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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

EXAMINATION OF THE ANNUAL REPORT FOR 1988-89 OF THE NATIONAL CRIME AUTHORITY

Report by the Parliamentary Joint Committee on the National Crime Authority

Canberra 1990

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THE SENATE

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TABLED PAPER

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36th Parliament

Mr E.J. Lindsay, RFD, MP, Chairman Senator A.E. Vanstone, Deputy Chairman Senator N.A. Crichton-Browne Mr P.A. Filing, MP Senator G.N. Jones Senator M.J. Macklin* Mr D. Melham, MP Mr P.J. McGauran, MP Mr N.P. O'Keefe MP Senator the Hon. M. Reynolds Senator S. Spindler+

- * Ceased to be a member on 30 June 1990
- + Commenced as a member on 1 July 1990

Section 55(1)(c) of the <u>National Crime Authority</u>
Act 1984 requires the Committee:

to examine each annual report of the Authority and report to the Parliament on any matter appearing in, or arising out of, any such report.

- The 1988-89 Annual Report of the National Crime Authority was tabled in both the House of Representatives and the Senate on 21 December 1989, without debate.
- 3. Examination of this Annual Report had not been completed prior to the dissolution of the Committee in the 35th Parliament. The Committee was re-constituted on 16 May 1990 and it has now closely scrutinised the 1988-89 Annual Report of the National Crime Authority.
- 4. On 3 July 1990 the Committee raised with the Authority a number of matters of concern, to which the Authority responded on 20 July 1990. Copies of the correspondence are attached for the information of Members and Senators.

E.J. Lindsay, RFD, MP

Chairman



JOINT COMMITTEE ON THE NATIONAL CRIME AUTHORITY PARLIAMENT HOUSE, CANBERRA, A CT 2600

July 3, 1990

Mr Julian Leckie Acting Chairman National Crime Authority GPO Box 5260 SYDNEY NSW 2001

Dear Mr Leckie

You would be aware that this Committee is required to examine each annual report of the Authority pursuant to paragraph 55(1)(c) of the National Crime Authority Act 1984.

The Committee has now examined the Authority's 1988-89 Annual Report, which was tabled in both Houses on 21 December 1989. The Committee wishes to seek your advice in a number of respects.

Following the June 1989 report of the Senate Standing Committee on Finance and Public Administration into The Timeliness and Quality of Annual Reports, the Senate now subjects all annual reports to close scrutiny. The President of the Senate is required to present a report on the timeliness of tabling of reports against statutory requirements. With respect to the Authority's 1988-89 Annual Report the President noted that while the report was forwarded to the Minister within the statutory six months deadline, the Minister failed by some 12 sitting days to table the report within the required 15 sitting days of receipt. This conclusion was reached by comparing the date shown on the report's letter of transmittal (23 October 1989) with the actual date of tabling (21 December 1989). Is the Authority able to indicate the reasons for the apparent late tabling of its 1988-89 Annual Report?

Another new initiative of the Senate is to require the relevant Legislative and General Purpose Committee to examine and report on whether annual reports referred to it are 'apparently satisfactory'. The Authority's 1988-89 Annual Report was referred to the Senate Standing Committee on Legal and Constitutional Affairs which reported in May 1990 that, inter alia, the NCA report had failed to observe one of the guidelines for reporting by statutory authorities as tabled by the then Leader of the Government in the Senate, Senator the Hon. Sir John Carrick on 11 November 1982 (see Senate, Hansard, 11 November 1982, pp 2260-3). The omission related to 'a description of the major problems which may have arisen in the body's activities, including details of requisite Government action to overcome such problems eg the

amendment of the enabling Act'. In particular, the Committee has noted that the report is silent with respect to the Government's response to its <u>Initial Evaluation</u> report, tabled in the House of Representatives on 3 November 1988 and in the Senate on 7 November 1988. Would the Authority comment on its apparent failure to comply with the Government's guidelines for reporting by statutory bodies?

The Committee has also experienced some difficulty in identifying in the Authority's 1988-89 Annual Report compliance with the statutory reporting requirements of the Act. Your guidance in this respect would be helpful.

Finally, in discussions with the NSW Independent Commission Against Corruption the Committee's attention was drawn to the requirement in section 76 of the Commission's enabling legislation to present its annual reports direct to the Presiding Officers. This was portrayed as one of the important elements in the independence of the Commission from Executive influence. Would the Authority favour such a reporting regime rather than its current requirement to report to the Inter-Governmental Committee?

Your comments in these four respects would be appreciated by 20 July 1990.

Yours sincerely

E.J. Lindsay, RFD, MP Chairman



National Crime Authority

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OFFICE OF THE CHAIRMAN



20 July 1990

SA772; NE11; NE8

Mr E.J. Lindsay RFD MP Chairman Joint Committee on the National Crime Authority Parliament House CANBERRA ACT 2600

Dear Mr Lindsay

I refer to your letter of 3 July 1990 concerning the Authority's 1988-89 Annual Report. The following comments are made in response to your queries.

Pursuant to section 61(1) of the <u>National Crime Authority Act</u> 1984, the Authority's Annual Report was <u>submitted</u> to the Inter-Governmental Committee, as the letter of transmittal dated 23 October 1989 makes clear. Again pursuant to section 61(1), it is the Committee's function to transmit the Report to the Commonwealth Minister and appropriate State Ministers. As the Authority understands it, it is not until the Commonwealth Minister receives the Report from the Committee that the 15 sitting days specified in section 61(6) begin. Your Committee may wish to pursue the matter with the Attorney-General or his Department.

In relation to your second point (the comments of the May 1990 Report of the Senate Standing Committee on Legal & Constitutional Affairs) the Authority was pleased that that Committee assessed the 1988/89 Annual Report as providing a satisfactory level of information concerning the Authority's activities. You will no doubt appreciate that "operational problems" encountered by the Authority generally relate to the conduct of investigations, and may not be discussed in a public report.

Such problems are rarely susceptible to "requisite Government action to overcome such problems". Where legislative amendment has assisted the Authority, such matters are referred to in Annual Reports e.g. the 1987-88 Report noted that "changes to the provisions governing the dissemination of information ... will have significant practical benefits for the Authority". The Government's response to your Committee's Initial Evaluation Report was not perceived to be on "operational problems".

In any event the Authority has since its inception followed the guidelines for Departmental Annual Reports, rather than the guidelines applying to statutory authorities. The reasons for this practice are set out in the Authority's submission of 21 November 1989 to the Inquiry by the Joint Committee of Public Accounts into Annual Reporting Guidelines for Statutory accounts in the Annual Reporting Guidelines for Statutory accounts in the Annual Reporting Guidelines for Statutory accounts for Annual Reporting Guidelines for Statutory accounts for Annual Reporting Guidelines for Statutory accounts for Annual Reporting Guidelines for Annual Re

The statutory reporting requirements of sub-section 61(2) of the National Crime Authority Act (your third point) have been addressed in Annual Reports by providing increasing detail on the Authority's investigations, in statistical records, the "legislative and policy matters" section and "dissemination of information" items. It is believed that in future years it may be feasible to comment on relevant patterns or trends as the Authority's recently established strategic intelligence capacity develops.

It is noted that in the Second and Third Reports of your Committee, comments on the Authority's Annual Report have been favourable. Sub-section 61(2) requirements were seen as having been "dealt with exhaustively" in the 1984/85 Annual Report (Second Report). The requirements were found to have been dealt with satisfactorily in the 1985-86, 1986-87 and 1987-88 Reports (Third Report).

The Third Report also acknowledged that the Authority was providing "increasing information on its investigations" in its Annual Reports.

Regarding your final point, the Authority considers the present arrangements to be appropriate for a national body with a Commonwealth/State role. The Authority has not thus far had cause for concern about its independence.

Yours sincerely

J.P. Leckie Acting Chairman



National Crime Authority

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Our Ref: NE8

21 November 1989

Mr Trevor Rowe Secretary Joint Parliamentary Committee of Public Accounts Parliament House CANBERRA ACT 2600

Dear Mr Rowe.

I refer to your letter of 19 October 1989 inviting the Authority to make a submission to the Joint Committee's Inquiry into Annual Reporting Guidelines for Statutory Authorities. This letter will constitute the Authority's submission to the Inquiry.

The National Crime Authority was established in July 1984 under the provisions of the National Crime Authority Act 1984 ("the Act"), its primary aim being to take effective action to combat organised crime in Australia. Under section 61 of the Act (an extract of which is attached), the Authority is required as soon as practicable after each 30 June to prepare a report of its operations during the year. Section 61 also details the matters which should (and should not) be included in the Annual Report, and outlines the role of the Inter-Governmental Committee(IGC) and the Commonwealth Minister (the Attorney-General) in the transmission of the Report to Parliament. The role and functions of the IGC, which is comprised of Ministers of the Commonwealth and participating State and Territory Governments, are set out in Part II of the Act. The Act also contains a "secrecy provision" (section 51) which imposes strict limits on what information the Authority staff may release concerning the Authority's operations.

One of the Inquiry's Terms of Reference relates to the <u>timeliness</u> of annual reports. The requirement under section 61 of the Act that the Authority furnish its Annual Report to the IOC for comment before it can be tabled in Parliament is a novel provision, and in part reflects the Authority's status as a Commonwealth/State body. It also introduces an additional period of delay encountered by few (if any) other Commonwealth bodies and has made it difficult for the Authority to have its Report tabled in the Budget sittings of Parliament.

As to the main subject matter of the Inquiry - the review of the existing annual reporting guidelines for statutory authorities - it should be noted that the Authority has since its inception adhered to the guidelines for the preparation of <u>Departmental</u> Annual Reports, rather than those for statutory authorities. The Departmental guidelines are, of course, far more comprehensive than those for statutory authorities and were recently the subject of review and amendment. In the interests of informing Parliament and the public of its ongoing activities, the Authority will continue to adhere to the Departmental guidelines, as

well as those imposed by its own Act. This is particularly important for a body such as the Authority, which for operational reasons is frequently unable to comment publicly on its activities. For example, reports on investigations which the Authority furnishes to Governments under section 59 of the Act remain confidential unless the Government(s) in question decide to release them (in part or in full) or until persons are charged with particular offences. The Authority also uses its Annual Report to help keep overseas law enforcement agencies up to date on the Authority's activities. Liaison with overseas agencies is an important part of the Authority's functions, and the Authority maintains an extensive overseas mailing list for its Annual Report.

The Authority has produced Annual Reports for the years 1984-85 to 1987-88, copies of which are enclosed for information. The Authority hopes to have its 1988-89 Report tabled by the end of this month.

Should you wish to obtain any further information from the Authority, please contact Mr Eliot Kennedy on (02) 265-7231.

Xours sincerely.

D.M. Lenihan

Chief Executive Officer

Appual report

- 61. (1) The Authority shall, as soon as practicable after each 30 June, prepare a report of its operations during the year that ended on that 30 June and furnish the report to the Inter-Governmental Committee for transmission, together with such comments on the report as the Committee thinks fit, to the Commonwealth Minister and to the appropriate Minister of the Crown of each participating State.
- (2) A report by the Authority under this section in relation to a year shall include the following:
 - (a) a description of the matters that were referred during that year to the Authority for investigation;
 - (b) a description, which may include statistics, of any patterns or trends, and the nature and scope, of any criminal activity that have come to the attention of the Authority during that year in the course of its investigations:
 - (c) any recommendations for changes in the laws of the Commonwealth, of a participating State or of a Territory, or for administrative action, that, as a result of the performance of its functions, the Authority considers should be made:
 - (d) the general nature and the extent of any information furnished by the
 Authority during that year to a law enforcement agency;
 Chairman
 - (e) the extent to which its investigations have resulted in the prosecution in that year of persons for offences;
 - (f) particulars of matters in respect of which the Authority has, during that year, made requests under sub-section 10 (1) and, subject to sub-section (5) of this section, of the outcome of such requests; and
 - (g) particulars of the number and results of-
 - (i) applications made to the Federal Court under sub-section 32 (2) for orders of review in respect of decisions of the Authority;
 - (ii) applications made to the Federal Court under the Administrative Decisions (Judicial Review) Act 1977 for orders of review in respect of matters arising under this Act; and
 - (iii) other court proceedings involving the Authority,
 - being applications and proceedings that were determined, or otherwise disposed of, during that year.
 - (3) A report by the Authority under this section shall not-
 - (a) identify persons as being suspected of having committed offences; or
 - (b) identify persons as having committed offences unless those persons have been convicted of those offences.
- (4) In any report by the Authority under this section the Authority shall take reasonable care to ensure that the identity of a person is not revealed if to teveal his identity might, having regard to any material appearing in the report, prejudice the safety or reputation of a person or prejudice the fair trial of a person who has been or may be charged with an offence.
- (5) Where the Inter-Governmental Committee resolves that the inclusion in a report by the Authority under this section of particulars of the outcome of a request made by the Authority under sub-section 10 (1) might prejudice the safety or reputation of a person, the operations of law enforcement agencies or the fair trial of a person who has been or may be charged with an offence, the Authority shall not include in such a report particulars of the outcome of the request.
 - (6) The Minister shall cause a copy of-
 - (a) a report of the Authority under this section that is received by him; and
 - (b) any comments made on the report by the Inter-Governmental Committee, being comments that accompanied the report,

to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him.

PARLIAMENT HOUSE CANBERRA, A.C.T. 2600 TEL: (062) 77 4615 FAX: (062) 77 2067 TELEX: AA61640

Terms of Reference

INQUIRY INTO ANNUAL REPORTING GUIDELINES FOR STATUTORY AUTHORITIES

The Committee is to inquire into the development of revised guidelines for reporting by statutory authorities.

A recent review by the Senate Standing Committee on Finance and Public Administration indicated there was scope for enhancement of the type, volume and timeliness of information reported by statutory authorities in their annual reports. In evidence presented to the Committee it was stated that:

- the guidelines for statutory authorities were outdated and inadequate;
- the guidelines had not been reviewed since they were first drawn up;
- statutory bodies frequently do not report adequately on their use of human resources and staff development performance and needs; and
- the guidelines should be reviewed in the light of recent developments to improve the efficiency and accountability of statutory authorities.

The guidelines for annual reports by statutory authorities have not been reviewed since they were introduced in 1982. The Committee's inquiry will examine, report and make recommendations with a view to obtaining maximum benefit from the experience the Parliament, authorities and other interested bodies have gained through the regular production and use of annual reports since the guidelines were introduced.

Particular aspects which will be addressed include:

- timeliness of reports and methods for reducing the time required to produce reports;
- relevance of the contents of annual reports, with an emphasis on the relevance and methods of measurement and reporting of achievement of non-financial objectives;
- accuracy of information and methods of enhancing and ensuring the accuracy of information; and
- accessibility of information contained in annual reports in terms of layout, use of indexes and avoidance of excessive bulk.

In conducting this inquiry the Committee will place emphasis on the meaningful reporting of performance of the tasks for which authorities exist.