented here provide an indication of the make-up of the illicit firearm market and the suite of firearms held by SOCG and other consumers of illegal firearms. It is suggested by these findings that a combination of preference, availability and connections determines the composition of firearms accumulated.

A preference for restricted models

Not unexpectedly, a high proportion of firearms recovered from SOCG were restricted models—

47 percent of all firearms retrieved from these groups were subject to either the 1996 or 2003 buybacks, compared with 34 percent of firearms recovered in non-SOCG circumstances. Restricted handguns were particularly prevalent. While handguns comprised 34 percent of all firearms seized, restricted handguns accounted for over half (54%) of all restricted firearms recovered. Overall, 65 percent of all handguns found in association with SOCG were restricted models, as were three-quarters of all semi-automatic pistols.

While the majority of firearms recovered from SOCG were in fact long-arms, the apparent preference for handguns is related to their favoured use, according to overseas research, as both a means of protection and in the commission of crime. Data on the use of firearms in the commission of violent crime indicates such a preference (eg Bricknell 2008b; Borzycki 2008; Smith, Dossetor & Borzycki 2011; Smith & Louis 2010, 2009; although there has been a sharp drop in handgun-perpetrated homicides since 2007–08: Chan & Payne (forthcoming); Dearden & Jones 2008). The types of handguns, especially the restricted models, recovered from SOCG have the dimensions and characteristics which most suit SOCG activities. Some semi-automatic pistols and revolvers with 2–3” barrels are concealable and easily carried, an important feature cited in interviews with criminal owners of handguns (eg see Blumstein

1995; Hales, Lewis & Silverstone 2006). Semi-automatic pistols are additionally attractive because their magazines can be easily and quickly changed, and even concealable versions have large magazine capacities of some 10–13 rounds. Concealable revolvers generally have a smaller magazine cartridge capacity (6–5 rounds) and are difficult to reload quickly under stress, which makes them less attractive for use in confrontation episodes. It is concluded in the available literature that handguns are favoured by criminal gangs, or at least by those involved in particular criminal activities such as the illicit drugs market, primarily for self-defence and protection purposes (Blumstein 1995; Bricknell 2008b; Cook et al. 2006; Hales, Lewis & Silverstone 2006; Lizotte et al. 2000). Status is another influential factor, although this is more likely for younger or more impressionable gang members.

Long-arms recovered from SOCG were mostly less restricted Category A and B models (39%) but the proportion of highly restricted Category C and D models (22%) was much higher than is found among registered long-arms. Around a quarter of all SOCG-recovered firearms were Category A firearms and their significance here is probably attributable to the fact that this category of firearms is widely available and hence easily sourced. Category D firearms were of a similar proportion to Category B firearms (15% and 14% respectively) despite being a much less common item in the legal market.

Category C and D firearms tend not to be used in the commission of violent crime and related offences to the same extent as handguns, and their purchase by SOCG is unlikely to be related to the sorts of reasons for which handguns are acquired. Instead it is possible that Category C and D firearms—semi-automatic rifles, semi-automatic shotguns, machine guns etc—are amassed partly due to the ‘attraction’ of owning highly lethal firearms but also to form a cache of firearms that can be drawn upon if and when there is a serious or rapid escalation in animosity between rival groups.

An interesting finding from the preliminary analysis was the difference in the relative proportion of restricted long-arms and handguns between SOCG and non-SOCG. It is assumed that criminal entities are more inclined to possess restricted firearms because they are perceived as the best tool to both

protect assets and deter assault. Criminal entities are also much likelier to have established connections with, or operate within, groups that are involved in illicit firearm markets and hence have access to a wider selection of items. Restricted long-arms made up just over a third (36%) of all long-arms seized from SOCG but the proportion was significantly higher than that found for non-SOCG seized long-arms (21%). This was not so for handguns. While the majority of restricted handguns were recovered from SOCG (ie 68%), the proportion of handguns seized from just SOCG that were a restricted model was the same as that proportion found for handguns retrieved from non-SOCG (ie just over two-thirds).

The high concentration of restricted handguns in the non-SOCG pool is probably the result of persons acquiring handguns to suit a curiosity rather than a criminal need. Regulations on handgun use have always been stricter than those for (most) long-arms, and handguns could only be obtained if a person was granted formal membership of a pistol club. Restricted models hence became a coveted item among enthusiasts who may have always wanted a handgun but could never legally obtain one (Project stakeholder personal communication 30 November 2011). The difference then was that handguns were more freely ‘available’ than they are now, an availability that was facilitated by previous state laws regarding the definition and accountability of handguns.

Methods of diversion

In 2000 and 2001 respectively, amendments were made to the *Weapons Act 1990* (Qld) and *Firearms Act 1996* (NSW) to close loopholes which inadvertently facilitated the diversion of firearms into the illicit market. The Queensland deactivation loophole, described in the second section of this report, was ‘open’ for at least a decade and almost certainly led to the transfer of possibly thousands of handguns from the licit to the illicit market. The Police Powers and Responsibilities and Another Act Amendment Bill 2000 subsequently amended the definition of a firearm to include ‘any Category H weapon that is permanently inoperable’, introduced registration requirements for any Category H firearm (ie handgun) rendered inoperable and prescribed the

requirement that a collector's licence be acquired if a person possesses a permanently inoperable Category H firearm.

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

Long-arms, regardless of restricted status, were predominantly drawn from the grey market. Inconsistent inter-jurisdiction regulations on the registration of long-arms allowed a store of unregistered long-arms, including restricted models, to accrue well before the 1996 National Firearms Agreement. This grey market of firearms has thus served, and probably continues to serve, as a reliable and well-stocked resource for the illicit market.

The trafficking of illicit handguns has relied on alternative methods of transfer, influenced in part by the traditionally stricter controls on handgun ownership and use. The Queensland deactivation loophole almost certainly contributed to the trafficking of illicit handguns and while the NFTD data does not allow confirmation of this assumption, the significance of this category in the findings strongly *suggests* it played a substantial role. Other forms of diversion were apparently much less important, as was illicit domestic manufacture and illegal import. Theft, however, seems to have made a reliable contribution. It was the source for 50 percent of non-restricted handguns and 31 percent of restricted handguns. These results, however, must be interpreted with caution as the data on the source of illicit handguns was largely incomplete.

The contrasting role of deactivation in the diversion of restricted and non-restricted handguns probably

reflects the efforts that would be taken to distribute a coveted item (ie a restricted form of semi-automatic pistol). Theft is a risky enterprise but often an opportunistic one too; deactivation (and other complex forms of diversion) is more likely to be used for firearms of greater value and/or models that are in demand.

Data limitations

It is probable that the great majority of restricted handguns, like long-arms, were already in the illicit market well before the respective gun buybacks, but it is not clear whether this past supply has produced a pool of illicit firearms large enough to address current (or future) levels of demand. Reports in recent years of large-scale trafficking operations, alongside smaller, single-order transactions, indicate that additional supplementing, through illegal import, domestic manufacture and theft, has been occurring. To what extent recycling, rather than replenishing, characterises any of these operations, however, has not been considered; nor is data available to explore this matter further.

The analysis presented above describes the general characteristics of the illicit firearms market in Australia and how it has been sustained but it also reveals how dependent analysis of this type is on the availability of accurate, comprehensive data. It was possible with the available data to describe the composition of the illicit market, and the firearm preferences of serious and organised crime groups, but the validity of other findings, particularly around points of diversion, was affected by a substantial number of unknown responses. The poor quality of the recorded data also prevented any substantive comment on the contribution of illegal importation in supplying the market, potentially concealed information on diversion pathways for long-arms (with the grey market; being the de facto source assigned to most unregistered firearms); and precluded reliable identification of last legal ownership of illicit firearms. These deficiencies were not a problem of the dataset itself but rather an illustration of the deficiencies in the documentation of key firearm transactions, an issue affecting the tracing of firearms that is discussed in the next section.

Improving the tracing of firearms

Firearm tracing, in its broadest sense, refers to the tracking of a firearm from ‘cradle to grave’ – that is, from manufacture to (its eventual) deactivation, destruction or legal export. In this scenario, a firearm is traced from its source through ‘different points in its line of supply’ to its eventual removal from the registration record. The trace line shows the passage of transfer between manufacturer, importer(s), dealers, owners and (if it occurs) police possession. If methodically followed, this process improves the likelihood of identifying the site of diversion if the firearm is transferred into the illicit market. This represents the ideal for authorities engaged in firearm regulation and control but an ideal that has proved difficult to realise.

The preventative provisions outlined in the UN Protocol incorporate action to prevent the illicit transfer of firearms, their parts and components and ammunition across state borders, but some of the measures serve domestic agendas too. Of particular pertinence to Australia is the management and exchange of information on firearms that, along with the application of unique identification marks, is fundamental to firearm tracing. This section reviews the current status of firearms information management in Australia and where improvements in the collation and sharing of this information could occur.

The problem with data

Issues around quality, consistency and standardisation of data are certainly not unique to the collation of information on firearms. The quality of the data used for the analysis, which was dependent on the recording of consistent data from different agencies, and subsequent discussions with project stakeholders have shown this to be the case.

The tracing of firearms in Australia has been compromised by two factors—a general absence of historical data and issues around current standard data collection procedures, information sharing and resources. These factors have restricted the scope of the analysis that could be achieved for this study.

There are numerous reservoirs of primary firearms data in Australia. These include:

- state and territory police firearm registers;
- material inventories, ballistic library inventories and record systems of firearms in police possession (ie firearms surrendered to, seized by or otherwise appropriated by police) administered by police services;
- the Integrated Cargo System, Firearms Tracking System and Detained Goods Management System administered by ACBPS;

- the Defence Export Control System administered by the Defence Export Control Office. This Office controls the export of firearms and ammunition through the issuance of permits and licences, and import of firearms under Regulation 13E of the Customs (Prohibited Exports) Regulations 1956 (Cth); and
- the Attorney-General's Department Firearm Policy Unit, which manages applications for the importation of certain firearms prescribed under Regulation 4F of the Customs (Prohibited Import) Regulations 1956 (Cth).

At the most fundamental level is the data collected by state and territory police firearm registries. Firearm registers compile information on licensed firearm owners and dealers and the firearms registered to them. As discussed earlier, only handguns were subject to compulsory registration in Australia before the period of firearm reforms described earlier, and not every state and territory required registration of long-arms. The absence of a nationwide registration system for long-arms contributed to the phenomenon of the grey market, or the assemblage of long-arms that sit outside the legal pool that, and while not necessarily used or owned by persons involved in criminal activity, can and do flow into the illicit market. These firearms are effectively untraceable—records *might* exist on their place of manufacture and/or year of import and the circumstances of their seizure (if recovered by police), but documentation on the transfer of ownership between these two 'life markers' is often missing. It is for this reason that the pattern of long-arm diversion in Australia tends to be opaque, as shown in the analysis section where the majority of seized long-arms were denoted as originating from the grey market. Compulsory handgun registration does provide for better historical data and hence contributed to better delineation of sources regarding common points of diversion. The large amount of unknown or missing data, however, indicates underlying problems with data gathering and recording.

Among the resolutions from the National Firearms Agreement (1996) was the establishment of an integrated licence and firearm registration system in all jurisdictions. All states and territories adopted or modified their systems to incorporate a licensing

scheme for persons to possess/use firearms and a registration scheme for firearms. Western Australia implemented a system different to other jurisdictions whereby the register is a record of firearm licences, permits and approvals, rather than a register of firearms *per se*. The licence details particulars about the licence owner and the types of firearms owned by the licence holder, which are then recorded in the register.

Together with the implementation of nationwide registration of all firearms was the recommendation that state and territory firearm registers be linked to enable the exchange of information. The original model for information exchange, still in operation, is the NFLRS, which is administered by CrimTrac. NFLRS stores data on registered, lost, stolen and destroyed firearms, licence holders and licensed firearm dealers and can be linked to other CrimTrac-administered police reference systems. The data on the system, however, is not complete and there are problems with misclassified and miscoded records originating from police registers (Project stakeholders personal communication 28 November 2011).

The ultimate goal is the implementation of an integrated national firearms licensing and registration (or national firearms management) system that would allow information on firearms to be electronically transferred between jurisdictions. The primary purpose of such a system is two-fold—to facilitate law enforcement agencies' capability in tracing the movement of firearms throughout Australia and to streamline existing licensing processes for firearm owners. At its simplest, the system would allow state and territory firearm registers to 'communicate' (particularly important for reconciling inter-jurisdictional movements of firearms, which has been the cause of, or method for, diversion) but could incorporate links to other government firearm data resources. Two studies have already examined the logistics of establishing a NFMS but a final product has yet to materialise.

Historical data shortcomings are likely affected by 'weaker' firearm laws and past ambivalence to recording firearm movements, compounded by technological limitations in the documentation of large amounts of data. In more recent decades, or at least since the firearm reforms, impetus and

(presumably) technological capacity have both been present to produce better records on firearms. A case in point was the absence in the ACBPS of a centralised electronic recording system for firearms data and the changes made since the early 2000s to improve the consolidation of this information. In 2002, the ACBPS first started recording the serial numbers (and other firearm markers) of all handguns released from ACBPS custody (as part of the Category H Handgun Certification Scheme). This was followed by the introduction in April 2006 of the Detained Goods Management System, which allowed for the capture of serial numbers from all detained firearms into the one centralised database. The firearms that were now being recorded in the Detained Goods Management System accounted for the vast majority of firearms legally imported into Australia, such as those contained in commercial shipments and firearms that required safety testing on entry into the country. In response to a 2008 resolution from the then Ministerial Council for Police and Emergency Management Police around the collection and dissemination of firearm data, the ACBPS commenced the third phase in its consolidation of firearm data by recording information (including serial numbers) on all legally imported firearms. Starting from 1 January 2009, the ACBPS began recording serial numbers from all legally imported firearms, including those firearms entering Australia that had not been previously detained due to importers not having the relevant documentation with them at the time of import because they were not subject to safety training testing requirements. These firearms were typically ‘accompanied firearms’ that were entering Australia through the passenger stream.

Yet to achieve a consolidated record of firearms data, such as envisaged for a NFMS, that would permit straightforward firearm tracing, some fundamental processes are still in need of mastering. Many of these are specific to the recording of firearm information at the registry level, but the fundamentals of technical expertise and improved data recording practices extend to the maintenance of firearms data in a number of the other listed data systems, particularly with regard to import and export, seizure/recovery, ballistics and firearm disposal records.

Achieving the fundamentals of firearm data recording

First capture recording of firearm identification and other features

A critical fundamental in producing data suitable for tracing is the accurate recording of a firearm’s identification marker—the serial number—and other classifying features (eg make, model). Previous audits of serial number data have returned high error rates (Project stakeholder personal communication 30 November 2011), including evidence for high duplication rates. Data on other classifying features of recorded firearms (eg make, model, calibre) have been similarly compromised, although this is not as much a problem as incorrect serial numbers.

Firearm identification is highly technical and requires considerable proficiency and knowledge. The technical nature of firearm identification creates the risk (and the reality) that personnel, such as staff in firearm registries, may not always have the knowledge or training to accurately record the features that are vital to identifying individual firearms. The quality of recorded serial number data is particularly affected—serial numbers, depending on the make of a firearm, can be located on different components of the firearm and their visibility is not always obvious. Some firearms may also have multiple stamps or have been poorly stamped, thus rendering the serial number difficult to distinguish, but these anomalies may not be (or cannot be) noted. A lack of expertise in identifying or locating the serial number may result in an incorrect serial number entry—an erroneous ‘nil visible’ record, the model number recorded instead, or a modified or truncated version of the full serial number. Additional information regarding the location of the serial number is additionally pertinent, particularly where a serial number is located on a firearm component that is not accountable under firearm legislation (eg a slide versus a frame).

Serial numbers, while the most important firearm identifying marker, are not 100 percent unique and hence it is equally important other identifying features—make, model, calibre, action—are also captured correctly. An accurate record of these features is particularly useful if a firearm returns to

police attention and the serial number has been defaced. Again, technical expertise is often necessary to properly identify or recognise these additional markers.

A further complicating factor relates to the initial capture of firearm data. In firearm registries, this is often in handwritten format, on registration forms completed by licensed owners. This carries the additional risk of inaccurate data being recorded if there is a misinterpretation or misreading of handwritten entries, or the provision of misspelt or otherwise inaccurate information.

Comprehensive training in firearm identification is an obvious response to rectify inaccurate recording practices and ideally would extend to all personnel responsible for extracting identification material from firearms. Training is a resource issue and outside crucial roles, such as in ballistics, might not always be feasible. One method being used in firearm ballistics is to compile digital images of firearms for examination, but this is not a practicable option in other data recording contexts, not least because electronic filing would be unmanageable. Instead, other measures need to be applied that assist in self-correcting and/or standardising identification material, as discussed below.

Data standards

A further, exacerbating factor in the collation of consistent, quality firearm data is a lack of data standardisation. Different systems are operated across the states and territories, a few of which have been upgraded or replaced in recent years. Resource issues do not always permit regular, methodical data cleaning (which systems may benefit from) and hence first-level data entry is a crucial step in maintaining accurate records. Data entry systems relying on free text fields and no autocorrect function can (and do) produce multiple variations of the same classifier item (eg calibre) and the structure by which serial numbers are entered. Some of this inaccuracy may originate in the technical competency of the original recorder, but it is also created by human error in data entry and a lack of consistency produced by multiple data entrants.

The creation of standardised templates (at least for important classifier data items), and filtering

functions that validate item combinations and force prompts that constrain the length, type and format of alphanumeric entries would have two practical effects. First, it can prevent and correct inaccurate or incorrect items produced by typical data entry mistakes and potentially prevent the entry of misidentified items. Actual autocorrection in the latter situation is really only viable for classifiers such as make, model and action but potentially could flag, where other information is correct, problems with the *configuration* of the serial number. A number of firearm register systems already employ these functions, such as filtering, and the use of drop-down or standardised templates. Victoria Police have developed a series of standardised templates—the Weapon Identification System, or WIDS—that are available on their website to assist firearm owners to correctly identify their firearm. Verification searches can be undertaken if the owner knows the make or model of their firearm and retrieve information on other firearm characteristics. For example, if the owner knows their firearm has a model name of '700 Special' the system retrieves the related template, which determines the firearm type (handgun), firearm category ('H'), firearm make ('Astra'), action ('semi-automatic') and calibre variants (.32AUTO) associated with that model type.

The current standard of jurisdictional firearm data, however, creates difficulty in trying to link a particular firearm record to the data stored within any firearm identification system. Until the existing data is subject to manual preliminary cleansing, the correlation of existing records to preferred identification standards will remain a problem. Once a preliminary cleansing has taken place then the preferred data standards may be further applied.

Removing the data gaps

The problem of the quality, consistency and standardisation of data collected for registration and evidentiary purposes is not a new one; nor are the remedies proposed to improve the quality of firearms data. These remedies, however, are not options that can be achieved quickly or without considerable financial investment, and jurisdictions and bodies such as the Firearm and Weapons Policy Working Group continue to make and consider methods of improvement.

An evident and important outcome of improving data quality is the elimination of data gaps, the next step in achieving the goal of tracing the life course of a firearm. Data gaps are created and sustained by dirty data *and* incomplete or unconnected systems of information exchange. The NFLRS was established as a national database to support information exchange on all registered firearms and licensed owners. It is used by firearm registries to upload new records and is available to registry staff and operational police to conduct record searches. An alternative or replacement to NFLRS has received consideration in past years, based on the creation of a single shared 'authoritative identity record' for each individual firearm, and onto which updates in its movement between custodians is documented. Key entry-into-the-system or transfer flags would include import or export, sale, inter-jurisdictional transfer, theft or loss, surrender, seizure, recovery, deactivation and destruction events. This deceptively simple premise, however, was determined, in the model proposed, to require substantial investment. The status quo was hence retained, albeit with incremental improvements in data quality assurances at the jurisdictional level and alternative approaches to better document and alert incoming jurisdictions of the transfer of firearms, an event known to be associated with an increased risk of firearms being lost to the system.

Stakeholders for this project suggested that an information-sharing scheme founded on linked records still represented the ideal solution to safeguard accurate data and minimise the emergence of data gaps. One option would be a simplified version of previously recommended products comprising a distributed database with single records for firearm and licensed owners. Jurisdictions would retain custodianship of their data but maintain communication with each other through a data linkage system based on firearm and licensed owner records. The specifics of a linkage system require further exploration that cannot be accommodated in this report but would necessitate adaptation to a common ontology for the classification of firearms. The importance of such a common ontology has featured in broader discussions by the Firearm and Weapons Policy Working Group on the development and instalment of a National Firearms Identification Database.

To resolve the suitability of a distributed database, stakeholders in the project further suggested the

possibility of conducting a limited-scale study involving two jurisdictions (1 large, 1 small) to estimate the cost of integrating to a data linkage system. An important component of the study would be for participating jurisdictions to determine what is being lost (in time, resources and efficiency) with their current system and what might be gained through integration. If integration does prove to be the more efficient approach, it would help promote the creation of better, more consistent data. Efficiency in data collation and dissemination would also assist in freeing up crucial resources for additional compliance monitoring and auditing work.

Conclusion

Past practices, as evidenced by the data collated in the NFTD and discussion with project stakeholders, have resulted in certain data useful or critical to the tracing of firearms being captured only recently (such as serial number data on import and registered long-arms), being captured inconsistently or not being captured at all. Incomplete or incompatible data hamper (or potentially render impossible) the back-capture of information. At a minimum, it prevents more sophisticated analyses of firearm markets and adds qualifiers to the strength of the findings discussed earlier. At a more critical level it potentially impedes law enforcement agencies to reconcile firearms data during different stages of a firearm's history. Yet when done well, it can help prevent or at least flag where firearms have been lost to the system and disrupt the flow of firearms into the illicit market.

Important steps have been made in the collection of firearm data, compelled by inter-governmental and domestic policies, enabled by technological capabilities and encouraged by genuine need to trace firearms. Further steps in standardising and harmonising data on a national level are still needed, although these steps are still being explored, with the dual purpose of ensuring that the logistics of application are achievable. If complemented with a system that supports cross-jurisdictional and cross-agency data transmission or access, and training of personnel in the accurate recording of firearms information, the compilation of Australian firearm data will be of a quality that promotes the efficient tracing of firearms and, consequently, a targeted enforcement response.



Conclusion

The complexity of illicit firearm markets has hampered abilities to predict and disrupt supply. It has also led to conjecture about the sources and mechanics of the market that without comprehensive analysis has been difficult to substantiate or refute. The nature of this report prevents the use of closed source information that would have assisted in drawing out some of the less well understood (or less publicised) facilitators of the market and allowed confirmation of trafficking operations that are described here. Further, the nature and quality of the available information has additionally influenced how much can be revealed about market composition and supply and its relationship with organised crime. Nevertheless, this research has achieved two constructive goals. First, it has described the likely composition of the market, specifically the preferences for restricted long-arms and handguns by SOCG and suggested the mix of deliberate and fortuitous diversion pathways exploited to obtain these firearms. Second, it has highlighted where irregularities in documenting firearm transfer has potentially concealed the point or time at which firearms have left the legal market.

The quantity of restricted long-arms and handguns found among seized illicit firearms is not unexpected. Australia's strict firearm laws permit only controlled access to handguns; automatic and semi-automatic long-arms, and restricted models are commonly

elevated to items of choice because they have features regarded as essential or preferential for the offensive, defensive and symbolic purposes for which they are acquired (Hales, Lewis & Silverstone 2006). Long-arms and handguns that were subject to the gun and pistol buybacks that accompanied the major firearms agreements comprised almost half (47%) of all firearms seized from SOCG. Other handguns not subject to the pistol buyback, but still restricted under Australian laws, made up another 15 percent of seized firearms from SOCG. The majority of these restricted firearms were semi-automatic rifles and semi-automatic pistols, supplemented by smaller quantities of pump-action shotguns, revolvers, semi-automatic shotguns, submachine guns and single shot pistols. The predominance of restricted long-arms and handguns among SOCG is not just a function of preference but is almost certainly connected to contacts within the illicit market.

The types of handgun recovered from SOCG, particularly among OMCGs, likely represent the ideal weapon as they are concealable, transportable, and have magazines that are easily and quickly changed and (for some models) capable of firing 10–13 rounds. Research from England and Wales and the United States shows the dominance of handgun ownership among participants in the manufacture, distribution and sale of illicit drugs (Blumstein 1995;

Cook et al. 2006; Hales, Lewis & Silverstone 2006; Lizotte et al. 2000; Wright & Rossi 1994) and this association was found here too—around four in 10 restricted handguns were seized from entities involved in the illicit drugs market.

Restricted long-arms were found to be less common than restricted handguns but, again, predominantly connected to SOCG. The function of such firearms is arguably not as recognisable as handguns, at least in relation to their portability and practicality. Their acquisition is possibly more closely related to the attraction of owning highly powered, high-capacity and highly lethal items. Hales, Lewis and Silverstone (2006: 55) cited symbolism, along with 'overwhelming power' and 'indiscriminate aim' as features that attracted certain gang members to automatic firearms (these firearms included both long-arms and handguns), although they noted that this appeal did not extend to the majority of persons interviewed. The cost and impracticality of operating such firearms were nominated as dissuading factors. Restricted long-arms, then, are possibly acquired largely for defensive purposes, stockpiled in arsenals for use when rivalry or hostility intensifies between two competing groups. However, 41 percent of SOCG restricted long-arms were possessed at the time of seizure for the purposes of being trafficked, indicating that the ultimate destination or use of these long-arms is not immediately apparent.

The consumers of illicit firearms are not, of course, exclusively criminal entities involved in serious and organised crime. Over 1,000 of the firearms included in the analysis were seized from non-SOCG individuals. The circumstances of seizures of non-SOCG firearms were largely denoted as the commission of firearm offences, and although information on the offender status of the individual prior to the seizure was not contained within the data, it was assumed that the acquisition of firearms by non-SOCG persons was for reasons or purposes different to those for SOCG acquisitions.

Nonetheless, restricted handguns seizures from non-SOCG were proportionally the same as SOCG handgun seizures, indicating a similar proclivity for concealable, higher powered handguns. Historically stricter provisions for handgun ownership, coupled with further tightening of laws post-reforms, has likely augmented the attraction of restricted handguns, and enthusiasts may have needed to

consult with suppliers from the illicit market to obtain these items.

The conduits of supply to the illicit market are better differentiated for handguns than they are for long-arms, but the quality of data used to identify these supply routes, in particular the very high 'unknown' response rate for handguns, compromises the strength of these findings. The 'grey market' has and likely continues to be a legitimate source of long-arms to the illicit market, but this all-capturing reservoir that emerged post-1996 conceivably masks some diversion events. Most of the seized long-arms, irrespective of restricted status, were recorded as having originated in the grey market, with a much smaller percentage being stolen items. Theft appears to have made a much more substantial contribution to the supply of illicit handguns and the 'deactivation loophole' described earlier was identified (where information was available) as the source of 70 percent of restricted handguns and 71 percent of non-restricted handguns seized by police.

These data give an indication of historically important supply routes (the deactivation loophole being a relevant example), but are less reliable in predicting future patterns of supply. Further, the limitations of the data should be noted as they provide important qualification to some of the findings. The question of illegal importation is a case in point. Illegal importation has been touted (by some) as a critical source for illicit firearms, but the analysis suggests it has made an apparently minor contribution. However, additional variables on the legal status of importation could not be used to further investigate the proportion of seized firearms that were legally or illegally imported into the country, and hence be used to help corroborate the findings from the analysis.

Along with questions about the contribution of illegal importation to the illicit market is how much contribution 'domestic leakage' is making at present and will make into the future. There have been a small number of publicised cases of illicit domestic manufacture in the last decade, with the majority of illegal industries producing prohibited models. The analysis showed that illegally manufactured firearms comprised around eight to 11 percent of seized handguns (although mostly pen guns) and two

percent for restricted long-arms. The direction of scale of activity, however, is difficult to predict. The risk of detection has probably meant most manufacturing operations are small, made-to-order ventures and this model of operation may continue into the immediate future. Other common forms of domestic leakage are the theft of legal firearms and dealer diversion. Data from the AIC's National Firearm Theft Monitoring Program found an average of almost 1,500 firearms were reported stolen and hence entering the illicit market between 2004–05 and 2008–09. The great majority of these firearms were not models commonly acquired by SOCG but they still made up around 30 percent of all firearms seized from SOCG and a larger proportion for non-SOCG. The National Firearm Theft Monitoring Program data does not enable definitive identification of targeted thefts, but incident narrative indicated where targeting was suspected, usually associated with multiple thefts, thefts from transport or courier companies and armed robberies of security guards. The largest theft incident from this period was the theft of 55 firearms, mostly handguns, from a firearm dealer in Queensland.

The involvement of some corrupt firearm dealers in furnishing the illicit market is established, but more conclusive information on the manner of involvement sits outside open-source material. Dealers were instrumental players in the exploitation of the deactivation loophole that facilitated the inflow of reportedly thousands of handguns into the illicit market and in other large-scale diversion ventures such as the 'Starlight' operation in South Australia. Outside deactivation, dealer-related diversion was responsible for a small number of the seized firearms recorded in the analysis data, largely enacted through the provision of false information to disguise inter-state transfers or receipt and disposal of items, or the staging of false exports.

While these analyses establish some specifics on the supply to, and composition and consumption of, the illicit firearms market, issues of data quality and the strength of some of the findings from the analysis emphasise the need for standardised records on firearms to be developed. Before the firearm reforms, records on firearm import, sales, transfer of ownership and disposal were not systematically collected. For example, documentation of serial numbers on imported firearms did not occur until 2001 for handguns and 2006 for long-arms; many jurisdictions did not require the registration of long-arms, and interstate transfer of firearms were not always followed up by the jurisdiction of departure or receipt. These and other factors, such as a lack of standardised data-recording procedures and a lack of technical expertise in recording firearm characteristics, have produced data that can only support to an extent the tracing of firearms.

The suggestions made in the previous section about improving first capture recording of firearms identification features, such as the critically important serial number, standardisation of data entry fields and the creation, at the very least, of data linkages between firearm record systems are not new. The ideal of a fully integrated data system, as envisaged in the National Firearms Agreement (1996), has been explored but it is not yet realised. Small, incremental steps, including a commitment to upgrade technical expertise, create common ontologies and generate additional platforms for information exchange will assist in the momentum to develop data in a format and a level of completeness suitable to delivering the 'cradle to grave' benchmark crucial for accurately tracing firearms. It will also assist in a better understanding of the mechanics of the illicit market, and hence methods to combat its supply, by signposting preferences in items and the common and newly exploited modes of transference.

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Despite strict regulations on the import, export, ownership, use, transfer and storage of licit firearms, there exists in Australia a potentially large pool of illicit firearms, some of which are acquired, stockpiled and used for serious and organised crime. This report follows a modest group of publicly released examinations of firearm trafficking operations in Australia, to describe what can be determined about the composition and maintenance of the illicit firearm market, its use by serious and organised crime groups and the diversity of transaction arrangements used to vend illicit firearms.

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