

# The Gun Buy-Back Scheme

© Commonwealth  
of Australia 1997

ISSN 1036-7632

ISBN 0 644 39080 8

This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Australian National Audit Office. Requests and inquiries concerning reproduction and rights should be addressed to the Publications Manager, Australian National Audit Office, GPO Box 707, Canberra ACT 2601.

Canberra ACT  
XX December 1997

Dear Madam President  
Dear Mr Speaker

In accordance with the authority contained in the *Audit Act 1901*, the Australian National Audit Office has undertaken a performance audit of Attorney-General's Department and I present this report and the accompanying brochure to the Parliament. The report is titled *The Gun Buy-Back Scheme*.

Yours sincerely

P. J. Barrett  
Auditor-General

The Honourable the President of the Senate  
The Honourable the Speaker of the House of Representatives  
Parliament House  
Canberra ACT

## **Audit Team**

Guy Reeve

Michael Lewis

# **Glossary**

<b>Already-prohibited firearm</b>	A firearm prohibited under State of Territory legislation prior to the APMC resolutions of 10 May 1996.
<b>Automatic weapon</b>	A weapon which fires rounds continuously as long as the trigger is depressed and ammunition remains in the magazine or belt. Examples are machine guns and assault rifles.
<b>Ball ammunition</b>	Ball ammunition refers to a projectile which relies on kinetic energy only. It does not include high-explosive, smoke or chemical projectiles.
<b>Central advertising system</b>	A centralised system through which government departments and statutory authorities can take advantage of competitive advertising rates achieved through the strength of total government spending. The central advertising system is administered by the Office of Government Information and Advertising (OGIA). At the time of the audit, OGIA was subordinate to the former Department of Administrative Services (DAS). Following changes to administrative arrangements on 9 October 1997, OGIA was resubordinated to the Department of Finance and Administration. Decisions on selection of consultants are made by the Ministerial Committee on Government Communications (MCGC).

<b>Centrefire</b>	Ammunition in which a priming charge or percussion cap is contained centrally in the base of the cartridge casing. Centrefire ammunition is inherently more powerful than rimfire.
<b>Client department</b>	In the central advertising system the client department is the department which is directly responsible for the information activity.
<b>Licence Categories C and D</b>	Categories of prohibited weapons. Category C is prohibited except for occupational purposes (for example, farmers, pest control contractors). Category C is prohibited except for official purposes (for example, military and law enforcement requirements). Licence categories are set out in full at Appendix 1.
<b>Newly-prohibited firearms</b>	A firearm prohibited by the APMC resolution of 10 May 1996.
<b>Pump-action</b>	A rifle or shotgun which uses a manual pump mechanism under the barrel of the weapon to chamber another round into the breech ready for firing. Pump-action rifles are classed as repeating weapons, in the same licence category as bolt-action or lever-action rifles.
<b>Repeating action</b>	A weapon which uses a manual bolt, lever or pump action to chamber another round into the breech ready for firing.
<b>Rifle</b>	A weapon designed to fire a bullet through a rifled barrel. A rifled barrel contains spiral grooves which impart spin to the bullet as it is fired to improve ballistic stability.

<b>Rimfire</b>	Ammunition whose priming mixture is contained in the rim cavity of the cartridge case. When the priming mixture detonates, it ignites the propellant which drives the bullet down the barrel. The location of the priming mixture is an inherent design limitation which contributes to the firearm being relatively low-powered.
<b>Round</b>	A unit of ammunition comprising a cartridge case containing a priming mixture or charge, propellant mixture and the bullet or shot.
<b>Self-loading</b>	A weapon which, after firing a round, immediately ejects the empty cartridge case and automatically feeds a new round into the firing chamber ready for firing. A self-loading rifle can either be fully automatic or semi-automatic.
<b>Semi-automatic</b>	A self-loading weapon which fires only one round each time the trigger is pulled.
<b>Shotgun</b>	A weapon designed to fire shot through an unrifled barrel.

## Abbreviations

AFP	Australian Federal Police
AIC	Australian Institute of Criminology
APMC	Australasian Police Ministers' Council
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction and Reports Analysis Centre
AVO	Australian Valuation Office
CLEB	Commonwealth Law Enforcement Board

DAS	Department of Administrative Services (disbanded with effect from 9 October 1997 - functions absorbed into Department of Finance and Administration).
MAB/MIAC	Management Advisory Board of the Management Improvement Advisory Committee
MCAJ	Ministerial Council on the Administration of Justice
MCGC	Ministerial Committee on Government Communications
NCA	National Crime Authority
NEPI	National Exchange of Police Information
OGIA	Office of Government Information and Advertising
OLEC	Office of Law Enforcement Coordination (before to 1 Jan 97 the Commonwealth Law Enforcement Board Support Group)
OLEP	Office of Law Enforcement Policy
OSCA	Office of Strategic Crime Assessments
SSAA	Sporting Shooters' Association of Australia

# Summary and Recommendations

## Summary

### The gun buy-back scheme

1. Following the tragic events at Port Arthur, Tasmania on 28 April 1996, the Australasian Police Ministers' Council (APMC) met on 10 May to consider a

Commonwealth proposal for a national gun control strategy.

2. At this meeting representatives of all Australian governments agreed to a 10-point plan for the regulation of firearms. This became known as the Nationwide Agreement on Firearms.

3. The Nationwide Agreement on Firearms included agreement on:

- banning self-loading rifles, and self-loading and pump-action shotguns; and
- a 12 month firearms amnesty and compensation scheme (the gun buy-back scheme).

4. The gun buy-back scheme was a key element of the agreement. It involved each State and Territory establishing and operating a system through which gun owners and dealers could surrender newly-prohibited weapons in return for compensation. Arrangements were also made to compensate firearms dealers for loss of business relating to prohibited firearms.

5. The Commonwealth's role involved policy development and coordination for the implementation of the scheme and the provision of funds to the States under the *National Firearms Program Implementation Act 1996 (the 1996 Act)*. The 1996 Act was subsequently **supplemented** by the *National Firearms Program Implementation Act 1997*. The Commonwealth funded both the administration of the scheme and the compensation payments made in relation to prohibited weapons.

6. As well, a national public education campaign was undertaken in support of the gun buy-back scheme. This included both public relations and advertising campaigns.

7. The gun buy-back scheme started in most States on 1 October 1996 and ended on 30 September 1997. It secured the surrender of about 640 000 prohibited firearms nationwide. The Commonwealth funded the

scheme through a one-off 0.2 per cent increase in the Medicare levy to raise about \$500 million. The total cost of compensation to owners was about \$304 million. The total cost of compensation payments to firearms dealers for loss of business will not be certain until all claims have been processed. However, by the end of the scheme, a total of 480 claims had been submitted. About \$57 million was also paid to the States and Territories to cover the costs of establishing, promoting and operating the scheme. About \$4 million was allocated to the national public education campaign.

8. The Attorney-General's Department advised that, because the difference between funds raised through the increase in the Medicare levy and funds expended through the scheme is not yet known, options on the disposal of any excess funds have not yet been developed.

### **Audit objectives and criteria**

9. The main objectives of the audit were to examine and form an opinion on:

- the efficiency, economy and administrative effectiveness with which the Commonwealth planned and coordinated implementation of the gun buy-back scheme;
- the management of firearms surrender and destruction in the Australian Capital Territory (ACT) by the Australian Federal Police (AFP);<sup>1</sup> and
- the management of the competitive tendering process for the national public education campaign.

10. Audit criteria were developed which examined program policy and planning, coordination with and payment of funds to the States. In examining the AFP's management of firearms surrenders and destruction,

---

<sup>1</sup> Although a Commonwealth agency, the Australian Federal Police (AFP) was responsible for the management of the surrender process as part of its provision of community policing services to the ACT Government. The ANAO included this in the audit scope because legislative constraints prevented the Auditor-General for the Australian Capital Territory (ACT) from examining the AFP as part of his review of the scheme in the ACT.

the ANAO used criteria which had been the basis of advice provided to the Commonwealth Law Enforcement Board (CLEB) Support Group during their planning of the scheme. In examining the management of the competitive tendering process for the national public education campaign, the ANAO based audit criteria on the requirements of relevant policy guidelines and procedures.

## **Overall conclusions**

### ***Management by the Commonwealth***

#### *Planning and coordination*

11. The ANAO concluded that, given the short time in which to implement the scheme, planning and coordination by the Attorney-General's Department was sufficient to enable the States to establish their own compensation schemes. However, the ANAO noted some shortcomings in the Department's:

- risk identification and analysis;
- performance information planning; and
- planning for audit and acquittal of funds.

#### *Advice to the States*

1. In response to surrenders of already-prohibited firearms during the course of the scheme, the Office of Law Enforcement Coordination (OLEC) advised the States and Territories that the Commonwealth would reimburse compensation for weapons not covered by the 1996 Act. OLEC's advice, which did not have Ministerial endorsement or legislative authority, resulted in the States paying compensation for some already-prohibited firearms. OLEC's ad hoc approach to compensation policy on already-prohibited firearms and the advice to the States resulted in variations between the States in the amounts paid for already prohibited weapons and in the types of weapons for which compensation was paid.

### *Internal management control*

2. OLEC's advice did not take account of the limitations on categories of firearms for which the Commonwealth could legally reimburse compensation. Senior officers within the Attorney-General's Department were not advised of OLEC's advice and continued to advance funds to the States for compensation purposes, unaware that some of the funds were being used to pay for weapons which did not legally qualify for reimbursement of compensation. Legal advice sought by the ANAO during course of the audit indicated that the advances of funds were made with appropriate legislative authority. However, the ANAO considers that the lack of communication within the Attorney-General's Department indicates a weakness in management control.
3. Based on information provided by relevant State officials, the ANAO estimated that, of the \$304 million paid by the States in compensation, at least \$7.5 million was paid using funds advanced by the Commonwealth for weapons and parts which were not included in the definition of qualifying compensation in the 1996 Act. Once the officers responsible for authorising and approving payments to the States became aware of this in June 1997, the Attorney-General's Department sought Government agreement for an amendment to the Act. A **supplementary Act** was passed by the Parliament on 2 October 1997.

### ***Surrender and destruction of firearms in the ACT***

4. The ANAO found that management of the surrender and destruction of firearms in the ACT by the Australian Federal Police (AFP) was generally effective. The ACT Auditor-General found that procedures and controls in the ACT Attorney-General's Department in relation to payment of compensation on the basis of surrender schedules provided by the AFP were sound.

## ***Management of the national public education campaign tender process***

5. In general terms, the competitive selection process was properly managed by the Office of Government Information and Advertising and the Attorney-General's Department. However, the ANAO identified scope for improvement in documentation of key steps to ensure proper transparency of due process and greater assurance and confidence in the final outcome.

## **Key Findings**

### ***Policy and planning***

6. Evidence available indicates that the majority of firearms owners were satisfied with the level of compensation paid for weapons and parts/accessories. The ANAO concluded that the initial development of compensation policy was generally effective although the policy on compensation for dealers' loss of business needed to be refined. Following a review of the policy, a two-tier methodology for valuation of loss of business claims was adopted in mid-1997 and consequently claims for loss of business were lodged late in the scheme. OLEC advised the ANAO that an insignificant number of claims had been processed by the end of the scheme. For this reason, the ANAO was unable to form an opinion on the effectiveness of implementation of the policy guidelines on valuation of dealers' loss of business.

7. In general terms, planning was sufficient to enable the States to establish their own amnesty and compensation schemes: OLEC sought relevant expert advice from the Australian Valuation Office (AVO) and the ANAO on specific aspects of the scheme's design, and the production of policy guidelines and a schedule of values for the purposes of uniform compensation. However, the ANAO considers that this work initiated by OLEC was undermined by a subsequent lack of risk identification and analysis. OLEC's planning did not take account of surrender of weapons other than those newly-prohibited by the APMC. OLEC's advice to the

States in response to this unintended consequence was unsound and required an amendment to the 1996 Act.

### ***Program implementation***

**8.** The scheme was implemented promptly, but there were some unintended consequences. These included the surrender of already-prohibited weapons and significant quantities of spare parts for them.

### ***Scope of qualifying compensation expanded by OLEC***

**9.** In response to the States' request for advice on surrenders of already-prohibited firearms, OLEC considered that it had been the intention of the APMC to include such weapons in the compensation scheme. Accordingly, OLEC advised the States that the Commonwealth would reimburse compensation payments for all prohibited firearms. This advice to the States represented a significant broadening of the scope of the scheme and was unsound because it did not take account of the legislative constraints of the Act.

**10.** Based on information provided by relevant State officials, the ANAO estimated that, of the \$304 million paid by the States in compensation, at least \$7.5 million was paid on the basis of funds advanced by the Commonwealth for weapons and parts which were not included in the definition of qualifying compensation in the 1996 Act.

### ***Management control within the Attorney-General's Department***

**11.** OLEC stated that this advice was provided without consultation or communication with other elements of the Attorney-General's Department or the Attorney-General's Office and without reference to the requirements of the 1996 Act. OLEC further advised that poor coordination between development of the legislation and the development and dissemination of policy relating to the buy-back scheme was the cause of the incorrect advice to the States.

**12.** Senior officials within the Attorney-General's Department continued to approve and authorise advances of funds to the States without being aware of OLEC's advice until media reports on the payment of \$460 000 for 22 aircraft cannon by the Northern Territory prompted the Attorney-General's Department to seek legal advice on whether already-prohibited weapons could qualify for compensation. Following legal advice, OLEC wrote to the States in June 1997, acknowledging that the requirements of the 1996 Act had been overlooked and withdrawing its earlier advice that the Commonwealth would reimburse the States for compensation paid for already-prohibited firearms.

**13.** The Attorney-General's Department also began work on a proposal to amend the Act to allow the Commonwealth legally to reimburse the States for firearms which did not qualify for compensation under the 1996 Act. The amendment was subsequently passed by the Parliament on 2 October 1997. Legal advice recently sought by the Attorney-General's Department and the ANAO during the audit indicated that advances to the States had been made with appropriate legislative authority.

**14.** The Attorney-General's Department officers responsible for authorising payments were not aware that OLEC had advised the States that the Commonwealth would reimburse compensation paid for already-prohibited firearms. Although continued authorisation of advances to the States was not in breach of the 1996 Act, the ANAO considers that the Attorney-General's Department officers' lack of knowledge of OLEC's policy decision affecting the scheme indicates an evident weakness in the management control framework.

#### *Alternative policy options*

**1.** The ANAO found no evidence that OLEC had considered any other options in relation to surrenders of already-prohibited weapons. For example, one option could have been to extend only the amnesty element of the National Firearms Agreement, rather than the totality of the compensation scheme, to these

weapons, as was the policy applied to non-prohibited firearms which were surrendered. This resulted in unforeseen costs arising for the Commonwealth.

2. In correspondence with the States, OLEC noted that the possibility of surrender of already-prohibited firearms and the surrender of large quantities of spare parts had clearly not been contemplated at the time the scheme commenced.

3. The ANAO considers that a formal risk analysis may have helped earlier identification of this issue as a risk to the scheme. As a result a clear policy proposal could have been developed for early consideration by the Government to extend the scope of the scheme in order to attract already-prohibited weapons. Following Government agreement appropriate legislation could have been drafted for Parliament's consideration. This would have enabled the States to administer the scheme on a consistent basis. It would also have allowed adjustments to be made to the scope of national and regional public education campaigns in order to maximise the effectiveness of the buy-back.

#### *Variations in compensation*

4. OLEC's ad hoc approach to compensation policy on already-prohibited firearms and the advice to the States resulted in variations between the States in the amounts paid for already-prohibited firearms and in the types of weapons for which compensation was paid.

#### *OLEC's coordination of the scheme*

5. The ANAO considers that the efficiency and effectiveness with which the scheme was managed could have been significantly improved by:

- a clear definition at an early stage of the responsibility for, and method of, policy development and dissemination; and
- more effective coordination by OLEC to ensure uniformity of implementation of policy on compensation for prohibited firearms.

### *Monitoring performance*

1. The ANAO found no evidence that performance monitoring requirements were specifically taken into account in the design and implementation of the public education campaign tracking research. The aim of this research was to establish overall levels of gun ownership, refine communication messages and monitor effectiveness of the advertising reach. The ANAO considers that better value could have been achieved from this research had the requirements of a strategically planned performance information and monitoring framework been taken into account because this would have assisted in monitoring the effectiveness of the program as well as of the public education campaign.
2. The ANAO concluded that the monitoring of the scheme was not sufficient to help the Attorney-General's Department assess the achievements of the program and if necessary recommend changes to the Government to better meet the scheme's objectives, or to provide any information on the effect of OLEC's advice to the States in relation to Commonwealth reimbursement of payments for already-prohibited firearms.

### ***Commonwealth payments to the States***

3. Although there were weaknesses in internal management control and there was a need to amend the 1996 Act, payments to the States were made legally. The Attorney-General's Department managed payments to the States efficiently and effectively. However, the ANAO found that there was scope to clarify arrangements for final audit and acquittal of State expenditure of gun buy-back funds.

### ***Management of the surrender process in the ACT by the AFP***

**4.** The ANAO found that management of the surrender process by the AFP in the ACT was generally effective. The ANAO found adequate evidence of disposal of all weapons in the sample tested. The ANAO found no evidence of fraud or mismanagement. However, the ANAO considers that there was scope for improving the processes relating to ensuring the accuracy of surrender records. Greater accuracy would have enabled greater efficiency in management and monitoring of transactions. Identified shortcomings were due to:

- limitations in the design of the existing computer database; and
- a lack of effective procedural checks to maintain the quality of records management.

**5.** During the course of the audit, the ANAO suggested that the AFP should validate all existing computer records through manual reconciliation of surrender forms with destruction schedules before the computerised weapons register could be relied upon as a primary management information system. The AFP advised that about 90 per cent of records had been validated by the conclusion of the ANAO's audit fieldwork.

**6.** The ACT Auditor-General found that procedures and controls in the ACT Attorney-General's Department in relation to payment of compensation on the basis of surrender schedules provided by the AFP were sound.

### ***Implementation of the scheme in other States and Territories***

7. In order to provide a more comprehensive national overview of the effectiveness with which the scheme was implemented at State level, the ANAO reviewed the findings of relevant audits by State and Territory Auditors-General. Their findings did not indicate any material systemic weaknesses arising from shortcomings in Commonwealth policy or coordination.

### ***Management of the national public education campaign tender process***

8. The ANAO considers that, in general terms, the tender process was properly managed by OGIA and the Attorney-General's Department. However, the documentation of key steps in the tender process to meet the requirements of OGIA Quality Procedures and to ensure transparency could have been better from an accountability viewpoint. Policy guidelines and procedures would benefit from more detailed guidance to help achieve this. While outcomes are of prime importance, it is still necessary to ensure proper procedures are applied as they can impact markedly on the outcomes actually achieved.

9. The ANAO found insufficient documentation of the process of consultation by OGIA with the client department on written assessments of advertising proposals which were to be provided to the Ministerial Committee on Government Communications (MCGC). Policy decisions made by the Government, including the MCGC, are outside the scope of the performance audit mandate of the ANAO. However, the ANAO concluded that there is scope for OGIA to ensure that the preparation of submissions to the MCGC, in consultation with the client department, is managed more closely in accordance with relevant guidelines.

**10.** The ANAO also found that an important decision by the departmental evaluation committee on shortlisting of advertising firms and their reasons for the decision were not documented. However, the ANAO considers that the oral evidence relating to the decision gives reasonable assurance that the decision to shortlist three advertising firms was properly agreed by the evaluation committee.

**11.** It is suggested that a properly documented and effective management trail provides protection for all concerned, including those who have to take decisions much later in the process but who, for example, may have had no involvement in earlier discussions. It also provides greater assurance and confidence in the final outcome.

## **Agencies' responses**

### ***Attorney- General's Department***

- 1.** In commenting on the ANAO's draft report, the Attorney-General's Department advised that the Department considered the buy-back scheme to be an outstanding success which had resulted in a reduction of almost 650 000 firearms in the community. The Department considered that outcome to be strongly supported by a majority of Australians, including a majority of gun owners.
- 2.** The Attorney-General's Department also stated that the report focussed, in their view, on a very small element of the program and did not provide due recognition of the achievements of this complex project. In the Department's view, the buy-back was a unique event in public administration in this country and, quite likely, the world.
- 3.** The Attorney-General's Department agreed with the one recommendation directed to the Department.

## **AFP**

4. The AFP responded positively to the report and outlined work in progress to address the suggestions made by the ANAO during the audit.

## **OGIA**

5. OGIA responded positively to the report and agreed with the one recommendation directed at the Office.

# Recommendations

*Set out below are the ANAO's recommendations with Report paragraph reference and abbreviated departmental responses. More detailed responses are shown in the body of the report.*

<b>Recommendation No. 1</b> Para. 0	The ANAO recommends that in order to ensure accountability for the scheme, the Attorney-General's Department clarifies arrangements for audit and acquittal of State and Territory expenditure of gun buy-back scheme funds as soon as possible.
--	--

Attorney-General's  
Department  
Response

**Agreed**

**Recommendati  
on  
No. 2  
Para. 0**

The ANAO recommends that for the purposes of accountability OGIA reviews relevant policy documents, including quality procedures, to ensure that:

- all key decisions taken during the process for selection of consultants are adequately documented to ensure transparency and accountability;
- the relevant procedures clearly define the responsibility for documentation at each stage of the selection process;
- the policy on changes to proposals by competing firms is clearly defined and offers adequate guidance to relevant officers if significant changes occur; and
- the methodology for assessments is documented and includes the requirement to rank agencies on merit unless special circumstances, (which also should be appropriately documented) apply.

OGIA Response **Agreed**

## **Audit Findings and Conclusions**

# Introduction

*This chapter describes the background to the audit and sets out its objectives scope and methodology.*

## Background

- 3 1** Following the tragic events at Port Arthur on 28 April 1996, the Australasian Police Ministers' Council (APMC) met on 10 May to consider a Commonwealth proposal for a national gun control strategy.
- 3 2** At this meeting representatives of the Commonwealth and all State and Territory governments agreed to a 10-point plan for the regulation of firearms. This became known as the Nationwide Agreement on Firearms. Subsequent APMC meetings on 17 July and 15 November 1996 further examined specific issues including guidelines for compensation in respect of newly-prohibited firearms.
- 3 3** The Nationwide Agreement on Firearms included agreement on:
- banning self-loading rifles, and self-loading and pump-action shotguns (examples of these firearms are illustrated in Figures 1 - 3 on page 4);
  - a 12 month firearms amnesty and compensation scheme (the gun buy-back scheme);
  - development of a common basis between jurisdictions for fair and proper compensation;
  - a public education campaign in support of the new firearms control measures;
  - a nationwide, integrated firearms licensing and registration system, to be linked through the National Exchange of Police Information (NEPI) system;
  - introduction of licensing criteria for the ownership of firearms;
  - grounds for licence refusal or cancellation and seizure of firearms;
  - a requirement for all first-time license applicants to complete an accredited course in firearms safety training;

- uniform standards for the security and storage of firearms; and
  - controls on the sale of firearms and ammunition.
- 3 4** The gun buy-back scheme was a key element of the Nationwide Agreement on Firearms. It involved each State and Territory establishing and operating a system through which gun owners and dealers could surrender newly-prohibited weapons in return for compensation. It also provided for dealers to be compensated for loss of business in relation to prohibited weapons. The scheme started in most States on 1 October 1996 and ended on 30 September 1997.

### *Examples of prohibited firearms*

- 3 5** Figures 1 - 3 illustrate examples of the weapons prohibited by the APMC.

### **Reasons for the audit**

- 3 6** The buy-back scheme involved the allocation of a substantial amount of Commonwealth funding to the States and Territories.<sup>2</sup> The Government decided to budget \$500 million for the initiative. This was raised through a one-off 0.2 per cent increase in the Medicare levy.
- 3 7** The total cost of compensation to owners was approximately \$304 million. The total cost of compensation payments to firearms dealers for loss of business will not be certain until all claims have been processed. However, by the end of the scheme, a total of 480 claims had been submitted. OLEC advised that the value of these would not be known until the claims had been processed later in 1997 and 1998. About \$57 million was also paid to the States and Territories to cover the costs of establishing, promoting and operating the scheme.
- 3 8** In addition, the Commonwealth allocated \$4 million to a national public education campaign, \$1.5 million for development of an accredited firearms training program and \$400 000 to upgrade the National Exchange of Police Information (NEPI) system. Funds expended on the scheme are summarised in Figure 4.

---

<sup>2</sup> Subsequent references to “the States” refer to the States and the Territories.

## **Audit objective**

**3 9** The main objectives of the audit were to examine and form an opinion on:

- the efficiency, economy and administrative effectiveness with which the Commonwealth planned and coordinated implementation of the gun buy-back scheme;
- the management of firearms surrender and destruction in the Australian Capital Territory (ACT) by the Australian Federal Police (AFP); and
- the management of the competitive tendering process for the national public education campaign.

## **Audit criteria**

**3 10** The ANAO developed audit criteria which examined policy and planning, coordination and management of funds. In examining the AFP's management of firearms surrenders and destruction, the ANAO used criteria which had been the basis of advice on control procedures which had been requested by the Commonwealth Law Enforcement Board (CLEB) Support Group during their planning of the scheme. In examining the management of the competitive tendering process for the national public education campaign, the ANAO based audit criteria on the requirements of relevant policy guidelines and procedures.

**3 11** The main criteria were designed to assess:

- strategic planning, including cost identification, risk analysis and policy development;
- coordination with States;
- financial management, including appropriateness of compensation payments;
- performance monitoring; and
- accountability requirements.

## **Audit scope and methodology**

### **Scope**

#### *Commonwealth aspects*

- 3 12** The primary focus of the ANAO's audit was on the management by the Commonwealth of the planning and coordination of the gun buy-back scheme. This was because the scheme was materially the most significant element of the Nationwide Agreement on Firearms. The Commonwealth contribution to the States to establish and operate the scheme and in relation to compensation payments consumed more than 99 per cent of the funds spent to date on implementing the agreement.

#### *Management of the scheme in the ACT and other States*

- 3 13** The ANAO also examined the management of the surrender and destruction of prohibited firearms in the ACT. The Australian Federal Police (AFP) was responsible for the management of the surrender process as part of its provision of community policing services to the ACT Government. The ANAO has no responsibility for audit of State-level programs. Nevertheless, in order to provide a national perspective on the implementation of the scheme, the ANAO has summarised the findings of particular State Auditors-General in Chapter 5.

#### *National public education campaign tender process*

- 3 14** The ANAO also examined the Commonwealth's management of the competitive tender process for the national public education campaign in support of the buy-back scheme.
- 3 15** The ANAO decided to include this in the scope of the audit because of Parliamentary concerns surrounding the management of the competitive tender process. These concerns were raised in late 1996 following the selection by the Ministerial Committee on Government Communications (MCGC) of the Adelaide branch of the advertising firm DDB Needham to undertake the advertising element of the campaign.

### **Methodology**

#### *Commonwealth aspects*

- 3 16** The main focus of the audit was on the Commonwealth's role in planning and coordinating the implementation of the buy-back

scheme. The ANAO sought to examine the administrative efficiency and effectiveness with which relevant Commonwealth agencies had developed and promulgated the policy relating to the buy-back and coordinated the activities of State and Territory law-enforcement authorities.

- 3 17** The ANAO interviewed staff of the Attorney-General's Department, the Office of Law Enforcement Coordination (OLEC). Discussions were held with staff of the Treasury and the Australian Taxation Office (ATO) regarding revenue estimation and collection. The ANAO also reviewed relevant documentation. The Department of Defence was consulted in relation to the disposal of obsolescent stocks of military small arms and spare parts.
- 3 18** As well, the ANAO sought the views of a range of stakeholders with a direct interest. These included representatives of State law-enforcement authorities, firearms dealers' associations, shooters' associations and gun control interest groups.

#### *Management of the scheme in the ACT*

**3 19** The ANAO reviewed internal audit work on the management of firearms surrender and destruction which had been carried out by the AFP's Internal Security and Audit Branch in mid-1996. The ANAO also reviewed AFP Weapons Registry procedures, and undertook sample testing of firearms surrender transactions. This testing included a review of all records of surrenders up until the time of the audit for adequate evidence of either:

- destruction of the weapon; or
- retention, as authorised by the ACT Attorney-General, for AFP forensic or training purposes.

#### *National public education campaign tender process*

**3 20** In examining the management of the tender process for selecting commercial firms to undertake the national public education campaign advertising and public relations campaigns, the ANAO reviewed relevant guidelines on the selection process published by the former Department of Administrative Services (DAS) and by the Office of Government Information and Advertising (OGIA).<sup>3</sup>

---

<sup>3</sup> Following changes to administrative arrangements on 9 October 1997, OGIA was resubordinated to the Department of Finance and Administration.

- 3 21** The ANAO also had regard to evidence given by OGIA and Attorney-General's Department staff to the Senate Finance and Public Administration Legislation Committee and to the Senate Legal and Constitutional Legislation Committee. This evidence was given at five separate Parliamentary Committee Estimates hearings in late 1996. The ANAO also interviewed staff of OGIA and the Attorney-General's Department, and reviewed relevant documentation.
- 3 22** The ANAO audit did not include the management of the advertising and PR campaigns.
- 3 23** The audit was carried out in accordance with the ANAO Auditing Standards. Fieldwork was undertaken between May and September 1997. The cost of the audit was \$130 000.

# Policy and Planning

*This chapter outlines the ANAO's findings in relation to planning and coordination of the scheme by the Office of Law Enforcement Coordination of the Attorney-General's Department.*

## Introduction

**3 1** Commonwealth policy on firearms control is the responsibility of the Attorney-General. This includes policy on a uniform national approach to firearms controls as well as matters relating to the importation of firearms and dangerous goods under the *Customs (Prohibited Imports) Regulations*. Laws regulating the ownership, possession and use of firearms are the responsibility of State and Territory governments.

### ***The Commonwealth Law Enforcement Board (CLEB)***

**3 2** The Attorney-General is advised on the above issues by the Commonwealth Law Enforcement Board (CLEB). CLEB was established by the Government in 1994 following its consideration of the report on the *Review of Commonwealth Law Enforcement Arrangements*. Membership of CLEB comprises:

- the Chair of the National Crime Authority (NCA);
- the Commissioner of the Australian Federal Police (AFP);
- the Secretary of the Attorney-General's Department;
- the Director of the Australian Transaction and Reports Analysis Centre (AUSTRAC); and
- a full-time Executive Member.

**3 3** CLEB's primary objectives are to:

- improve information about general law enforcement issues reaching the government;
- to improve communication between the government and law enforcement agencies;
- to provide a set of standards to enhance the management and performance of law enforcement agencies; and

- to improve coordination between agencies.

### ***The CLEB Support Group***

- 3 4** As noted above, CLEB's main focus is on broader strategic issues and the provision of general policy advice on executive government issues to the Attorney-General. Day-to-day advice, as well as the exercise of certain law enforcement policy functions including firearms control and drugs policy, is the responsibility of the CLEB Support Group.
- 3 5** The CLEB Support Group was headed by the full-time Executive Member of CLEB. The CLEB Support Group comprised the Office of Law Enforcement Policy (OLEP) and the Office of Strategic Crime Assessments (OSCA). OLEP's Coordination Directorate is principally responsible for firearms and drugs policy and coordination matters.

### ***Resubordination of the CLEB Support Group***

- 3 6** On 1 January 1997 the CLEB Support Group became a Division of the Attorney-General's Department. From then on it became known as the Office of Law Enforcement Coordination (OLEC). For clarity, henceforth in this report the term 'OLEC' is used to refer to the same organisation whether it was the CLEB Support Group before 1 January 1997 or OLEC as a Division of the Attorney-General's Department after that date.

## **Background**

- 3 7** Immediately following the tragic events at Port Arthur, the Attorney-General directed OLEP, in consultation with the Attorney-General's Department, to draft a proposal for common minimum standards for nationwide firearms controls.
- 3 8** This proposal formed the basis of the Commonwealth's agenda for discussion with representatives of all States at the special meeting of the APMC. It contained detailed proposals for discussion on the issues listed at para 0.

### ***Australasian Police Ministers' Council Resolutions***

- 3 9** The APMC is one of three Ministerial Councils which make up the Ministerial Council on the Administration of Justice (MCAJ). The Commonwealth provides a secretariat to the MCAJ to support their

work through the provision of policy advice and secretariat support services. The secretariat function is performed by OLEC.

- 3 10** A special meeting of the APMC, chaired by the Attorney-General, was convened on 10 May 1996. The APMC agreed to adopt all of the Commonwealth's main proposals which included prohibition of self-loading military-style firearms and the establishment of a compensation scheme. These were new proposals and represented a major initiative in comparison with previous consideration of firearms policy by the Commonwealth. They were supported by the Government's decision to provide funding of about \$500 million to implement the Nationwide Agreement on Firearms.
- 3 11** The APMC also broadened the range of firearms to be prohibited by deciding to prohibit a wider range of weapons than had originally been proposed by the Commonwealth. The APMC decided that semi-automatic rifles, and semi-automatic and self-loading shotguns should also be prohibited.<sup>4</sup> A full list of the categories of weapons is at Appendix 1. Licence Categories C and D comprise the weapons prohibited by the APMC.
- 3 12** The main implementation measures decided on by the APMC included:
- a 12-month firearms amnesty and compensation scheme (the buy-back scheme);
  - formation of working groups to address specific policy issues including compensation arrangements, model firearms legislation, and development of a framework for a national firearms registration system;
  - immediate Australia-wide advertising to publicise the changes to firearms legislation;
  - development of a national public education campaign on firearms control in support of the firearms amnesty and buy-back scheme; and
  - amendment of the *Customs (Prohibited Imports) Regulations* to prohibit the importation of newly-prohibited firearms.
- 3 13** Both the APMC and its Senior Officers' Group considered specific issues arising in more detail at subsequent meetings, including:

---

<sup>4</sup> For details see the Glossary on page vii and Figures 1 - 3.

- the linking of jurisdictional firearms registration systems;
- access to Licence Category D firearms by primary producers;<sup>5</sup>
- the valuation process for compensating firearms dealers for loss of business;
- dispute resolution mechanisms;
- retention of weapons by collectors and museums; and
- research by the Australian Institute of Criminology on patterns of firearms-related deaths.

### ***Previous consideration of firearms control***

**3 14** The issue of firearms reform had been on the agenda of the APMC for some years. Most of the measures agreed at the 10 May meeting of the APMC had been discussed as agenda items at APMC meetings in 1987, 1990 and 1991. However, agreement had never previously been reached on implementation of uniform nationwide firearms controls.

### **Planning and development of policy guidelines**

**3 15** Effective planning is essential for the efficient allocation and use of resources required to deliver a program. Poor planning can result in additional costs arising from a lack of coordination. Planning without effective risk identification, analysis and adequate monitoring can also result in unforeseen costs arising from unexpected factors.

**3 16** The *Guidelines for Managing Risk in the Australian Public Service*, issued by the Management Advisory Board and its Management Improvement Advisory Committee (MAB/MIAC) in October 1996, suggest adopting a structured, step-by-step process for risk management. This involves an integrated, structured and formalised approach to the identification, analysis, assessment, treatment and monitoring of risk. The management of risk should occur throughout the development and implementation of a policy, program or project.

---

<sup>5</sup> Firearms licence categories are listed at Appendix 1.

## ***Working groups***

**3 17** Following the APMC meeting OLEC proceeded to develop policy guidelines and plan the implementation of the resolutions. OLEC undertook this in conjunction with the APMC Senior Officers' Group and with specific working groups formed under the aegis of the APMC.

**3 18** The ANAO considers that OLEC took reasonable steps to ensure that appropriate expertise was available for this purpose. For example, advice was sought from the Australian Valuation Office (AVO) and a working group was formed to develop policy guidelines on compensation issues. The working group consisted of representatives from:

- OLEC;
- a commercial importer/dealer of firearms;
- the Australian Valuation Office (AVO);
- the AFP; and
- the Western Australian Police Service.

## ***Risk identification and analysis***

**3 19** However, in spite of the significant effort devoted to planning, the ANAO found no evidence that OLEC had undertaken a formal risk identification and assessment process. The ANAO considers that such a process would have helped avoid the difficulties discussed later in Chapter 3 which arose from the need to respond urgently to unforeseen and unintended consequences. In responding to the ANAO's draft report, the Attorney-General's Department stated that the report provided no real evidence to support the finding that there was no risk identification and analysis. However, the Department did not provide any evidence to indicate that such process had in fact taken place.

## ***ANAO advice***

**3 20** As part of its planning for the scheme OLEC also sought advice from the ANAO in August 1996 on the processes and controls necessary to support the compensation scheme. This advice was not related to the audit work described in this report. In providing this advice the ANAO:

- developed a good practice control model for the surrender of firearms and processing of payments;
- conducted a preliminary evaluation of the controls on firearms surrender transactions proposed by the States; and
- advised on the proper processes required by the Commonwealth for appropriate management of payments to the States.

**3 21** OLEC's response to this advice is discussed in more detail at para 0.

### ***Time constraints***

**3 22** Limited time was available in which to plan for the buy-back scheme. The APMC agreed that the surrender scheme should run for a period of no more than 12 months and that it should finish on 30 September 1997, except in South Australia.<sup>6</sup>

**3 23** This meant that in most States only about four months' preparation time was available to amend relevant legislation, develop operational procedures and finalise implementation details before starting the scheme on or before 1 October 1996. Successful implementation of State schemes depended upon the preliminary policy development undertaken by the Commonwealth. Development of Commonwealth policy had therefore to be conducted within a very short time. The timeframe of the State compensation schemes is summarised in Figure 2 below. It should be noted that a compensation scheme was already in progress in the ACT before the APMC decisions. This is outlined in more detail in Chapter 5.

### ***Planning information***

**3 24** Accurate planning information helps managers to develop realistic, achievable program objectives. It also forms a baseline from which to develop relevant performance measures to determine the effectiveness of policy and program implementation.

**3 25** The Attorney-General's Department told the ANAO that the absence of firearms licensing and registration systems in some States made it difficult to estimate with any degree of accuracy the

---

<sup>6</sup> South Australia declared its intention to end its compensation scheme on 31 December 1996, although the amnesty there would continue until 30 September 1997.

number of newly-prohibited firearms which might be surrendered. This was exacerbated by variations between the existing State systems.

**3 26**

The APMC Senior Officers' Group acknowledged the uncertain nature of some individual State estimates. Nevertheless, these estimates were combined to produce an overall estimate of about 1.5 million relevant weapons. The Attorney-General's Department commissioned research to ascertain national levels of gun ownership, legal and illegal, and to improve knowledge about the target audience for the public education campaign. However, the ANAO found no evidence that the Department had attempted to estimate the potential liability for compensating dealers for loss of business.

- 3 27** The first phase of the research in July 1996 indicated that at least 467 000 people owned weapons which were prohibited under the new laws. The Attorney-General's Department advised the ANAO that this information was not used to set operational objectives or measure progress of the buy-back because the figures were considered to be unreliable given the level of knowledge of the new gun laws at the time the first survey was conducted. As a result of the lack of a clear target, it is difficult to assess the effectiveness of the program. Accountability is also undermined by the lack of such a target or objective.
- 3 28** The Attorney-General's Department advised that it was not possible to set a target and considered that the tracking research could not fill the information vacuum caused by lack of reliable police data on ownership of firearms. The Department advised that the best it could come up with was a national figure of gun owners and some idea of where they lived. However, the ANAO considers that a properly constructed survey of statistically valid samples could have provided a more reliable estimate against which to monitor program achievements.

### ***Legislation***

- 3 29** The planning process resulted in Commonwealth legislation to enable:
- a one-off increase in the Medicare levy to raise revenue; and
  - appropriation of funds for implementation of firearms controls.

### ***The Medicare Levy Amendment Act 1996***

- 3 30** The *Medicare Levy Amendment Act 1996* was enacted on 27 June 1996. This Act increased the Medicare levy by 0.2 per cent for 1996-97 only. It also required members of the Australian Defence

Force (who were otherwise exempt from paying the levy) to contribute a pro-rata component equivalent to the increase.

### *The National Firearms Program Implementation Act 1996 (The Act)*

**3 31** Appropriating legislation in the form of the *National Firearms Program Implementation Act 1996* (the Act) allowed the Attorney-General to authorise payments to the States in respect of qualifying compensation. Qualifying compensation was defined by the Act as compensation which was:

- paid under a State compensation scheme which had been approved by the Attorney-General to implement the national firearms program;
- paid for property surrendered during the amnesty period or in compensation for loss of business; and
- related to self-loading rifles, self-loading shotguns or pump-action shotguns.

**3 32** The Act also allowed the Attorney-General to authorise payments by the Commonwealth to the States, or for other purposes, in connection with the implementation of the national firearms program (for example, separate funding to upgrade the National Exchange of Police Information (NEPI) system).

**3 33** An unintended consequence of the scheme revealed limitations of the Act. The Act's definition of 'qualifying compensation' allowed the Commonwealth only to reimburse the States for compensation paid in respect of the categories of firearms which had been banned by the APMC. Firearms which were already prohibited before the APMC decision were surrendered. Although these did not qualify for compensation under the Act, OLEC advised the States shortly after the start of the scheme that the Commonwealth would reimburse compensation paid for these weapons. This is discussed in detail in Chapter 3. As a result, a supplementary Act was proposed and passed by the Parliament on 2 October 1997 to allow the Commonwealth to reimburse the States for other categories of prohibited firearms.

## **The compensation scheme**

### ***Compensation for surrendered firearms***

- 3 34** In any compensation scheme it is important that payments are reasonable and consistent between jurisdictions and made with appropriate legislative authority. The APMC agreed that a common basis for fair and proper compensation should be developed in order to prevent firearms being surrendered in the State which offered the best price. The ANAO examined the policy guidelines for surrendered firearms to assess whether they helped to ensure that the cost of the scheme was minimised, that compensation payments were equitable across Australia and that payments were properly authorised.
- 3 35** Policy guidelines on compensation for surrendered prohibited firearms were developed by the APMC working group noted above. These guidelines were issued by OLEC to relevant State authorities. They included a list of APMC-prohibited weapons and values for new and used examples. The guidelines specifically refer to the categories of weapons prohibited by the APMC decision. Other categories of weapons which were already prohibited under existing State legislation were not listed.
- 3 36** The schedule of values accompanying the guidelines was compiled from:
- advertisements of firearms listed for sale in all of the firearms-related magazines then available in Australia;
  - importers'/wholesalers' recommended retail pricing on new firearms; and
  - consultation with leading firearms retailers.
- 3 37** The schedule initially included values for about 340 new and used weapons. The schedule required some amendment in response to comments from a range of sources regarding some valuations and omissions of large numbers of models from the list. The ANAO found that arrangements for including additional models and ensuring that additions to the list were applied uniformly across the States were not clear and consequently differences in compensation for like weapons may have occurred.
- 3 38** Some State authorities told the ANAO that they added prices for other models of weapons, prohibited except for occupational and

official purposes, to the schedule of valuations as a result of their own experience.<sup>7</sup> For, example, Tasmania developed a schedule of values for surrendered automatic machine guns. In some cases this was done in consultation with representatives of the relevant State firearms dealers' association. State officials advised the ANAO that about 200 additional models had been suggested to the Commonwealth for inclusion.

- 3 39** Information from a survey of their members provided to the ANAO by the Sporting Shooters' Association of Australia (SSAA) indicated that about two-thirds of the members who expressed an opinion were satisfied with the amount of compensation they received for their weapons. Further details relating to this survey are contained at Appendix 3.
- 3 40** The ANAO considers that the shortcomings noted above were relatively minor and that the Commonwealth schedule of values provided a useful baseline for achieving uniformity of compensation for the majority of weapons. Because the States are responsible for firearms regulation, the range of prohibited weapons varied between jurisdictions.
- 3 41** However, the schedule of values could have benefitted from an agreed procedure for adding items to the list to help ensure equity in compensation payments. The potential difficulties of disseminating additional or updated information could have been overcome by earlier use of the internet to provide timely data to all parties.<sup>8</sup>

### ***Compensation for parts and accessories***

- 3 42** Parts and accessories for prohibited weapons include spare magazines, spare barrels and chokes, ammunition, telescopic sight mounts and some sights, tools, manuals and smaller components. Commonwealth policy guidelines on compensation for parts and accessories surrendered by individual gun owners required that compensation:
- would only be payable on parts or accessories specific to prohibited weapons; and

---

<sup>7</sup> Licence categories are set out at Appendix 1.

<sup>8</sup> The Commonwealth Firearms Control home page came on line in mid-May 1997 at <http://www.gun.law.gov.au>. It contains details of the new firearms controls as well as a schedule of values for weapons.

- that compensation should be based on an independent valuation.
- 3 43** The guidelines on compensation for parts did not include a schedule of values as they did for complete weapons. This did not appear to present any significant problems in relation to surrender of individual weapons with their accessories. Victoria developed its own pricelist of the most popular accessories based on valuations of parts and accessories surrendered in the first few days of the scheme. The Director of the Victorian Firearms Reform Project told the ANAO that about five per cent of compensation payments made in that State were for parts and accessories. The ANAO also noted that Tasmanian officials had advised OLEC in early 1997 that one claim by a dealer for 5 tonnes of machine gun parts would amount to about \$2 million. This claim was subsequently paid.
- 3 44** The Commonwealth did not anticipate that dealers would surrender large quantities of spare parts. Guidelines on compensation for dealers in relation to parts provided for the parts to be valued at the published selling price at 1 March 1996. Following the advice from Tasmania, OLEC discussed this issue with State authorities in early 1997. As a consequence, it was decided that only 'commercial quantities' of spare parts should qualify for compensation with the remainder being compensated at scrap value. The Attorney-General's Department was not able to tell the ANAO how much had been paid in compensation for surrenders of significant quantities of spare parts.
- 3 45** The ANAO considers that the surrender of large quantities of spare parts was a risk to the scheme which may have been anticipated by the conduct of an effective risk identification and analysis process in the early planning stages. This could have enabled timely development of appropriate policy and legislation as required.

### ***Compensation for dealers***

- 3 46** Policy on compensation for dealers was initially developed by the APMC working group as outlined at para 0. This policy was included in the guidelines published by the Commonwealth in July 1996 on compensation for the surrender of firearms.

### *Compensation for stock on hand*

**3 47** Dealers were compensated for stocks of prohibited firearms on hand at the start of the buy-back scheme. Compensation was paid at the published retail price at 1 March 1996 because the schedule of values was not published until August 1996. Documentary evidence was required to support claims for such compensation. The ANAO considers that this was a reasonable approach by the Commonwealth because it enabled stock to be removed from sale early. It also ensured a uniform approach to State compensation in the absence of a schedule of values. This improved the efficiency of the scheme by preventing the possibility of any further sale of prohibited weapons. The issue of compensation to dealers for stocks of spare parts is discussed at para 0 above.

### *Compensation for loss of business*

- 3 48** The guidelines on compensation initially provided only a broad outline of principles to apply to valuing claims for loss of business. This caused some uncertainty for dealers as well as for State and Territory officials. Discussions between the Commonwealth and State and Territory officials and representatives of firearms dealers' associations led to a review of the guidelines in early 1997.
- 3 49** At its meeting on 16 July 1997, the APMC endorsed a two-tier formula for valuation of loss of business claims. This formula had originally been developed by an accounting firm for the Victorian Firearms Reform Project and was submitted by Victoria to the Commonwealth for consideration as an appropriate model.
- 3 50** As a result of the earlier lack of clear and comprehensive guidelines, OLEC told the ANAO that very few claims for compensation for loss of business, had been lodged at the time of audit fieldwork. The Attorney-General's Department advised the ANAO that 480 claims for loss of business had been lodged by the end of the scheme and that the value of these would not be clear until the claims had been validated in late 1997 and early 1998. In the absence of any detailed information the ANAO was unable to form an opinion on the effectiveness of the methodology adopted.

## Conclusion

- 3 51** Evidence available indicates that the majority of firearms owners were satisfied with the level of compensation paid for weapons and parts/accessories. The ANAO concluded that the initial development of compensation policy was generally effective although the policy on compensation for dealers' loss of business needed to be refined.
- 3 52** In general terms, planning was sufficient to enable the States to establish their own amnesty and compensation schemes. However, the ANAO considers that OLEC's planning was undermined by a lack of risk identification and analysis which did not take account of surrender of weapons other than those newly-prohibited by the APMC. OLEC's advice to the States in response to this unintended consequence was unsound and required the 1996 Act to be supplemented by the *National Firearms Program Implementation Act 1997*.

## Program Implementation

*This chapter outlines shortcomings in relation to coordination between the Office of Law Enforcement Coordination and other elements of the Attorney-General's Department responsible for authorising and approving payments to the States. This chapter also describes some limitations on monitoring of the scheme.*

### Unintended consequences of the compensation scheme

- 3 1** The 1996 Act was drafted as a result of the APMC decision to allow compensation to be paid for the specific categories of weapons prohibited at the meeting on 10 May 1996. The 1996 Act was the appropriating legislation which enabled the Commonwealth to provide funds to the States in connection with the implementation of the buy-back scheme. It provided for payments to be made to the States in reimbursement or advance of qualifying compensation payments made for surrendered weapons, claims by dealers for loss of business resulting from the APMC decision and costs associated with establishing and operating the scheme.
- 3 2** Section 3 of the Act specifies that qualifying compensation '*relates to self-loading rifles, self-loading shotguns or pump-action shotguns*'. Section 4 of the Act only gives authority for payments by way of reimbursement or advance to the States in relation to qualifying compensation. The Act did not explicitly provide for compensation in relation to weapons which were already prohibited before the APMC meeting. Section 5 of the Act gives authority for the Commonwealth to make other payments in connection with implementation of the scheme. Funding for administrative costs connected with establishing and operating the scheme was provided under this section.
- 3 3** Once the buy-back scheme had started, however, in addition to the categories of firearms specified in the APMC resolution and in the legislation, a range of other weapons was surrendered. Weapons which were already prohibited under existing State legislation were surrendered as well as newly-prohibited firearms and weapons which had not been banned by the APMC. The already-prohibited firearms included fully-automatic machine guns, sub-machine guns, rocket and grenade launchers, and fully automatic cannon.

- 3 4** The ACT Government had drawn this issue to the attention of OLEC in June 1996 when commenting on the draft guidelines on compensation and noted that the reference in the guidelines to compensation for prohibited firearms '*should clearly indicate that this is irrespective of whether the firearm was held legally or illegally*'. However, the guidelines were not amended.
- 3 5** After the start of the buy-back in Victoria in mid-August 1996 and in Tasmania and New South Wales on 1 October 1996 fully automatic weapons which were already prohibited were surrendered as well as the newly prohibited firearms. Officials from these States advised OLEC of this situation and asked whether compensation should be paid for already-prohibited firearms and parts for them. As noted in Chapter 2, large quantities of parts were also surrendered, including parts for already-prohibited firearms.

### **Scope of qualifying compensation expanded by OLEC**

- 3 6** In response to the States' request for advice on surrenders of already-prohibited firearms OLEC considered that the intention of the APMC had been to include such weapons in the compensation scheme and that the Commonwealth would reimburse compensation payments for all prohibited firearms. The ANAO found evidence that written advice to that effect had been provided to Tasmania and New South Wales in November 1996. OLEC stated that:

*'...the Commonwealth will reimburse State and Territory Governments the cost of compensating firearm owners for the surrender of all prohibited firearms. This includes firearms which may have already been prohibited in a particular jurisdiction prior to the 10 May 1996 agreement.'*

- 3 7** Officials in Queensland, Victoria and the Northern Territory advised the ANAO that this advice was initially provided to them orally in late 1996 and early 1997. OLEC advised the ANAO that this advice had been provided to the States because the inclusion of already-prohibited weapons was interpreted as being *within the spirit* of the APMC decision, in spite of the fact that this was not explicit in the APMC resolution. OLEC advised that the drafting of the legislation had been based on a literal interpretation of the APMC resolution. As a result, the Act only referred explicitly to the newly-prohibited categories of firearms and therefore limited 'qualifying compensation' to these weapons.

**3 8** OLEC reiterated this advice, with some amendment in relation to instruments of warfare, on 29 May 1997 in a letter to the States:

*‘...to confirm my previous oral advice to some of you on 22 May 1997, that, in relation to “historically prohibited firearms”, the Commonwealth will pay compensation for whole firearms, provided these are small arms (sub-machine guns, fully automatic rifles and the like).’*

**3 9** This letter stated that although the Commonwealth would no longer reimburse payments made for instruments of warfare, cannon, heavy machine guns and the like, where such payments had already been made in good faith based on OLEC’s earlier advice, the Commonwealth would reimburse these payments.

**3 10** OLEC’s advice in late 1996 and early 1997 that the Commonwealth would reimburse compensation payments made for all prohibited weapons represented a significant broadening of the policy on reimbursement of compensation by the Commonwealth after the start of the scheme.

**3 11** As a consequence, compensation was paid by all States except South Australia and Western Australia, under the authority of their own legislation, for fully-automatic machine guns and a range of other already-prohibited weapons which were outside the scope of the weapons defined by the 1996 Act.

**3 12** OLEC advice to the States that the Commonwealth would reimburse payments for all prohibited firearms led to an expectation by the States that the scheme was to be extended to include already-prohibited firearms.

**3 13** OLEC confirmed to the ANAO that payments were made by States for already-prohibited weapons, including mortars, grenade and rocket launchers and flamethrowers. As well, at the time of the audit the States had been provided with advances of funds to do so. OLEC estimated that \$5.27 million had been paid in total in compensation for weapons which did not qualify under the 1996 legislation and without other authority. Based on information provided by relevant State officials, the ANAO estimated that, of the \$304 million paid by the States in compensation, at least \$7.5 million was paid on the basis of funds advanced by the Commonwealth for such weapons and parts.

## ***Legal advice on the definition of qualifying compensation***

**3 14** In June 1997 the ANAO asked OLEC whether the legislation covered fully automatic and other already-prohibited firearms. OLEC advised that in response to media reports on the payment of \$460 000 for 22 aircraft cannon by the Northern Territory, legal advice had been sought on 17 June from the Attorney-General's Department on the scope of the definition of qualifying compensation.

**3 15** The legal opinion provided to OLEC on 24 June stated that:

*'While the matter is not free from doubt...the term 'self-loading rifle' used in (the Act) does not encompass cannon, 'heavy machine guns' or, in most instances at least, 'portable machine guns.'*

**3 16** Although the legal advice had initially been sought in relation to whether aircraft cannon qualified for compensation, the legal opinion also revealed that some types of fully automatic machine guns also did not qualify.

**3 17** The legal advice also noted that, in at least some cases (portable firearms capable of both semi- and fully-automatic operation), there may be considerable difficulty in determining whether a particular weapon did or did not fall within the compass of the terms used in the Act, and that there would be merit in seeking an amendment to the Act so as to make clear the intended scope of 'qualifying compensation'.

**3 18** Following this legal advice, OLEC wrote to the States on 26 June 1997 to withdraw earlier advice that the Commonwealth would reimburse the States for compensation paid for already-prohibited firearms:

*'I wrote to you on 29 May 1997 suggesting that compensation should not be paid for weapons such as instruments of warfare, cannon and the like.*

*I also suggested that the Commonwealth would nevertheless reimburse States and Territories for compensation they may have already paid in good faith.*

*As I informed you when we met in Sydney on 19 June, I must ask you to disregard that advice which I have to withdraw.*

*In seeking to provide helpful advice to you to deal with a practical problem a number of jurisdictions were facing, I regret that I paid insufficient attention to the underlying Commonwealth legislation, the*

*National Firearms Program Implementation Act 1996, in particular, the definition of qualifying compensation in Section 3.'*

**3 19** In short, OLEC's advice to the States was unsound because it did not take account of the legislative constraints of the Act.

### ***Proposed amendment to the Act***

**3 20** Following the legal advice on the legislative constraints of the Act, the Attorney-General's Department prepared a submission to the Attorney-General on a proposal to amend the Act. The aim of the proposed amendment was to allow, retrospectively, reimbursement of compensation for a wider range of already-prohibited weapons. This would include machine guns up to 0.5 inch calibre and such other weapons as the Attorney-General might specify. This proposal resulted in the passage of the supplementary *National Firearms Program Implementation Act 1997* by the Parliament on 2 October 1997.

## **Management control within the Attorney-General's Department**

**3 21** Both Attorney-General's Department and OLEC officers emphasised to the ANAO, that, given the importance of the program and its high public profile, there was significant senior executive oversight by the Attorney-General's Department and close liaison and communication between OLEC (both before and after it became a Division of the Department on 1 January 1997) and other Departmental officers. The ANAO found documentary evidence of the, at times, frequent and regular communication between OLEC and senior executives of the Attorney-General's Department to support this view.

**3 22** However, OLEC advised the ANAO that the decision to extend compensation to already-prohibited firearms and the subsequent advice to the States occurred without consultation or other communication with senior Attorney-General's Department officials or the Attorney-General's Office. OLEC further advised that poor coordination between development of the legislation and the development and dissemination of policy relating to the buy-back scheme was the cause of incorrect advice to the States. The Attorney-General's Department advised the ANAO that the approving and authorising officers were not aware that the States had used Commonwealth funds to pay compensation for already-prohibited firearms.

- 3 23** The ANAO raised the issue of whether advances to the States had been made with appropriate legislative authority. Both the Attorney-General's Department and the ANAO subsequently sought legal advice on whether advances to the States in relation to the payment of compensation for non-qualifying firearms constituted a breach of the legislation. The legal advice indicated that the advances were made with appropriate legislative authority.
- 3 24** The Attorney-General's Department officers responsible for authorising these payments were not aware that OLEC had advised the States that the Commonwealth would reimburse compensation paid for already-prohibited firearms. Although continued authorisation of such payments to the States was not in breach of the 1996 Act, the ANAO considers that the Attorney-General's Department officers' lack of knowledge of OLEC's policy decision affecting the scheme indicates an evident weakness in the management control framework.
- 3 25** The ANAO further noted that, even when senior officials within the Attorney-General's Department became aware of the legislative issues, their advice to the Attorney-General in a brief on the issue of aircraft cannon in the Northern Territory was not as comprehensive as it might have been. The brief suggested that the purchase of cannon by the NT Police was made without apparent clearance by the Commonwealth. It did not mention that OLEC had provided advice to the States in late 1996 and early 1997 that the Commonwealth would reimburse compensation paid for all prohibited firearms.

### **Alternative policy options**

- 3 26** The ANAO found no evidence that OLEC had considered any other options in relation to surrenders of already-prohibited weapons. For example, one option could have been to extend only the amnesty element of the National Firearms Agreement, rather than the totality of the compensation scheme, to these weapons, as was the policy applied to non-prohibited firearms which were surrendered.
- 3 27** This policy was adopted in South Australia and Western Australia where compensation was only paid for weapons which were prohibited as a result of the APMC decision and not for weapons which were already prohibited under existing State legislation. Clearly this was a policy option which could have been put to the Government.

- 3 28** In endorsing compensation payments for already-prohibited weapons, however, OLEC acknowledged that the requirements of the Act had been overlooked. This resulted in unforeseen costs arising for the Commonwealth.

## **Variations in compensation**

- 3 29** With regard to the compensation scheme, the APMC resolved that:

*'...a common basis for fair and proper compensation, based on the value of each firearm as at March 1996, be agreed between jurisdictions to prevent gun owners offering their firearms to the State/Territory which offers the 'best price'.'*

- 3 30** OLEC advised the ANAO that, because these were State-run amnesty and compensation schemes, States were quite entitled to pay compensation to the extent allowed by their own legislation. However, the ANAO considers that OLEC's ad hoc approach to compensation policy on already-prohibited firearms and the advice to the States resulted in variations between the States in the amounts paid for already-prohibited firearms and in the types of weapons for which compensation was paid.
- 3 31** Officials in South Australia and Western Australia advised the ANAO that, although some already-prohibited firearms had been surrendered in those States, compensation had been restricted to those specific categories of weapons which had been prohibited by the APMC.
- 3 32** In contrast, Victoria and Tasmania paid a total of about \$3.5 million for machine guns and parts but refused to compensate for mortars, grenade launchers or rocket launchers. Queensland officials advised the ANAO that nearly \$2.7 million had been paid there for machine guns as well as a range of other weapons which included obsolete aircraft cannon, rocket and grenade launchers and anti-tank weapons. The ACT and the Northern Territory also paid compensation for smaller numbers of already-prohibited firearms.
- 3 33** In April 1997 the Northern Territory also paid about \$440 000 in compensation for 23 World-War 2 vintage Hispano aircraft cannon. The Northern Territory advised OLEC of this by facsimile on 8 April. The ANAO found no evidence of a response from OLEC to this written advice. OLEC advised the ANAO that the Northern Territory's facsimile had been misplaced.

- 3 34** State officials told the ANAO that compensation payments for similar aircraft cannon by Queensland had been discussed at a coordination group meeting in late March 1997 at which an OLEC official was present but where the Northern Territory was not represented. The ANAO found no evidence that minutes of this or any other coordination group meetings had been recorded and disseminated. As a result the \$20 000 paid per weapon in the Northern Territory was nearly ten times more than the amount paid for the same type of weapon in Queensland (about \$2 500 per weapon). More effective communication by OLEC may therefore have ensured equity in compensation between States and saved the Commonwealth over \$200 000.
- 3 35** The ANAO considers that although senior officials within the Attorney-General's Department advised that they liaised closely and carefully monitored the progress of the scheme, there was a significant failure on the part of OLEC to consult with the Attorney-General's Office or senior Attorney-General's Department officials on the extension of the compensation policy to include already-prohibited firearms. The ANAO considers that this resulted in authorising and approving officers relying wholly on OLEC advice without further checking of legislative authority. In the ANAO's view this constitutes a significant weakness in the overall financial control framework.
- 3 36** In correspondence with the States, OLEC noted that the possibility of surrender of already-prohibited firearms had clearly not been contemplated at the time the scheme commenced. Lack of risk identification and analysis was therefore a weakness. OLEC advised the ANAO that poor coordination between development of the legislation and the development and dissemination of policy relating to the buy-back scheme was the cause of incorrect advice to the States.
- 3 37** The ANAO considers that a formal risk analysis may have helped earlier identification of this issue as a risk to the scheme. At best all the known elements would have been addressed systematically, including regular monitoring and review. Had the decision been taken early to extend the scope of the scheme in order to attract already-prohibited weapons, clear policy could have been developed and appropriate legislation drafted in a timely fashion to obtain Parliament's early consideration and, hopefully, endorsement. This would have enabled the States to administer the scheme on a consistent basis, and perhaps resulted in lower cost. It would also have allowed adjustments to be made to the

scope of national and regional public education campaigns in order to maximise the effectiveness of the buy-back.

## **OLEC's coordination of the scheme**

**3 38** The ANAO acknowledges the challenges associated with planning and implementing a nationwide scheme in a limited timeframe. Good coordination is an essential component of a successful program. In order to help form an opinion on this issue, the ANAO sought the views of officials in State government departments and police services.

**3 39** Their views were mixed. Representatives of five of the eight State organisations thought that there were significant shortcomings in the Commonwealth's coordination of policy, while three considered the shortcomings minor in relation to the scale and complexity of the project. Representatives of three of the eight State organisations were of the opinion that more active leadership and coordination by the Commonwealth would have improved the management of the scheme.

**3 40** Several project directors told the ANAO that operational coordination meetings were established on the initiative of the States, with the Commonwealth invited to attend. Some instances of a lack of timely dissemination of policy information were also noted. This resulted in some States developing their own policy solutions to issues and sharing these with other State project directors.

**3 41** The ANAO considers that the efficiency and effectiveness with which the scheme was managed could have been significantly improved by:

- a clear definition at an early stage of the responsibility for, and method of, policy development and dissemination; and
- more effective coordination by OLEC to ensure uniformity of implementation of policy on compensation for prohibited firearms.

## **Monitoring performance**

**3 42** Without effective monitoring, program managers are unlikely to be able to determine whether desired outcomes are being achieved or if adjustments to the program or its administrative arrangements are necessary to improve program efficiency or effectiveness.

## ***Monitoring of State legislation***

- 3 43** Monitoring of the extent to which individual State legislation addressed the requirements of the National Agreement on Firearms was necessary for the Commonwealth to be assured that the necessary legislative provisions were in place to support the buy-back scheme. OLEC requested the Australian Institute of Criminology (AIC) to undertake such an assessment.
- 3 44** The AIC provided its report to the Attorney-General in April 1997. The AIC report concluded that the core elements of the National Firearms Agreement had been almost fully implemented and highlighted some areas where further legislative and administrative work was required. These included:
- the non-specification of exemptions for clay target shooting in the Northern Territory and Queensland;
  - failure to implement a uniform regulatory regime for firearms collectors and museums; and
  - the failure in South Australia and Western Australia to automatically revoke or refuse a firearms licence where a person is the subject of a domestic violence order or conviction of assault with a weapon.

## ***Monitoring of surrenders***

- 3 45** The Commonwealth monitored the scheme's progress by tracking the total number of weapons surrendered in each State and the total amount of compensation paid. These figures were collated on a daily basis and published on the National Firearms Program website. The Attorney-General's Department told the ANAO that no performance targets had been set by the Commonwealth because of the perceived unreliability of research early in the program.
- 3 46** As noted in Chapter 2, The Attorney-General's Department commissioned qualitative and quantitative research in support of the national public education campaign. The Department advised that the aim of this research was to establish overall levels of gun ownership and refine communication messages and monitor effectiveness of the advertising reach.
- 3 47** This research was conducted in three phases by a national telephone survey. The first was based on about 5500 respondents, who were chosen by a stratified random sample

process, while the second and third were based on about 2400 respondents. The first phase, undertaken in mid-1996, estimated that at least 467 000 people owned illegal firearms. However, the Attorney-General's Department advised the ANAO that the results of qualitative research indicated that this data could be unreliable. This was because of varying knowledge at the time of the new firearms laws and what constituted a prohibited firearm.

**3 48** The third phase of the research, undertaken in mid-1997, estimated the total number of weapons in the population; the proportion of prohibited weapons surrendered; and the proportion of prohibited weapons outstanding.

**3 49** It concluded that:

- a gun was owned in about 14 per cent of the households surveyed;
- about 500 000 adult Australians had disposed of a gun due to the new firearms legislation<sup>9</sup>;
- about 45 per cent (that is, about 650 000) of all gun owners had owned a prohibited firearm at the start of the scheme. The research estimated that about 27 per cent (170 000) of owners of prohibited firearms still owned such a weapon. This is illustrated in Figure 6 below; and
- of the owners still holding illegal weapons, 84 per cent claimed that they would be likely to surrender them.

**3 50** Figure 6 shows that three-quarters of the way through the amnesty and compensation scheme just under three-quarters of the owners of prohibited firearms claimed to have surrendered all their prohibited weapons.

---

<sup>9</sup>Attorney-General's Department records indicate that the total number of prohibited weapons surrendered at the conclusion of this survey was about 450 000.

However, the ANAO found no evidence that performance monitoring requirements were specifically taken into account in the design and implementation of the public education campaign tracking research. The aim of this research was to establish overall levels of gun ownership, refine communication messages and monitor effectiveness of the advertising reach. The ANAO considers that better value could have been achieved from this research had the requirements of a strategically planned performance information and monitoring framework been taken into account because this would have assisted in monitoring the effectiveness of the program as well as of the public education campaign.

**3 51** The ANAO considers that there were other opportunities for the collection of better information during the course of the scheme at minimal cost. This could have included requiring State jurisdictions to maintain records of destroyed weapons in a suitable form to enable data matching at the conclusion of the scheme. Weapons still registered in one State which may have been surrendered and destroyed in another could be eliminated through this process, thus improving the quality of the data contained in the nationwide registration system.

**3 52** Requiring the States to maintain records of numbers of surrendered weapons by category may also have assisted analysis of the extent of compliance in each State and given OLEC an indication of the impact of its decision to extend the scope of qualifying compensation. Lack of any detailed monitoring meant that, had the issue of already-prohibited firearms not been raised by the States, any unintended consequences of the scheme may not have been detected.

**3 53** The ANAO considers that programs to be implemented in the light of unreliable or incomplete planning information could benefit from a formal analysis of performance information requirements. An assessment of the relative costs and benefits of the collection of particular types of information could assist in deciding:

- the nature and quantity of information to collect; and
- the extent to which it could help refine or improve the program.

**3 54** The ANAO concludes that in spite of the tracking research that was undertaken in support of the public education campaign, there was no strategically-planned performance information and monitoring framework. The monitoring of the scheme was not sufficient to help the Attorney-General's Department assess the achievements of the program and if necessary recommend changes to the

Government to better meet the scheme's objectives, or to provide any information on the effect of OLEC's advice to the States in relation to Commonwealth reimbursement of payments for already-prohibited firearms.

## **Conclusion**

- 3 55** The scheme was implemented promptly, but there were some unintended consequences. These included the surrender of already-prohibited weapons and significant quantities of spare parts for them. On OLEC's advice, the States paid compensation for these weapons. However, OLEC did not consult or communicate with other elements of the Attorney-General's Department when making this decision to broaden the scope of the compensation scheme. OLEC acknowledged that in doing so it had overlooked the legislative requirements of the 1996 Act.
- 3 56** Based on information provided by relevant State officials, the ANAO estimated that, of the \$304 million paid by the States in compensation, at least \$7.5 million was paid on the basis of funds advanced by the Commonwealth for weapons and parts which were not included in the definition of qualifying compensation in the 1996 Act.
- 3 57** The Attorney-General's Department officers responsible for authorising payments were not aware that OLEC had advised the States that the Commonwealth would reimburse compensation paid for already-prohibited firearms. Although continued authorisation of payments to the States was not in breach of the 1996 Act, the ANAO considers that the Attorney-General's Department officers' lack of knowledge of OLEC's policy decision affecting the scheme indicates an evident weakness in the management control framework.
- 3 58** The ANAO also noted that OLEC's ad hoc approach to compensation policy on already-prohibited firearms and the advice to the States resulted in variations between the States in the amounts paid for already-prohibited firearms and in the types of weapons for which compensation was paid.
- 3 59** As well, the monitoring of the scheme was not sufficient to help the Attorney-General's Department assess the achievements of the program and if necessary recommend changes to the Government to better meet the scheme's objectives, or to provide any information on the effect of OLEC's advice to the States in relation

to Commonwealth reimbursement of payments for already-prohibited firearms

# Commonwealth Payments to the States

*This chapter examines the Commonwealth's management of Specific Purpose Payments to the States in relation to administrative costs and compensation payments for surrendered firearms.*

## Introduction

- 3 60** Following the APMC resolutions, the Commonwealth Government decided to contribute substantially to the cost of administering the buy-back scheme and to the payment of compensation. After some negotiation, the Commonwealth eventually agreed to fund in full the costs to the States of establishing and administering the scheme. The Commonwealth also agreed to reimburse the States for payments made to gun owners and dealers in compensation for prohibited weapons.
- 3 61** Financial management encompasses both cash management, audit and acquittal of funds as well as prevention of opportunities for fraud and corruption. To demonstrate financial accountability, Commonwealth departments, must manage, and be seen to manage, funds entrusted to them to achieve program outcomes that represent value for money and are equitable when dealing with a range of stakeholders.

## Revenue collection

- 3 62** The Government decided to raise approximately \$500 million to fund the compensation scheme. The Attorney-General's Department advised the ANAO that the Department was not involved in estimating the requirement for this amount. Following consideration of several alternative methods, the Government decided to raise this revenue through a 0.2 per cent increase in the Medicare levy. The Australian Taxation Office (ATO) estimated that this would raise about \$490 million.

**3 63**

Revenue collection was undertaken through the usual arrangements for collecting the Medicare levy with all revenue deposited into the Consolidated Revenue Fund. No separate trust account arrangements were made.

- 3 64** The Attorney-General's Department advised that, because the difference between funds raised through the increase in the Medicare levy and funds expended through the scheme is not yet known, options on the disposal of any excess funds have not yet been developed.

## Legislation

- 3 65** The *Medicare Levy Amendment Act 1996* provided for revenue collection for the National Firearms Program. The *National Firearms Program Implementation Act 1996* allowed the Attorney-General to make payments to the States in relation to the program. The details of this legislation are described at para 0 to para 0.

## Planning

- 3 66** OLEC asked the ANAO for advice in planning the scheme as already described at para 0 above. As noted above, this advice was not related to the audit described in this report. In relation to the Commonwealth's responsibilities, the ANAO advised that before making any initial advance of funds to the States, the Commonwealth should:
- review control arrangements proposed by the States;
  - review State budgets for establishing and administering the scheme;
  - enter into an agreement with the State governments in relation to the funding to be provided by the Commonwealth Government; and
  - require the States to provide, on finalisation of the scheme, a final audited return detailing total amounts received and expended supported by a reconciliation of firearms acquired, paid for and destroyed.

**3 67**

The first two dot points were addressed by the Attorney-General's Department during the planning process. The ANAO noted that the Commonwealth did not enter into a formal agreement on the terms and conditions of funding. However, after appropriating legislation had been enacted, the Prime Minister wrote to the Premiers and Chief Ministers stating that the Commonwealth would fund two-thirds of any additional compensation costs should the cost of the scheme exceed the total revenue raised by the increase in the Medicare levy.

## **Management of payments to the States**

**3 68** Commonwealth payments to the States in relation to the buy-back scheme were designated as Specific Purpose Payments. The Commonwealth funded in full the costs of establishing and administering the scheme in each State. These costs amounted to about \$57 million.<sup>10</sup> Administration costs included:

- additional staff salaries and/or overtime costs;
- procurement of additional IT and photographic licensing equipment associated with the national licensing and registration system;
- firearms collection and destruction, including mobile collection facilities for rural areas;
- independent valuations for weapons valued at more than \$2500;
- additional accommodation, storage and security;
- training of police and administrative staff;
- internal and external audit; and
- State information campaigns, including telephone hotlines.

**3 69** The ANAO found that the Attorney-General's Department subjected the States' estimates of these costs to reasonable scrutiny. Benchmarking of comparative costs between States was not undertaken due to limited time and the variations between licensing systems where they existed.

---

<sup>10</sup> A breakdown of these costs by State is at Figure 4 in Appendix 2.

- 3 70** The Attorney-General's Department also scrutinised South Australia's request in early 1997 for an additional \$677 000. This additional funding was requested to meet the cost of extending its compensation scheme, at the Commonwealth's request, by an additional two months in order to buy back unregistered firearms. The Commonwealth finally approved additional funding of \$513 000 for operating costs only.
- 3 71** The total of funds paid to each State in relation to compensation and for administrative costs is shown at Appendix 2.

### ***Authority for payments to the States***

- 3 72** The ANAO found that the Attorney-General's Department's planning and management of payments of Commonwealth funds to the States was **in most respects** efficient and effective. Although the Department had been unable to estimate the size and frequency of payments, cash management requirements had been discussed during consultation with the Treasury and the Department of Finance in planning for the manner in which payments were to be made.
- 3 73** The ANAO found that delegation of authority within the Attorney-General's Department to approve payments to the States was appropriate. The internal control and reporting mechanisms were appropriately designed. However, as discussed in Chapter 3, **there were indications of a weakness in management control because those authorising payments to the States under the *National Firearms Program Implementation Act 1996* were not aware of OLEC's advice to the States that the Commonwealth would reimburse compensation for weapons which were not included in the definition of qualifying compensation in the Act. Although there was a requirement to amend the 1996 Act to take account of the broader application of compensation to already-prohibited firearms, authorisations of advance payments to the States were made legally under the 1996 Act.**
- 3 74** The Attorney-General's Department advised the ANAO that the Attorney's Office was notified of each payment to a State for advance or reimbursement of compensation payments and of the total number of weapons and total amount of compensation paid. Expenditure under the scheme was also monitored closely by senior Attorney-General's Department staff. This close scrutiny

identified a discrepancy between reported figures in the early stages of the scheme.

**3 75**

The Attorney-General's Department advised the ANAO that this arose because their Financial Management Branch reported the total amount of funds advanced to the States, while OLEC's reports to the Attorney-General focussed on the total amount paid by the States in compensation. This indicates that monitoring of program expenditure was undertaken at an appropriately senior level.

## Audit and acquittal

- 3 76** For the purposes of accountability, it is important that arrangements for audit and acquittal are clearly defined and understood by relevant parties. In its planning advice, the ANAO advised the OLEC that States should be required to provide, on completion of the scheme, a final audited return detailing total amounts received and expended, supported by a reconciliation of firearms acquired, paid for and destroyed.
- 3 77** At the time of this audit in mid-1997, arrangements for the final audit and acquittal of State compensation payments for firearms surrender transactions had not been clearly defined by the Attorney-General's Department. The Department advised the ANAO that **it was the Department's expectation that** relevant State Auditors-General were ensuring compliance. However, the ANAO's discussions with representatives of those offices indicated that, with the exception of Tasmania, there was no formal involvement by State Auditors-General in the acquittance of State expenditure of buy-back funds. The ANAO concluded that specific arrangements for independent audit and acquittal differ between States but were not clearly known to the Attorney-General's Department.

## Conclusion

- 3 78** **Although there** were weaknesses in internal management control and there was a need to amend the 1996 Act, payments to the States were made legally. The Attorney-General's Department managed payments to the States efficiently and effectively. However, the ANAO found that there was scope to clarify arrangements **for final audit and acquittal of State expenditure of gun buy-back funds.**

## Recommendation No.1

- 3 79** **The ANAO recommends that in order to ensure accountability for the scheme, the Attorney-General's Department clarifies**

arrangements for audit and acquittal of State and Territory expenditure of gun buy-back scheme funds as soon as possible.

### **Attorney-General's Department Response**

**3 80 Agreed.** Compensation payments are continuing, thus it is proposed that the Commonwealth will prescribe its acquittal requirements to all jurisdictions to ensure a uniform national approach. The acquittal process will be conducted over a series of specified dates of acquittal. It is proposed that the first stage of audit and acquittal will be for State and Territory expenditure as at 30 November 1997.

# Implementation of the Scheme in the States

*This chapter summarises the ANAO's findings in relation to the management of the surrender process by the AFP in the ACT. It also refers to the findings of the Auditors-General for the NSW, ACT, Northern Territory and Victoria which resulted from audit work on the scheme in their respective jurisdictions. This chapter also notes the scope of audit work on the buy-back scheme which has yet to be completed in other States.*

## The Australian Capital Territory

### ***Management of firearms surrender and destruction***

#### *Background*

**3 81** The AFP, as provider of community policing services under contract to the ACT Government, was responsible for the management of firearms surrender and destruction in the ACT. The ACT *Firearms Act 1996* provides for an AFP officer to be appointed as Registrar of Firearms. The Registrar of Firearms is responsible to the ACT Attorney-General for firearms control including licensing and registration.

#### *Implementation of the buy-back scheme in the ACT*

**3 82** A firearms compensation scheme was already in operation in the ACT before the APMC decision. This was implemented by the ACT Government following the introduction of the ACT *Weapons Act 1991* which prohibited certain self-loading military-style firearms. This scheme was open to all types of firearms if the owner wished to surrender the weapon. Compensation was based on valuation by a licensed firearms dealer. A total of 829 firearms had been surrendered under this scheme by 16 May 1996.

**3 83** The ACT Legislative Assembly passed the *Weapons (Amendment) Act (No.2) 1996* on 17 May 1996. This gave effect to the Nationwide Agreement on Firearms to prohibit semi-automatic firearms and pump-action shotguns.

**3 84** The AFP advised the ANAO that separate records were maintained for weapons surrendered before 17 May 1996. Compensation for these weapons was paid out of ACT Government funds. The first

compensation payment under the Nationwide Firearms Agreement scheme did not take place until 13 August 1996.

- 3 85** The early implementation of the scheme in the ACT presented some logistical difficulties for the AFP. The Commonwealth did not publish the schedule of approved values for prohibited weapons until 5 August 1996. About 1000 newly-prohibited weapons had been surrendered between 17 May and 5 August that year. These were accepted by the AFP and retained until relevant guidelines on valuation were available. These surrenders were processed in September 1996.
- 3 86** The buy-back scheme ended on 30 September 1997 after the ACT Attorney-General decided to extend the original deadline of 17 May 1997. This was announced on 10 May 1997. By this date about 3350 of the 3800 prohibited weapons registered in the ACT had been surrendered.
- 3 87** By the end of the scheme 5380 prohibited weapons had been surrendered for a total of \$2.8 million in compensation. The AFP advised that 144 prohibited weapons registered in the ACT to 137 owners remained outstanding.
- 3 88** The AFP advised the ANAO that the cost of establishing and administering the buy-back scheme in the ACT was about \$409 000. This included additional staff salaries, overtime, computer database modifications and purchase of necessary equipment for photographic licensing and firearms destruction purposes. This sum was in addition to the annual operating costs of about \$1.2 million for staff salaries of the Weapons Registry/Domestic Violence Team and the Firearms and Ballistics Branch.
- 3 89** \$800 000 was provided by the Commonwealth to meet the additional costs of establishing and administering the scheme. The ACT Attorney-General's Department advised that the remaining funds would be required to cover additional administrative costs in that Department, costs of the ACT advertising campaign and costs associated with implementation of more stringent licensing requirements.

### *The surrender process*

**3 90** The firearms surrender process used in the ACT is outlined at **Error! Reference source not found.** below.

### ***AFP internal audit work***

**3 91** In mid-1996 the Commonwealth Ombudsman received an anonymous allegation regarding resale of a weapon surrendered under the buy-back scheme. The Ombudsman asked the AFP to investigate the allegation. The AFP's Internal Security and Audit Team (AFP internal audit) reviewed the management of the surrender process by the Weapons Registry with a view to assessing opportunities for 'recycling' of surrendered weapons. They found a number of minor administrative shortcomings but no significant flaws in the AFP's management of the surrender process, although they were able to suggest some improvements in procedures.

### *ANAO findings*

**3 92** The ANAO reviewed the AFP internal audit work, and carried out a further review of surrender and destruction procedures. As well, the ANAO tested samples of surrender transactions for compliance with procedures. Testing included a review of all surrenders up until the time of the audit for adequate evidence of either:

- destruction of the weapon; or
- retention, as authorised by the ACT Attorney-General, for AFP forensic or training purposes.

**3 93** During the ANAO audit, AFP internal audit provided its formal report to the Registrar of Firearms. This took place about eight months after the completion of the internal audit fieldwork. AFP internal audit told the ANAO that relevant issues and recommendations had been advised orally to the Registrar of Firearms at the time of the audit between July and September 1996.

**3 94** The ANAO found that six of the fourteen improvements suggested by the AFP internal audit had been implemented while others were still outstanding. AFP internal audit advised that no formal follow-up action had been initiated by them because of the delay in issuing a formal report.

## ***AFP comment***

**3 95** Under the *Complaints (Australian Federal Police) Act 1981* there is a specific requirement to clear the matter leading to the audit with the Commonwealth Ombudsman before notifying any recommendation or perceived action to the parties who are the subject of that action. In this case the Ombudsman determined the matter on 25 March 1997 and the Internal Audit draft report was issued on 8 May 1997. The recommendations of the internal audit have either been completed or are nearing completion. While some computer modifications have been made, further enhancements now also form part of a wider AFP computer development program.

## ***ANAO sample testing of transactions***

**3 96** As with the AFP internal audit work, the ANAO's testing of a sample of firearms surrender transactions identified some procedural inaccuracies. The ANAO reviewed all records of transfer of firearms for disposal which existed at the time of audit. These amounted to about 3350 surrendered weapons. About 2 per cent of these (76 records) did not show clear evidence of the transfer to Firearms and Ballistics Branch (F and B Branch) for disposal.

**3 97** Some entries on destruction schedules were annotated by F and B Branch as 'not received', while others were simply crossed out without explanatory annotation. Reference to the relevant computer record did not provide information as to its location.

**3 98** In all cases the ANAO subsequently found adequate evidence of despatch for destruction on other destruction schedules or of retention in the F&B ballistic library, or physically located the weapon where it had been retained within the Weapons Registry.

**3 99** Retention had been justified either:

- pending valuation or dispute of valuation; or
- for AFP training or display purposes.

**3 100** The ANAO found that some weapons had been deleted from destruction schedules because the relevant weapon was not physically present in a batch of weapons. This had occurred because:

- the weapon had been set aside by Weapons Registry staff for possible training or display purposes; or
  - there had not been an adequate physical check of the batch before transfer to F and B's location at Weston.
- 3 101** One weapon for which compensation had been paid but which was still located in the Weapons Registry was further evidence of some shortcomings in checking of procedures. It had not been despatched for destruction due to a clerical error in compiling schedules of batches of weapons for destruction.
- 3 102** The ANAO recommended that the Weapons Registry implement effective procedures for compiling destruction schedules and for checking batches of weapons before they were despatched for destruction. The ANAO also recommended that records of weapons retained for training or display purposes should be checked and updated. The AFP advised that appropriate action had been taken to implement these recommendations.

#### *Limitations of Weapons Registry computer system*

- 3 103** The ANAO's review of Weapons Registry procedures identified scope for improvements in the efficiency with which surrender records were managed. The ANAO found that the computer database maintained by the Weapons Registry could not be relied upon as a primary information system for the management of surrender records.
- 3 104** Missing or duplicate records within the database had resulted from limitations in the database design. The computer system had originally been designed to manage firearm licence records. It had the facility to register specific weapons under a particular licence record, but it was not designed to manage records of firearms surrendered individually by other than ACT licence holders. Modifications to the system to facilitate this were not made until November 1996. Modifications to enable identification of duplicate computer records initiated by weapon serial numbers were undertaken in August 1997.
- 3 105** During the course of the audit the ANAO recommended that the Weapons Registry should validate computer records by comparing them with existing paper records. This work was undertaken and most missing or duplicate records were identified. Procedures were also modified to prevent the omission or duplication of

records. At the completion of audit fieldwork the AFP advised that about 10 per cent of firearms records remained to be validated.

## Conclusion

**3 106** The ANAO found that management of the surrender process by the AFP in the ACT was generally effective. The ANAO found adequate evidence of disposal of all weapons in the sample tested. The ANAO found no evidence of fraud or mismanagement. However, the ANAO considers that there was scope for improving the process relating to ensuring the accuracy of surrender records. Greater accuracy would have enabled greater efficiency in management and monitoring of transactions. Identified shortcomings were due to:

- limitations in the design of the existing computer database; and
- lack of effective procedural checks to maintain the quality of records management.

**3 107** These shortcomings necessitated validation of all existing computer records through manual reconciliation of surrender forms with destruction schedules before the computerised weapons register can be relied upon as a primary management information system. The AFP advised that about 90 per cent of records had been validated by the conclusion of the ANAO's audit fieldwork.

**3 108** During the course of the audit, the ANAO suggested that, before the ACT's computerised weapons register could be relied on as the primary management information system, the AFP should ensure that:

- computerised firearms register records are validated; and
- appropriate controls to prevent the occurrence of duplicate records are implemented.

**3 109** The AFP advised that action to address the issues raised has occurred as outlined below:

- Manual reconciliation of all records, transaction record forms, payment schedules and destruction schedules was completed at the end of July 1997. Since April 1997 all information relating to transaction record forms, surrender and destruction schedules has been entered at the time of preparation. Completed books of transaction record forms are regularly updated with computer records. Three up-dating

processes now occur, which reduces the possibility of non-recording of firearms.

- The database has been programmed to allow a search facility to locate duplicate records. Additionally, a computer identifier number is generated for each weapon surrendered.

### ***Management of compensation payments***

**3 110** Management of compensation payments was the responsibility of the ACT Attorney-General's Department. The Auditor-General for the ACT undertook audit work in mid-1997 as noted above and plans to report in late 1997.

**3 111** The ACT Auditor-General advised the ANAO that procedures and controls in the ACT Attorney-General's Department were sound in relation to payment of compensation on the basis of surrender schedules provided by the AFP and acquittal of those payments.

### **New South Wales**

**3 112** The Auditor-General for New South Wales undertook audit work to examine the controls put in place by the NSW Police Service in implementing the buy-back scheme. His report to the New South Wales Parliament was tabled on 12 November 1997.<sup>11</sup>

**3 113** This report noted that the Commonwealth provided no mechanism or clear guidelines for handling disputes. The ANAO considers that the Commonwealth's guidelines, in providing for independent valuation where there might be disagreement over the value of a surrendered weapon, adequately addressed this issue from a policy perspective.

**3 114** The report also highlighted other internal control issues, including:

- lack of independent confirmation of reasonableness of prices claimed by dealers when surrendering stock;
- computer-related internal control deficiencies in relation to a lack of segregation of duties;
- lack of independent review of payments of less than \$2500; and

---

<sup>11</sup> NSW Auditor-General's Report to Parliament 1997 Volume 2 pp117-119.

- payment adjustments required by processing of incorrect payment information.

## **Victoria**

**3 115** The Auditor-General for Victoria undertook audit work on the buy-back scheme in that State. The audit report was tabled on 29 October 1997.

**3 116** The report noted that \$882 000 was paid for 247 already-prohibited firearms, notwithstanding that compensation for such firearms was not originally provided for in the relevant Commonwealth legislation. The report further noted that the Victorian Department of Justice considered that the surrender of such firearms was in the public interest.

**3 117** The report also noted that there were no material variances from the Commonwealth schedule of values, although in the case of two particular models of firearm valued at less than \$2500 the State had paid above the Commonwealth prices in the belief that this would achieve a more accurate reflection of the value of the firearms. The report estimated that up to a total of \$12 000 was paid in excess of the Commonwealth schedule of values for these two models.

## **Queensland**

**3 118** The Auditor-General for Queensland has undertaken performance audit work on the operation of the buy-back scheme in Queensland. A report is expected to be tabled in the Queensland Parliament in late 1997.

## **Western Australia**

**3 119** The Auditor-General for Western Australia did not conduct performance audit work on the implementation of firearms controls in Western Australia. A Ministerial report to the Western Australian Parliament is to be provided by the end of 1997 as required by the Western Australian *Firearms Amendment Act 1996*.

## **South Australia**

**3 120** The Auditor-General for South Australia is not planning to report on the gun buy-back scheme.

## Tasmania

- 3 121** The Auditor-General for Tasmania conducted an independent audit of all firearms disposed of under the *Tasmanian Firearms Act 1996*. The Auditor-General for Tasmania decided to involve his Office closely in the process of receipt and disposal of firearms.
- 3 122** The Auditor-General's Office reviewed the procedures to be adopted in collecting the surrendered firearms and provided relevant advice to the Department of Police. During the implementation stage, audit staff checked the firearms collected to ensure that firearm and receipt details corresponded.
- 3 123** Once audit staff had verified the details the firearm was placed in a container to await destruction. All firearms awaiting destruction were placed in secure containers, to which the Auditor-General's Office had attached locks and security tags. No-one had access to these containers except for audit staff assigned to this project. Audit staff supervised the transportation of containers to the destruction site as well as the complete destruction process.
- 3 124** The Auditor-General for Tasmania advised that payment of compensation for fully-automatic firearms was allowed by Tasmanian legislation.

## The Northern Territory

- 3 125** The NT Auditor-General tabled his report on the *Administration of the Firearms Buy-Back Scheme* by the NT Police, Fire and Emergency Services in November 1997.<sup>12</sup>
- 3 126** This report highlighted the issue of qualifying compensation in relation to the surrender of Hispano cannon as referred to Chapter 3 of this report. The report noted some difficulties in assessing the reasonableness of retail prices for dealers in remote locations who did not have published selling prices. It noted the risk of differing interpretations on appropriate valuation at different receiving points in the Territory and pointed out that this risk was mitigated by the need to facilitate the surrender of firearms and the payment of compensation as soon as possible.

---

<sup>12</sup> NT Auditor-General's End of Financial Year Report to the Legislative Assembly, August 1997, tabled 27 November 1997 due to proroguing of NT Legislative Assembly.

**3 127** The NT Auditor-General also noted that, although in general administrative procedures were effective, there were breakdowns of some intended controls over the administrative procedures. This reflected the difficulty of practical implementation of procedures for unique, short-term projects. The NT Auditor-General noted that while some internal audit activity has been occurring, further audit procedures were intended and that the agency should respond by fully implementing its proposed internal audit of the scheme.

# The National Public Education

*This chapter outlines the Commonwealth's management of the competitive tender process for the national public education campaign in support of the gun buy-back scheme.*

## Introduction

**3 128** The national public education campaign in support of the buy-back scheme resulted from a Commonwealth proposal put before the APMC meeting on 10 May 1996. Following APMC agreement the Government decided to fund the costs of a national component of this campaign. This was to be additional to Commonwealth funding for the regional campaigns proposed by each State. The costs of regional campaigns were considered to be part of the costs of establishing and administering the scheme.

**3 129** Two million dollars was initially allocated for the national public education campaign. The Government decided to increase this to \$4 million in order to provide adequate electronic media coverage.

**3 130** The aim of the national public education campaign was to explain the new firearms regulations, and promote compliance with the national firearms amnesty. It consisted of two main elements: an advertising campaign and a public relations campaign. The Attorney-General's Department and the CLEB Support Group were responsible for the management of the campaign, being advised and supported by OGIA.

**3 131** In the selection of advertising and public relations consultancies, as with the selection of any consultancy service, an open, transparent and accountable process is essential for demonstrating value-for-money, probity and accountability within an administrative system.

**3 132**

To address accountability obligations, appraisal processes should, as a minimum, satisfy the following criteria:

- they should be fair and open;
- decisions should be based on principle and supported by documented reasons; and
- those involved in making decisions should be accountable for their decisions.<sup>13</sup>

## **Audit approach**

**3 133** In examining the selection of commercial agencies for the task, the ANAO reviewed the relevant policy and procedure documents governing management of government information activities. The procedural requirements were then compared with the selection process as documented on Office of Government Information and Advertising (OGIA) and Attorney-General's Department files.

**3 134** The ANAO also considered the evidence relating to the process given by OGIA, the Attorney-General's Department and the CLEB Support Group to the Senate Finance and Public Administration Legislation Committee and to the Senate Legal and Constitutional Legislation Committee. This evidence was given at five separate Estimates hearings between September and November 1996. In addition, the ANAO interviewed relevant OGIA and Attorney-General's Department staff.

**3 135** Decisions made by the Government, including the MCGC, are outside the scope of the performance audit mandate of the ANAO.

## **Government information activities**

### ***The central advertising system***

**3 136** All government departments and some statutory authorities are obliged to arrange advertising through the central advertising system. This system is administered by OGIA. OGIA's responsibilities include:

---

<sup>13</sup> ANAO, Audit Report No.9 1993-94: *Community Cultural, Recreational and Sporting Facilities Programs*, AGPS, Canberra, and Audit Report No.32 1996-97 *Administration of Grants*, AGPS, Canberra.

- advising the 'client department' (that is, the department responsible for the information activity) on advertising issues;
- assisting with the competitive selection process;
- arranging for the planning and production of advertising and associated projects; and
- arranging placement of all advertising in the media.

**3 137** Creative agencies are contracted through this system to deliver the relevant advertising and public relations services. Creative agencies are selected through a process of competitive tendering. OGIA is required to manage this selection process in close consultation with the client department.

### ***The Ministerial Committee on Government Communications***

**3 138** The Ministerial Committee on Government Communications (MCGC) is responsible for ensuring that information activities reflect the Government's priorities and objectives, are justified, well informed, appropriately directed and properly evaluated. The MCGC scrutinises proposed information and advertising activities, and selects the agencies from a shortlist provided by OGIA in consultation with the client department. The process is outlined at **Error! Reference source not found.** below.

**3 139** OGIA advised the ANAO that it plays a facilitating role in helping departments with their communication activities. OGIA is not a key decision maker as this is the role of the MCGC and the client department's Minister.

## **The selection process**

### ***Policy and procedures***

**3 140** Management of the selection process is guided principally by:

- Guidelines for Australian Government Information Activities - Principles and Procedures;
- OGIA operating procedures; and
- OGIA quality procedures.

**3 141** These documents specify that the client department, in consultation with OGIA, agree upon a panel of advertising agencies which is then to be submitted to the MCGC for approval.

### ***Identification of suitable agencies***

**3 142** In the case of the gun buy-back national public education campaign, OGIA, in consultation with the Attorney-General's Department and the CLEB Support Group, developed an initial list of six advertising and six public relations agencies. In doing this OGIA took into consideration:

- submissions by a number of firms to OGIA or to the Attorney-General's Department;
- the views of the Attorney-General's Department and the CLEB Support Group; and
- a facsimile from the then Chief Political Adviser to the Prime Minister, which suggested inclusion of DDB Needham, Adelaide.

**3 143** OGIA included DDB Needham, Adelaide on the panel of advertising firms. OGIA also searched its register of consultants but did not identify any other suitable agencies meeting the search criteria.

**3 144** Of the six advertising agencies, DDB Needham Adelaide was the only one not already on OGIA's register of consultants<sup>14</sup>. The ANAO noted, however, that relevant guidelines and procedures do not stipulate that an agency must be on the register in order to be included on the panel. Commonwealth Procurement Guideline 13 *Contracting for Consultancy Services* notes the utility of such registers but cautions against excessive reliance on them.

**3 145** One advertising firm was subsequently removed from the panel due to an assessed conflict of interest resulting from involvement with another campaign.

### ***Shortlisting***

**3 146** The Chair of the MCGC, the then Minister for Administrative Services, approved the campaign strategy and brief and the panel

---

<sup>14</sup> Although DDB Needham (Sydney) and DDB Needham (Melbourne) were listed on the OGIA register of consultants.

of firms suggested by OGIA. OGIA then sent the campaign brief to the agencies and invited them to submit proposals. A briefing session for the agencies was also arranged by OGIA in conjunction with the Attorney-General's Department. The aim of this was to further explain the requirements of the brief and to answer questions.

**3 147** OGIA convened meetings of an evaluation committee to assess separately the advertising and public relations proposals. The aim of these meetings was to produce a shortlist of agencies for consideration by the MCGC. The evaluation committee included representatives from OGIA, CLEB, the Attorney-General's Department, the Attorney-General's Office and the Prime Minister's Office.

**3 148** Relevant guidelines indicate that "usually two" firms are to be shortlisted for consideration by the MCGC. In this case three agencies were shortlisted from each of the public relations and advertising panels. OGIA told the ANAO that although not usual, shortlisting of three advertising firms had previously occurred for the MCGC's consideration of the National Mental Health Community Awareness Program in May 1995.

#### *Written assessments of proposals*

**3 149** OGIA procedures also require that OGIA, in consultation with the client department, prepares a written assessment of proposals against the selection criteria for submission to the MCGC. The ANAO noted some questions in the relevant Senate Legislation committee and in the media in late 1996 as to why DDB Needham, (Adelaide) was shortlisted, despite apparently highly critical written assessments of their proposal by the Attorney-General's Department and OGIA. These written assessments were not publicly available at the time but were later tabled in the relevant Senate committee.

**3 150** A short preliminary assessment by OGIA had been provided to Attorney-General's Department staff on 28 August 1996. This preliminary assessment noted that:

*'DDB Needham set themselves an impossible task in delivering what they agree is a highly emotive creative strategy relying totally upon ...print media. This in itself sets up a creative dissonance which DDB were trying so hard to avoid.'*

*Unless the creative strategy should prove very successful, it is unlikely that the media strategy as submitted would be able to deliver an advertising campaign of effective impact.'*

**3 151** The preliminary assessment also highlighted shortcomings in three of the other proposals but did not make a specific recommendation, other than identifying one of the proposals as being '*the one that most closely responds to the brief given*'. In spite of general congruence between the OGIA and the Attorney-General's Department assessments that one of the agencies was the best of the submissions, the ANAO found no evidence to indicate that OGIA had sought comments from the Attorney-General's Department on the more comprehensive assessment against the selection criteria which OGIA submitted to the MCGC.

**3 152** The Attorney-General's Department had also prepared an assessment in the form of a brief to the Attorney-General in preparation for the MCGC meeting. This was not made available to OGIA. It advised the Attorney-General that:

*'Given the research findings, it is our view that the best result would be to appoint ..... as the campaign advertising agency. To do otherwise would jeopardise the integrity, reach and impact of the campaign. Appointing either of the other two agencies could lead to failure of the amnesty. The risk would be that the campaign itself would become controversial and engender hostility against the Government.'*

**3 153** The final assessment which OGIA submitted to the MCGC was more comprehensive and assessed each proposal against the predetermined selection criteria. The ANAO considers that, although OGIA's written assessment may not have reflected the strength of the views of the client department noted above, it did appear reasonable and objective in its evaluation of the proposals against the selection criteria. However, it did not attempt to rank the proposals in order of merit. Although not required by the relevant procedural guidelines, such ranking may help to ensure efficiency in the selection of a replacement agency should the first choice drop out because of conflict of interest, financial insolvency or for any other reason.

**3 154** The ANAO found no evidence of adequate consultation between OGIA and the Attorney-General's Department and concludes that there was scope for OGIA to ensure that the written assessments submitted to the MCGC more closely reflected the opinion of the client department.

### *Evaluation committee decision on shortlist*

- 3 155** OGIA advised the ANAO that the decision to include DDB Needham on the shortlist to go to the MCGC was made with the agreement of the evaluation committee at their meeting on 28 August 1996. OGIA told the Senate committees<sup>15</sup> and the ANAO that DDB Needham had been included at the suggestion of the then Chief Political Adviser to the Prime Minister, in order to offer a contrasting proposal for consideration by the MCGC. OGIA advised the ANAO that this was subsequently agreed to by all members of the committee.
- 3 156** Neither OGIA or the Attorney-General's Department were able to provide the ANAO with adequate written evidence documenting the committee decision. OGIA provided the ANAO with a manuscript note by an OGIA officer which indicated the choice of agencies but which did not clearly set out the reasons behind the decision or whether all committee members agreed to it.
- 3 157** The ANAO considers that this document does not constitute suitable or sufficient justification or adequate evidence for the purposes of transparency of decision-making. Minutes of the meeting giving a clear outline of the decision and the reason for it and signed off by the chair or secretary of the evaluation committee would be one form of suitable documentation. The ANAO noted that the relevant OGIA Quality Procedure document<sup>16</sup> does not specify the need to document decisions on shortlisting or assign responsibility for doing so.
- 3 158** In the absence of satisfactory documentary evidence, the ANAO had regard to the oral evidence given by OGIA and Attorney-General's Department officials to the Parliamentary Committees in late 1996. The ANAO also spoke to seven of the officials present at the meeting. They confirmed that the decision to shortlist DDB Needham had been agreed by the evaluation committee.
- 3 159** The ANAO considers that adequate documentation of decisions helps to ensure transparency and accountability. A clear statement of the responsibility for doing so would help clarify relevant OGIA and client department roles and responsibilities. It would also help

---

<sup>15</sup> Senate Finance and Public Administration Committee consideration of estimates on 30 September, 22 October and 7 November, and the Senate Legal and Constitutional Committee consideration of estimates on 23 October and 19 November 1996.

<sup>16</sup> OGIA Quality Procedure 004 *Creative Agency Selection Process*, para 5.20.

ensure maintenance of appropriate documentation. A tangible management trail provides protection for all concerned, including those who may have to take decisions later in the process but who, for whatever reason, may not have been involved in the early stages of decision-making or assessment.

### *Changes in DDB Needham's proposal to the MCGC*

**3 160** The issue of alleged changes in DDB Needham's presentation to the MCGC in comparison with its first presentation to the OGIA/client department evaluation committee was also discussed at Senate Estimates hearings.<sup>17</sup> Evidence given at these hearings indicated some changes of emphasis between the presentations rather than significant changes in concept. The ANAO considers that the changes of emphasis were not significant enough to affect the fairness of the process and that some minor improvements are to be expected. However, the ANAO noted that relevant policy documents provide no guidance on:

- the extent to which such changes of emphasis may be permissible; or
- action to be taken if significant changes are made to a proposal.

### *Selection methodology*

**3 161** The ANAO noted that the evaluation committee used a different approach to select public relations firms for shortlisting to that used in selecting advertising firms. OGIA told both Senate committees and the ANAO that the evaluation committee selected the top three public relations firms from a ranked order of merit, while in the case of advertising firms, the evaluation committee did not rank the proposals.

**3 162** Instead, the evaluation committee decided to include DDB Needham (Adelaide) on the shortlist as a 'contrasting proposal'. The ANAO acknowledges that the different nature of public relations and advertising functions may justify different selection methodologies. Nevertheless, it should be clear to all participants in the process exactly what criteria are to be applied and how the selection process is likely to be and is actually managed.

**3 163** The ANAO considers that ranking of suitable proposals on merit should be undertaken as a matter of course. Where special

---

<sup>17</sup> Senate Finance and Public Administration Legislation Committee Consideration of Estimates on 30 September, 22 October and 7 November, and the Senate Legal and Constitutional Legislation Committee Consideration of Estimates on 23 October and 19 November 1996.

circumstances mean that this may be inappropriate, the methodology to apply and the reasons for it should be well documented.

**3 164** The *Guidelines for Australian Government Information Activities* state that the MCGC will indicate the assessment process it wishes to follow when it first considers the communications strategy, campaign brief and the panel of agencies proposed by the client department. In this campaign, because of time constraints, these documents were approved out of session by the Chair of the MCGC. However, a preference for the assessment process was not indicated. In the absence of such guidance, the departmental evaluation committee chose to adopt one approach to shortlisting public relations agencies and another for shortlisting advertising agencies.

**3 165** The ANAO considers that more detailed guidance on the assessment process would help improve the efficiency and effectiveness of the evaluation committee in preparing advice for the MCGC on shortlisting of firms.

## **Selection**

**3 166** The shortlist of advertising firms was then submitted by OGIA to the MCGC. In accordance with the requirement noted in paragraph 0, OGIA also submitted its written assessment against the selection criteria and the results of research conducted by the independently contracted research firm, Elliot and Shanahan. The Attorney-General's Department submitted a separate brief of the shortlisted firms to the Attorney-General.

**3 167** Following presentations by the bidding firms and by the research firm, the MCGC selected DDB Needham (Adelaide) as the advertising agency and Burson Marsteller as the public relations firm for the campaign.

**3 168** The minutes of the MCGC meeting noted that:

*'The Committee approved DDB Needham on the basis that the agency offered the strongest creative team, and the overall approach best addressed the wide range of target audiences and provided the 'best fit' with the successful public relations agency'.*

**3 169** Discussion in Parliamentary Committee Estimates hearings also focussed on the appropriateness of selecting an advertising agency to fit in with the public relations campaign. The ANAO

considers that, in order to ensure public accountability, including transparency and equity, as well as management efficiency and effectiveness in the selection process, it is essential to articulate clearly the criteria by which agencies are to be shortlisted and selected and then adhere to these throughout the process. Any changes should be justified and made known to all parties concerned. These criteria include not only criteria on the extent to which proposals meet the Commonwealth's stated requirements, but also the methodology which selection committees use to interpret assessments against them and to make a final selection. Where circumstances demand greater flexibility, it is important to ensure that any decision to change the approach is adequately documented.

## **Conclusion**

- 3 170** The ANAO considers that, in general terms, the tender process was properly managed by OGIA and the Attorney-General's Department. However, the documentation of key steps in the tender process to meet the requirements of OGIA Quality Procedures and to ensure transparency could have been better from an accountability viewpoint. Policy guidelines and procedures could benefit from more detailed guidance to help achieve this. While outcomes are of prime importance, it is still necessary to ensure proper procedures are applied as they can impact markedly on the outcomes actually achieved.
- 3 171** The ANAO found insufficient documentation of the process of consultation by OGIA with the client department on written assessments of advertising proposals which were to be provided to the MCGC. Decisions made by the Government, including the MCGC, are outside the scope of the performance audit mandate of the ANAO. However, the ANAO concludes that there is scope for OGIA to ensure that the preparation of MCGC submissions, in consultation with the client department, is managed more closely in accordance with relevant guidelines.
- 3 172** The ANAO also found that an important decision by the departmental evaluation committee on shortlisting of advertising firms and their reasons for the decision were not documented. However, the ANAO considers that the oral evidence relating to the decision gives reasonable assurance that the decision to shortlist

three advertising firms was properly agreed by the evaluation committee.<sup>18</sup>

**3 173** It is suggested that a properly documented and effective management trail provides protection for all concerned, including those who have to take decisions much later in the process but who, for example, may have had no involvement in earlier discussions. It also provides greater assurance and confidence in the final outcome.

## ***Recommendation No.2***

**3 174** The ANAO recommends that for the purposes of accountability OGIA reviews relevant policy documents, including quality procedures, to ensure that:

- all key decisions taken during the process for selection of consultants are adequately documented to ensure transparency and accountability;
- the relevant procedures clearly define the responsibility for documentation at each stage of the selection process;
- the policy on changes to proposals by competing firms is clearly defined and offers adequate guidance to relevant officers if significant changes occur; and
- the methodology for assessments is documented and includes the requirement to rank agencies on merit unless special circumstances, (which also should be appropriately documented) apply.

## **OGIA response**

**3 175 Agreed.** While we support the recommendation to rank agencies on merit, their selection is the MCGC's responsibility. In making its decision, the Committee takes into account the relative merits of the proposals together with the broader considerations of the Government.

---

<sup>18</sup> The ANAO relied on oral evidence provided by OGIA to the Senate committees and on oral evidence given to the ANAO by seven of the fifteen members of the evaluation committee.

# Appendices

## Appendix 1

### Firearms Licence Categories

The APMC resolved on 10 May 1996 that the following categories of weapons were to be used in the licensing of firearms nationwide:

#### *Licence Category A:*

- air rifles;
- rimfire rifles (excluding self-loading);
- single and double barrel shotguns.

#### *Licence Category B:*

- muzzle-loading firearms;
- single shot, double barrel and repeating centrefire rifles;
- break-action shotgun/rifle combinations;

#### *Licence 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 5 rounds;
- pump-action shotguns with a magazine capacity no greater than 5 rounds.

#### *Licence Category D (Prohibited, except for official purposes)*

- self-loading centrefire 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 centrefire 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 5 rounds;
- self-loading rimfire rifles with a magazine capacity greater than 10 rounds.

*Licence Category H: (Restricted)*

- all handguns, including air pistols.

## **Appendix 2 Gun Buy-Back Statistics**

The statistics shown in this appendix have been compiled by the ANAO from information provided by the Attorney-General's Department.

## **Appendix 3 Survey by the Sporting Shooter's Association of Australia**

The ANAO sought the views of a range of relevant stakeholders in relation to the gun buy-back scheme. These included representatives of State law-enforcement authorities, firearms dealers' associations, shooters' associations and gun control interest groups. The Sporting Shooters' Association of Australia (SSAA) responded to the ANAO's request by seeking information from its membership through a 14 question survey in their monthly magazine. About 8 000 of their 70 000 members responded. SSAA provided a sample of about 2150 responses to the ANAO<sup>19</sup>.

The ANAO analysed the responses to three key questions:

- Were you satisfied with the amount of compensation paid?
- Were you satisfied with the compensation for parts and accessories?
- Do you feel the surrender process was well organised by the respective Government agency?

---

<sup>19</sup> Data entry of all responses had not been completed at the time this information was provided.

# Performance Audits in the Attorney-General's Portfolio

*Set out below are the titles of the reports of the main performance audits by the ANAO in the Attorney-General's Portfolio tabled in the Parliament in the past three years.*

Audit Report No.12 1995-96

*Risk Management by Commonwealth Consumer Product Safety Regulators*

Audit Report No.4 1996-97

*Use of Justice Statement Funds and Financial Position  
Family Court of Australia*

Audit Report No.6 1996-97

*Commonwealth Guarantees, Indemnities and Letters of Comfort*

Audit Report No.16 1996-97

*Payment of Accounts*

Audit Report No.23 1996-97

*Recovery of the Proceeds of Crime*

Audit Report No.33 1996-97

*The Administration of the Family Court*