

**PROOF**



**COMMONWEALTH OF AUSTRALIA**

**JOINT COMMITTEE**

**on**

**THE NATIONAL CRIME AUTHORITY**

**Reference: Public Briefing**

**CANBERRA**

**Monday, 3 March 1997**

**(PROOF HANSARD REPORT)**

**CONDITION OF DISTRIBUTION**

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**CANBERRA**



JOINT COMMITTEE  
ON  
THE NATIONAL CRIME AUTHORITY

Members:

Mr Bradford (Chair)

Senator Conroy	Mr Filing
Senator Ferris	Mr Sercombe
Senator Gibbs	Mr Truss
Senator McGauran	Mrs West
Senator Stott Despoja	

The Parliamentary Joint Committee on the National Crime Authority has resolved that it will conduct a comprehensive evaluation of the operations of the National Crime Authority.

The committee will examine in particular:

- (1) the constitution, role, functions and powers of the authority, and the need for a body such as the authority, having regard to the activities of other Commonwealth and state law enforcement agencies;
- (2) the efficiency and effectiveness of the authority;
- (3) accountability and parliamentary supervision of the authority; and
- (4) the need for amendment of the National Crime Authority Act 1984.

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**WITNESSES**

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**GILLETT, Mrs Susan, Director Policy and Information . . . . . 2**

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**MELICK, Mr Aziz, Member . . . . . 2**

JOINT COMMITTEE ON THE NATIONAL CRIME AUTHORITY

*Evaluation of the National Crime Authority*

CANBERRA

Monday, 3 March 1997

Present

Mr Bradford (Chair)

Senator Ferris

Mr Filing

Senator McGauran

Mr Sercombe

Mrs West

The committee met at 9.05 a.m.

Mr Bradford took the chair.

**BROOME, Mr John, Chairperson**

**GILLETT, Mrs Susan, Director Policy and Information**

**LAMB, Mr Peter John, General Manager Operations**

**MELICK, Mr Aziz, Member**

**CHAIR**—I declare open this public hearing of the Parliamentary Joint Committee on the National Crime Authority. I welcome the Chairman of the NCA, Mr Broome; Mr Melick, member; Peter Lamb, General Manager, Operations; and Susan Gillett, Director of Policy. The committee, since it last met, has been joined by two new members, Senator Jenny Ferris from South Australia and Senator Brenda Gibbs from Queensland. A number of other members of the committee are on their way, as far as we can tell.

Section 55 of the act places on this committee a duty to monitor and review the performance of the NCA in its functions, including undertaking an examination of the NCA's annual report. I think this committee has demonstrated in the time that it has been constituted that it intends to be very conscientious in undertaking its statutory responsibilities. There has been at times some criticism of this committee's diligence and commitment to its task in previous parliaments. But we want to give the impression that we are very serious about the job that we have been given to do.

Each member of the committee by and large supports the NCA, although in our activities we need to be, and want to be, objective about our examination of it. But I think each one of us is strongly committed to the work that the authority does and the very important task that you have which is very much in the interests of Australia.

This is the second public hearing of this committee with the authority during this parliament. Our previous hearing was held in Melbourne on 22 October. This meeting will be held in two parts. The first session will be a public session. This will be followed by a private session at which matters of a sensitive or confidential nature may be raised.

There are a large number of matters on our agenda today. Amongst them are a number of documents that have come to hand since we last met. The most obvious one, of course, is the 1995-96 annual report of the NCA. Then there is the ANAO report *Recovery of the proceeds of crime*; the Australian illicit drug report 1995-96; the parliamentary joint committee's report to the parliament, *Law enforcement in Australia—an international perspective*; the government's response to this committee's report, *Organised criminal paedophile activity*; and the Australian Law Reform Commission's report, *Integrity: but not by trust alone*. I am sure that these documents will be referred to during the course of our deliberations this morning.

Mr Broome, I will start by directing a few questions to you on the annual report. I

am sure my colleagues will have a number of other issues that they would like to raise. In context, this is your first annual report as chairman, so you might briefly reflect for the committee on your first year in the job. You have sailed into a few storms along the way. We would be interested to know whether you are happy with the year you reported on.

There were some general comments about the format of the report. Are you happy with the format? It seems to be largely a rehash of previous years with new figures put in and, in a sense, some people have suggested that it is not particularly user friendly. You might indicate whether you will put your own personal stamp on the report for the forthcoming year.

**Mr Broome**—Thank you, Mr Chairman. As to the year that was, yes, it has been interesting and it has been challenging. A lot of our time and effort has been spent dealing with issues which, in one sense, we wish had not arisen and which were, I still submit very strongly, in large part beyond our control in relation to such things as the prosecution of Mr Elliott and others. That has certainly taken a lot of our time and effort just coping with that.

On the positive side, I think it has led to a much greater public awareness of what the authority actually does and how it works than was perhaps the case before. It has given us a platform to discuss our special powers, to make the point that they are not as unique as perhaps some have suggested, and that while we have a very special role within Australian law enforcement many other agencies have the same kinds of powers and functions in other subject areas.

It has been a difficult year, largely driven by substantial reductions in budget flowing from reductions the year before. That has simply substantially affected our operational capacity. We accept that the government has its role to play in setting the budget figures. We will do the best we can with the budgets we are given, but I think it is incontestable that we have suffered significantly in terms of our capacity because of those cuts.

As to the annual report, I think one of the things that people forget is that there are at least three overlays within which we have to operate in producing the annual report. The first is that there are statutory obligations to report on certain material in the act itself. The second is that there is now a raft—and I think that is the appropriate word to use—of obligations imposed by the parliament and then by the executive on what information it wants to see in the annual reports of agencies.

None of those, I think it can be fairly described, is particularly consistent with a racy journalistic style, because in fact a large part of the document is tables and factual information of that kind. I do not think it is fair to say that we merely change the numbers from year to year; we certainly do not. We report on what has happened during the year. I think it is unfortunate that, while each individual obligation in relation to annual report

preparation had some rational basis and indeed was no doubt the result of very careful consideration by those who imposed it, maybe overall there is a problem now which I think not just our authority faces but everybody else faces—that is, you end up producing something which meets a large number of rules rather than perhaps reporting in the way that you would like to. We will certainly be looking at next year's report to see what scope we have.

One of the difficulties we face in changing reporting processes and the way in which the report is set out is that the very real criticism is then made that it is very difficult to make year-on-year comparisons. If you stop reporting information in the same way, then there will be a genuine complaint heard that says, 'How do we compare last year with next year if you do not in fact report the same information or you do not report it in the same way?' So we have to balance those two things.

As I think I said to the committee at the last public hearing, we would certainly welcome any suggestions from the committee on how you think it may be better for us to report. Obviously we have some limitations because of all of those rules. Nonetheless, if we can make it a more readable document and if we can in fact present things in a better way we will be happy to do so.

The only other point that I make is that this reporting by way of matter is driven because it is a matter which is referred to the authority by relevant ministers under the act and the obligation not to make public certain information about people until certain stages of the process have been reached—the prosecutorial process—means that a lot of it becomes a fairly cryptic description as we try as best we can to give some information but at the same time protect the information which the act says we cannot disclose. So there are some challenges in all of that, but we would certainly take on board any suggestions that members of the committee might have as to how we might do it better.

**CHAIR**—Thank you. I take you to the bottom line—the results for the year that you have published. We understand that does not necessarily indicate whether you have been successful or not, but nevertheless that seems to be what a lot of people are interested in. At page 31 they are summarised as being 120 people charged with a total of 330 offences. I am not looking to find some minor mathematical problem, but how do you reconcile table 1A with that statement? Perhaps you could run us quickly through table 1A, on pages 31 and 33.

**Mr Broome**—I think, taking a quick look, we are actually comparing apples and oranges.

**CHAIR**—That might explain it.

**Mr Broome**—The summary of charges and convictions makes the point that, during the 1995-96 year, the authority charged 120 people with a total of 330 offences.



But table 1A shows cumulative charges by investigation as of the end of the year. What you are seeing there is not just those who were charged by the authority but also those who were charged as a result of the joint task force. I think you will find that is why there is a difference. We have tried, in other tables, to distinguish between those people who are charged by the authority itself and those who were charged by other forces working with us. The figure of 388 is the total of the number of persons referred to in the shaded column for 1995-96; that is, the 146, 21 et cetera. The 388 is the figure that you get by adding 120, which is referred to in the first sentence of that first paragraph on page 31, and the 268 referred to in the third sentence, which is the number who were charged in the course of task force investigations. The numbers are consistent.

**CHAIR**—I think, inadvertently, that probably illustrates my point originally about making it so that simple people, such as accountants like me, can find something that adds up. I am not meaning to be difficult about it and I was not intending to make that point. What I am really interested in is: how would you describe 1995-96 in terms of results? My understanding is that there had been a vast improvement over previous years. That is really the point of the question.

**Mr Broome**—The overall picture, we would say, was an accurate reflection of the year. It was, certainly for a significant number of years, the most successful year the authority has had. We charged a significantly larger number of people than in the last few years. That, of course, is a trend which has been happening for a number of years and it is a trend which, I would suggest, is consistent with the authority's approach in the last four to five years of working much more closely with other forces in task force arrangements and so on. If you go to some of the figures in the report you will see that, as a year on year list of arrests and so on is made, there has been a fairly significant growing trend. The trouble with those kinds of trend lines is that you cannot always predict when major operations will be concluded and you certainly cannot always predict that they will be concluded successfully. So you may find that in some years you will have much better results than in others. But last year was a good result. We had some major successes and, certainly for calendar year 1996, I think there were results in a number of states which were highly encouraging. As we have discussed with the committee in private, there are good reasons for those kinds of results which we hope we can maintain.

**CHAIR**—Obviously you do not have to report in the same terms as a company would report its financial statistics but I think it would be helpful to anyone who is reading it to have that trend analysis to compare this year with last year. I do not suggest that you need to have a budget for arrests and convictions, by any means. In fact, that would probably not be the way to go. Because the authority seems to me to have been unfairly subjected to a lot of criticism, if people can look at it and see that it is getting results, then that would be helpful.

I turn your attention to page 61 of the report, the section dealing with complaints. That has been, of course, a bone of contention. I notice in that part—I am referring to

page 61 and the following pages—that there have been 16 complaints against the NCA. The content or the context of the complaints are all summarised. You recently produced an ethic statement. Can you tell us why that was necessary and what the context was? Secondly, in this context, where do you stand at the moment on the NIIC? We have talked about that before. I notice that Betty King, on the radio the other day, described it as a 16-pound sledgehammer to crack a nut.

**Mr Broome**—Let us take them in sequence. As far as the complaints section in the report is concerned, you say it has been a bone of contention. I do not think it has been a bone of contention as far as the authority is concerned. We have more than happily reported, as a means of accountability, the kind of complaints that we get. One of the problems with the complaint handling processes, as I have made clear, is that the absence of an external investigative body, to deal with complaints, means that, irrespective of whether or not the complaints have any foundation at all, there is always a suggestion that there may have been something there, and that is a concern to us.

Equally, when there are complaints which are sustained, I think we should be acknowledging that very quickly and trying to rectify problems and getting on with the job. As far as the proposals for the ethics statement are concerned, I, after joining the authority, felt that there was a place for a clear statement of the ethics which the authority would seek to communicate, largely internally, but, certainly externally. That is not to in any sense suggest that there was, in my view, any perceived lack of ethical approach. It is quite the contrary, I think. Consistently, the authority over the years has sought to impose very high ethical standards within the organisation.

There are some difficulties when there is a significant staff turnover in an organisation, which is the consequence of seconded police coming and going and, indeed, of other staff moving between the organisation and others. So something like an ethics statement, which can set out reasonably succinctly not just what our legal obligations are but the way we say we go about doing our job and what we seek to achieve in that way, I think is a useful step.

The authority thought that that was something which we should in fact do. We consulted the staff about it and we launched the document quite recently in conjunction with an award which we issue each year to an outstanding member of staff in memory of Geoff Bowen who was killed in the Adelaide bombing. It seemed to me to be particularly appropriate, because both Geoff Bowen and, indeed, this year's recipient, I think, demonstrate the kind of ethical commitment which we are trying to encourage.

Why now? Because that is when the process had been completed. In fact, it was completed late last year. We thought it was appropriate to use the Bowen award as an appropriate launching point. We are now using that ethics statement around the authority to reinforce what we see as very positive ideals within the organisation.

As to the NIIC, I am not sure how much time you have, Mr Chairman. My concern about the proposals is that they are not reflective of the findings of the Law Reform Commission about the nature of the problem. In fact, there is nothing in the report to suggest that either the AFP or the NCA is as corruption ridden as some of the statements in the report would suggest. Nor is there any basis indeed for the kind of solution which is being proposed in terms of considering other alternatives.

I have made the point repeatedly that I think there should be an appropriately empowered external independent review body. I do not think setting up a team of people located, as the report seems to envisage, in one geographic location will be a satisfactory, expeditious or economical solution to the problem, because every time there is an investigation the team will have to be put together and moved around. There are some fundamental inconsistencies in the report.

One of the largest criticisms of the present structures in so far as they operate—I do not want to make comments about the AFP; that is a matter for Commissioner Palmer—the report consistently says, both in respect of the AFP and the NCA, that you should not have police investigating police. I understand the arguments about that problem and it is a very difficult issue. Its solution is to set up a body which will be staffed by seconded police who will investigate police. It seems to me that it is no change at all in the present arrangements, if that is the fundamental flaw.

I think that there needs to be a separation out of the investigators from the agency which is being investigated. I think there are ways of doing that. But I think that the whole solution is one which is costly and which has not paid any attention to some of the alternative solutions. We indeed put forward alternative solutions to the Law Reform Commission, which, I think it is fair to say, were dismissed almost summarily without any sort of analysis. Yet, they had been developed in consultation with all the commissioners around Australia.

The other point that I would make generally about the NIIC—we can talk about detail if you wish—is that the specific requirement in the terms of reference was to deal with the intractable problem that has bedevilled the authority in dealing with external review; that is, how does one deal with the problem of seconded police and the fact that they belong to and are part of their home forces? Their commissioners have, within their statutory responsibilities, obligations about the discipline and handling of those staff, notwithstanding that they are on secondment to us.

That has been the difficulty which has bedevilled this issue from the creation of the authority. That is dismissed by the ALRC with the kind of 'We'll work it out in the wash' solution. If it had not been so difficult, they would not have been asked to look at the problem. Yet, when the crunch came, they have come up without a solution. At least the solution we put forward sought to balance the commissioners' responsibility and mine and that of the authority by separating out their responsibility for disciplining individual

officers and my responsibility for the accountability of the organisation for what happens in its name.

The ALRC report does not make that distinction and it, in large parts, seeks to superimpose the NIIC's powers and responsibilities for those of the authority by giving it virtually open slather to tell us what to do, when to do it, how to do it and who to do it to. It ignores, it seems to me, the responsibilities of the Intergovernmental Committee under the act and it arguably ignores the responsibilities of this committee. It certainly would be a far less accountable body than the authority is, because it would actually have the power to tell us how to conduct references without itself being responsible for how those references were carried out. I find that just unacceptable.

**Mr SERCOMBE**—I wanted to come at the issue of seconded police from two angles, but I might as well lump them together. Perhaps you might like to deal with them separately. The *Background Briefing* program on the ABC last week made a number of very serious allegations, I suppose, in relation to some of these matters of complaints about NCA procedures that the Chairman has referred to. The nub of most of them seemed to me to relate to this question of suggestions of problems being imported into the organisation from other police forces. For example, Matt Brown, the presenter of the program says, amongst other things:

The NCA obviously has its own internal checks, but it's drawing staff from police forces which are deeply riven with problems like corruption and ill-discipline. And this is the nub of the problem. Allowing for a bit of journalistic licence, there is a series of issues there that, apart from anything else, go to the question of secondment and the adequacies of it.

The other issue is one that I have a concern about. I suppose my concerns relate more to Victoria simply because of my association there, but no doubt they apply elsewhere. That is the extent to which very highly specialised functions of the NCA are being adequately handled as a result of staff having limited periods of time in the organisation. I am referring specifically to surveillance activity. I understand there are some issues at the present time with Vicpol about renewing and maintaining the standards within the organisation to carry out those functions. I am just wondering if operationally—and Mr Lamb might be more appropriate to answer this—there are issues in relation to secondment that this committee needs to be aware of?

**CHAIR**—Could I just add to that? In the context of your annual report, on page 49 it says:

The secondment of police to the NCA enhances its investigative ability.

In the context of that ABC report, you wonder whether 'enhance' was the exactly right word to have chosen.

**Mr Broome**—I think it is. The problem is that, where else would you get a pool of trained police investigators but from the state and federal forces? I do not think it would be in the authority's or the public's interest for the authority to have investigators employed permanently in the organisation. We cannot offer them career structures. We cannot offer them the kind of promotional opportunities they can get in their own forces. We cannot offer them the sort of broad experience which they need to make senior management positions in those state police forces.

As a small organisation—I have seen in a number of other authorities, such as the Trade Practices Commission—you basically have to accept that the only way you are going to get staff is to bring them in for a short period of time and then lose them usually on promotion to somewhere else, because hopefully they have picked up some good skills and some good training. We cannot provide police officers with long-term career prospects.

There is a practical reason why it is just not viable to do anything else but second. The second thing is that with secondment we do have the opportunity through selection processes to try our best to get the best available people for our organisation. It has been fair to say that in recent years in particular a great deal of effort has been put into—and I can only speak of the recent period—making sure we are getting the right kind of people. The secondment process does have advantages in that sense.

As to whether the Brown program proves much at all, the fact is that there were a number of allegations made in that program. Having read the transcript fairly carefully, there was no attempt made at all to put—with one exception, that is the matters concerning Mr Donaldson and Mr Lysaght—to put them into any time frame. So the question that arises is whether they were recent or somewhat historical. I think the truth is that they were considerably historical, but the program went to some pains not to in fact try to deal with that issue and indicate whether they were current or otherwise.

The only other point I would make is that while I—as was quite apparent—gave an interview to Mr Brown, he at no stage sought to put most of those issues to us for response, which I think is not only unfortunate, but is fairly poor journalism. The only questions he asked me were questions about the NIIC and about the Lysaght matter and I answered those fully. It is rather difficult to answer matters when you are not even given the opportunity to be told what they are going to be.

I do not know about all of the history. I have read the transcript. I think that, as with any organisation, there are going to be some situations where people will make claims after the event. But if you analyse the actual transcript and ask yourself what is actually being alleged, it seems to me that, as far as the NCA is concerned, not that much is being alleged at all. In relation to the allegations that information was passed on to a police force and nothing happened with it, I really think the question there is, what happened within the police force concerned? How much can the authority do in

circumstances such as that? The program seemed to present that as if it was a failing on behalf of the authority, but it seems to me it was a failing on behalf of the force to whom the information was passed—as it would appear if the program was accurate—at the most senior levels. So I think there are some issues in that.

The second thing concerns surveillance. I will make one very general observation and then ask Peter to comment. This issue was discussed in fact at the last meeting of the standing committee on organised crime and criminal intelligence. It was very clear from that discussion that most of the commissioners and certainly the authority were very flexible about extending our normal two-year secondment policy in the case of surveillance, because we recognised it was a special case.

We also recognised that we in fact provide a substantial amount of training to people who sometimes join us in this area and that we would actually be getting a greater benefit by being able to keep those people once they had reached a certain standard for a slightly longer period. It is fair to say that there are some different views about that between some of the forces, but at the end of the day there is general agreement that we should be a little bit more flexible in the area of surveillance because of the special skills, but Mr Lamb might like to add to that.

**Mr Lamb**—Surveillance is a very labour intensive, but also costly covert activity within law enforcement. The NCA has, by arrangement with the commissioners, agreed that, because surveillance people are truly highly professional and high performers, they are in very short supply. The police forces are reluctant to give us those trained and very competent people. So the arrangement that we have is that we take a couple of very competent people in each state and the rest of the people we take as basic raw recruits and train them. We put them through an eight-week course at great expense and then on the ground working and allow them to develop.

That has an adverse effect on the basis that we are throwing young, inexperienced people in against some of Australia's more competent and highly dangerous criminals; people who understand law enforcement methodology and who understand law enforcement techniques, but we do not really have a choice. We cannot ask New South Wales, for instance, to supply us with 30 or 40 of their top surveillance people. They just do not have them, or they have them but they have their own needs to service.

So we have come to a compromise. That compromise being that we take in the main young recruits and try to train them. If they are with us for only two years, you can appreciate the fact that no sooner do we get them trained than they are going back and the state police get the benefit of our training programs. Having brought them up to speed, they get back a pretty efficient young officer.

What we have tried to do with some of the police forces—and indeed I was talking to Neil Comrie on Friday about this issue—is try to leave in place a core of people who

can not only have continuity on the major matters we are dealing with, but also have continuity with the way we operate, the way we work and to lift the skills of those we get out of that untrained pool. That is about the best compromise we can make. I think what you are referring to specifically is the Melbourne situation. Those people have been with us for some time. I am starting to get some favourable feedback that they might be allowed to continue with us for another couple of years.

**Mr SERCOMBE**—I do not want to bog the meeting down now at this point by requesting detailed responses to each of the matters that were raised in the radio program, but nonetheless this committee indicated at the outset that we have a responsibility. Given that these matters are now for better or worse in the public domain, either in open session or possibly private session today at some later stage it would be helpful to go through to some extent each of the matters that are raised in the ABC program. For us not to do that leaves not only the NCA open to the criticism that is there being ongoing and unanswered, but potentially leaves this committee open to criticism that we are not seeking explanations for the matters. If it is as lacking in substance as the chairman of the NCA was suggesting, that is encouraging, but nonetheless we have an obligation at some point to go through the claims that are made and deal with them.

**Mr Broome**—Perhaps I should make some brief comments about them and I am happy to elucidate in writing later on. I was not suggesting that they were not serious matters or that there was not something to be responded to, but it does seem to me to be somewhat indicative of the kind of press that the authorities had to deal with. When you get the allegation which is essentially that the authority at a very senior level made a relevant state police force aware of concerns it had about some of its staff, this is presented as if it is some kind of complaint about the authority. That was the context in which it was presented. It was not a complaint about the authority; it was a complaint about the lack of action by the police force. My response to that is to say, that the wrong person is answering the questions in respect of that particular point.

With respect to the leak of information that has come out in the course of the royal commission about the investigations surrounding the state crime commission inquiry into both Mr Donaldson and Mr Lysaght, the facts are that an NCA report was given, as I understand it, to the Crime Commission back in 1990-91. It became apparent during the course of the evidence given in the royal commission that a senior New South Wales police officer, who was then on secondment to the Crime Commission and who was the subject of investigations, had in his possession a copy of the transcript of some listening devices which were relevant to that matter. That was not known until that came up in the royal commission.

The immediate conclusion that has been reached without any evidence is that the material must have been leaked from within the authority. The fact is that the material was already outside the authority at the time it appears to have come into possession of the person concerned. I am not saying whether it came from one source or the other. What I

am saying is that the immediate conclusion that has been sought to be drawn that it is an NCA leak, I do not think is supported by the evidence. In any event, it is the fact that our concerns about this matter led to the authority referring it to the royal commission when the royal commission was established.

The royal commission has investigated these matters and, as it has turned out, it would appear it has turned up some new material. I have been very careful not to pre-empt—and I do not think it is appropriate to do so—what findings the royal commission might make about all of these matters in its report. But certainly, once the royal commission was seized of all of this, it did seem to me to be appropriate that they pursue it, particularly given the age of it and particularly given the fact that most of the people who were the subject of the investigations that seem to have been conducted, judging by the public evidence that has been given, were New South Wales officers who were the subject of the royal commission. That is the response there.

**Mr SERCOMBE**—The participation of seconded officers on an unauthorised raid?

**Mr Broome**—Again, with great respect, the allegation that is actually made is that a number of police officers were involved in some activity which was not authorised within the authority. If ever there seems to be a classic case of people acting outside the scope of their employment, that allegation if it is true would seem to fit that description. If they were off on a frolic of their own, and the allegation is very general, then that may raise some questions about what they were doing and so on. But again it is difficult without knowing more about the nature of the allegations, the timing and so on. Mr Brown has certainly not given me the courtesy of telling me any of that information.

I am happy to see if we can find out some more information and advise the committee about that. There are also some allegations thrown into that same section of the program about the way in which some parts of the state police force may have responded to something totally unrelated to the authority. Again it seems to be a little bit of—if I can put it in large inverted commas—‘guilt by association’. The reference to what those people may or may not have done at the end of or after a particular matter in which they were involved in an authority activity seems to me to be quite irrelevant to allegations about the authority.

But it is certainly the case that we have worked with state forces over the years and we will continue to do so. But what some of those state officers do or do not do outside the things that they are doing for the authority, is something which is certainly as much a matter for their own commissioners and senior officers as it is for the authority to answer for. I am happy to go through each of the three major issues and perhaps provide you with some further comments in writing.

**CHAIR**—If we can ask you to do that and, once the committee has considered it, we may want to talk to you further.



**Mr FILING**—Some of the most recent criticism of the NCA has been its relative cost effectiveness. I have just done a rough calculation of outlays versus arrests. Even those that you were in joint operations with, it works out to be about \$180,000 per arrest. What is your response to the criticism that that is a very high rate of expense?

**Mr Broome**—That is in the last 12 months?

**Mr FILING**—Yes.

**Mr Broome**—I would say a couple of things. First and foremost, through the briefs that we prepare and in cooperation with the prosecutors, we have a very high success rate of achieving successful outcomes in terms of prosecutions. It is a success rate which I think it is fair to say vastly exceeds anything which occurs in other law enforcement agencies. That is not meant to be critical of them. They deal in a different kind of environment, but nonetheless we do get significant results. Secondly, we are dealing by definition with people who are more difficult to identify, investigate, subsequently arrest and charge and then prosecute. So I would expect that the average costs would be high. However, I would suggest that if you—to take a simple example—took the budget of the New South Wales police force, divided it by the number of criminal arrests and left traffic matters and so on out of the equation, the results might be fairly favourable as far as we are concerned.

**Mr FILING**—I accept that they have a lot of other responsibilities, public order and the like, but there is great criticism of the authority at present. I am a person who stood up and criticised the Attorney-General for the budget cuts, yet we are seeing a situation where in the last period's performance statement you have a very high rate of cost per arrest, a rate that in my view is open to criticism.

**Mr Broome**—If you are looking at the 388 arrests in relation to 1995-96, over the last substantial period of time that would be one of the better results that the authority has been able to achieve. Should we be getting more arrests for the dollar? This is one of the problems with these kinds of statistics. As we have discussed previously in hearings, I think that what is important is trying to get some qualitative measure of the kind of work that is being done. Over the last 12 months, if you look at the kinds of matters in which the authority has been involved—and again one has to be somewhat circumspect because a lot of these matters are still before the courts—we have been involved in investigating serious criminal behaviour and getting results in that context. I really do find this sort of arithmetical analysis to be a fairly unsatisfactory measure of performance.

**Mr FILING**—Do you think perhaps that, given there has been an increase in the senior executives—

**Mr Broome**—That is not true.

**Mr FILING**—Oh, it is not?

**Mr Broome**—It is absolutely not true. Somebody has not read the figures properly.

**Mr FILING**—Let me just put the case. Senior executives have gone up from eight in 1994-95 to 15 in 1995-96. Total remuneration for senior executives has increased from \$1.3 million to \$2 million in the same period. All I am saying is that, given there is a natural opening for criticism of the high rate per cost of arrests, is it not a fair criticism to say that there is a top heavy expenditure in the National Crime Authority?

**Mr Broome**—The number of SES officers over the last three years has in fact dropped. What you are referring to, I think, is page 92 of the annual report, which is one of those little anomalies to which I referred at the outset. That is, we are required to report in those salary bands, and it just so happens that those salary bands do not reflect the reality of all of our band 1 officers whose salaries fall beneath the \$100,000 limit.

Therefore, the actual figures for our SES staff have decreased since 1994. In June 1993 there were 17 band 1, 2 and 3 officers. There are now 15, of whom one is in fact paid by totally external sources. That is Mr McDonald who works on the money laundering activities internationally, which is not paid for by the NCA at all. So there are actually 14. There has been a reduction of the SES in the authority from 17 to 14 over the last three years, which is a direct result of changes in structure to reflect some of the budget cuts. So, rather than being top heavy, we have responded by reducing those numbers of positions over that sort of time frame.

**CHAIR**—Just on that issue, there has to be something wrong with the way this information is presented. It may be what you are required to present but, if it does not tell the true story, there is something dramatically wrong with the way it is presented.

**Mr Broome**—There are two things. First of all, it includes the members, even though—

**CHAIR**—We are comparing 1995-96 with 1994-95 on page 92. Isn't that what we are looking at?

**Mr Broome**—Yes. But it is because it is one of these required reporting obligations which is based on payments in excess of \$100,000. The fact is it does not reflect the actual SES structure. It includes the statutory office holders, which you will not find, for example, if you look at a departmental annual report because you do not have the same kinds of structures. Yes, it does not present a complete picture, but neither I suggest—

**CHAIR**—But this is the problem we have. If you looked at this, you would say there was one in that top band last year and there are four this year. Where did the other

three spring from?

**Mr Broome**—If you look at the figures on page 92, in the top band there were none the year before and there is one this year.

**CHAIR**—What page are you looking at?

**Mr Broome**—Page 92 at the bottom, item 17.

**Mr FILING**—Executive remuneration.

**Mr Broome**—The three positions on the right hand column at the bottom three bands are the three members of the authority. The SES figures are that, as of 30 June 1996, there was one SES band 3 officer, there were four SES band 2 officers and there were nine SES band 1 officers.

**Mr FILING**—If I could just touch on another item that seems to be difficult to read from the figures. On page 70, the report states that \$92,000 was paid in performance pay to eligible SES officers, the same as was paid in 1994-95. I presume, from what you have just explained, that means it is all eligible SES officers. Now, on page 92 the figure is shown as \$80,926, so I presume that means the performance pay is for those officers whose pay exceeds \$100,000. Is that right? I am just clarifying whether that is a correct understanding.

**Mr Broome**—On page 70, there is reference to the fact that, in the 1995-96 financial year, an amount was paid in respect of 1994-95. It is not paid until the end of the cycle.

**Mr FILING**—I understand that.

**Mr Broome**—So that is that figure.

**Mr FILING**—That is the same thing for page 92. On page 92, it talks of executive remuneration and fixed performance pay of \$80,926, which is double the previous amount.

**Mr Broome**—Yes. The reason the number has changed to \$80,926 is that, because of increases in actual salary rates, more people have moved into those salary bands. Therefore, you have got more officers being paid. It does not mean that the total number of officers in respect of whom performance pay was given has changed. It just means that people at the top of, say, band 1 may have gone over the \$100,000 as a result of salary increases. It is the problem of these band reporting requirements, which, if my memory serves me right, derive from Corporations Law provisions and an attempt to see public and private sector organisations reporting executive salaries in similar ways.

**Mr FILING**—In the case of the authority, what would the executive performance pay be paid for?

**Mr Broome**—It is paid for those officers whose performances under the current arrangements are rated as being superior or excellent effectively. It is grades 4 and 5 in a five-range structure.

**Mr FILING**—Could you perhaps give us an example of where that might apply?

**Mr Broome**—It would apply where somebody has performed better than the full expectations of performance at that level. That is—

**Mr FILING**—In what way would that be measured?

**Mr Broome**—It may be that there have been particularly difficult issues that have been handled well. It may be that people have coped with demands that have been put on them which are, in a sense, over and above the normal expectations of a position. But it is certainly not paid these days in respect of anybody who is doing a fully effective job at the salary level they are being paid at because that has been wound into their salaries.

**Mr FILING**—At whose discretion is that paid?

**Mr Broome**—At the end of the day, it is mine. But there is a process internally, as there is with all other agencies, in which assessments are done by senior officers. They go through a process of being moderated across the authority and then at the end of the day, if there is a problem, they come to me.

**Mr FILING**—Is it not a fact though that the vast majority are being paid to the officers in excess of \$100,000? That is, \$12,000 is left for those below \$100,000?

**Mr Broome**—No, that is not—

**Mr FILING**—Sorry, have I misquoted?

**Mr Broome**—Bear in mind that the system has changed since 1994-95. Changes occurred in relation to the operation of performance pay, and my colleagues will tell me if my memory is serving me right here. In 1994-95 there was still a situation where, for example, people who rated 3 were getting performance pay. That has now been removed. It was built in as part of salary restructuring in 1995, I think, which was part of a service wide change. We are not in any sense different from any other organisation. Now the performance pay is only being paid for people who are rated 4 and 5.

The Department of Industrial Relations, for example, and the Public Service Merit Protection Agency have indicated they would see about 20 per cent of SES officers only,

on average, being eligible. The problem with those kinds of averages in small organisations is that it only takes one or two people to be either rated more highly or, in fact, not rated in that sort of base for the figures to be skewed very substantially. The expectation is that, service wide, they would be the proportions, but the numbers will be quite different, because they have now been built into base salaries.

**Mr FILING**—Are you now confident that this type of expenditure is necessary?

**Mr Broome**—Do I think performance pay systems are a good idea? I do.

**Mr FILING**—And do they provide an incentive to the right people?

**Mr Broome**—Yes, they can do. They have not worked uniformly well across the service, in my own experience; but, if applied properly, they can be in fact very valuable. After all, if we follow everything else that the private sector does, why shouldn't we follow this particular innovation?

**Mr FILING**—Yes; but, at the end of the day, with \$180,000 per arrest, the community might say that it is perhaps an expensive addition.

**Mr Broome**—One of the problems of that kind of analysis is that I could get the averages substantially improved if I were not locked into long-term rent commitments in situations where I cannot break my contract. But our budget has been substantially reduced and we have a fixed cost base which is not variable in the short term; and so our averages, in fact, can be skewed quite substantially, where we have had a capacity to have more people on deck and, therefore, in fact to get better results. It is our sharp end which has suffered each time, as I have explained to the committee in some detail. What we are left with, increasingly, is that our budget is reduced and we have a set of infrastructure costs, if you like, which we can do little about. We have done as much as we can, but we cannot necessarily change them in the short term, which makes those averages perhaps look different from how they would look in other circumstances.

**Mr FILING**—I know; but, as you know, one of the criticisms, certainly of my state, when the budget cuts started being applied under the previous Labor administration, was that the first place they were being applied with any particular savagery was at the operational end.

**Mr Broome**—Mr Filing, I am not suggesting this of you, but that is sometimes a comment made internally by people who are not necessarily aware of where things are actually being cut. In my experience in 20 years in public administration, there is a general propensity for people to assume that the cuts are already being felt in their area but never anywhere else. I have been around enough organisations being chopped over the years by both sides of politics to know that, in fact, in this day and age you do not have the luxury of not doing those cuts in the most effective way that you can.

**Mr FILING**—I appreciate that; but, if they were looking at the annual report, the same people might well assume that the cuts were not being fairly applied at the top.

**Mr Broome**—They might reach that conclusion, and they would be wrong.

**Mrs WEST**—May I inquire why the vacancy to the authority has taken so long to fill?

**Mr Broome**—That is not a question that I can answer. It is a matter for the minister.

**CHAIR**—Yes; it is a matter that he is giving active consideration to. Senator Ferris, is your question on the actual report?

**Senator FERRIS**—Yes, it is. Mr Broome, I notice that the role and function of the NCA is very broad. It is to ‘counteract organised criminal activity and reduce its impact on the Australian community.’ I am interested in the number of charges that are drug related. By my calculation, it is in about 329 cases that drugs figure in the charges. Is there a deliberate effort on the part of the NCA to focus on drugs and drug related crime?

**Mr Broome**—There is a deliberate effort to focus on organised criminal behaviour, if I can use that term as shorthand for what the act describes as ‘relevant criminal activity’. The act does not talk about organised crime. That focus is one which has in fact been determined by the intergovernmental committee which approves the references. Not all, by a long way, but most of the criminal behaviour which is identified in references is drug related and, in large part, it deals with importation and the major end of drug activity.

Certainly, that focus is reflected in the kind of work we carry out, and it is reflected in the kind of results we get. That does not mean that there is not other serious criminal behaviour that comes to notice and may be dealt with, but certainly it is fair to say that, across the country, there is a preponderance of work in that area. Perhaps Mr Lamb is in the best position to add to that, in terms of the focus of the work that we are doing.

**Mr Lamb**—That is the patch that our partners—they being the state and federal agencies that investigate crime and, indeed, the IGC—wish us to work in. On our own, we can do very little. We just do not have the resources. We have only 300 people spread around Australia, and so we are totally reliant on our partners. In terms of harm, one could argue that heroin on the one hand creates the most profit for organised crime, because of the great profit involved and, on the other hand, inflicts the most harm on the community in terms of health related matters and other problems. So, in terms of harm in the criminal context and profit, as well, it will always take us back to that.

**Senator FERRIS**—Yes. I raise it simply because the penalties for many of the charges seem to be incredibly light. There is one of 14 years and one of 11 years, but I would say that most of them were small fines, relative to the amount of work and the outlay involved in the charges. I am particularly interested in the small number of references to what I would call white-collar crime: laundering money, and so on. Have you any comment to make on why that number is so small.

**Mr Broome**—Some definitional issues need to be dealt with here first. When people talk about white-collar crime, there is a tendency to think in terms of what I would talk about as corporate criminal behaviour.

**Mr FILING**—Like John Elliott.

**Mr Broome**—You said that, Mr Filing; not me!

**Mr FILING**—No; I am talking about the investigation.

**Mr Broome**—We might both have parliamentary privilege, but I will let you enjoy it. The fact is that, with the ASC being in existence, and having been so for a number of years, the general investigation and prosecution of corporate related criminal behaviour has really fallen within their bailiwick. The authority has very clearly directed itself towards relevant criminal activity—that is, organised crime—and that is reflected in the kind of work that we do.

In more recent times, we have seen a number of people being charged with offences such as money laundering. We are trying every time that we get an arrest—as perhaps we will raise when we are talking later about the ANAO report—to focus very much on where the funds may have gone, on how much profitability was in the operation and whether we can get some measure of that, and so on. It is, however, particularly difficult to proceed in some of those areas. We might explain this a bit more when we get to the ANAO report, but in part this is because the money laundering types of offences are sometimes treated—and I raised this point back in November—with less seriousness than we would hope they would be by the courts.

To give you an example of that: at page 112 of the report, under matter 25, there are three people in the third, fourth and fifth lines, and another one slightly further down the page. All are charged with structuring: they are all money laundering offences, and the fines have been in the order of \$3,000, \$1,000 and \$6,000, and the last one was given a minimum of four months imprisonment. That is part of the difficulty, quite frankly, with structuring.

It is in my view an offence which is not being dealt with anywhere near the kind of seriousness that I think the behaviour requires. It is after all the means by which the criminal profits are usually taken out of the country. If you can get those profits out at

relatively low risk—particularly low risk even if you are caught—of significant penalties, then I think there are real problems.

I mentioned the case last time of a movement of millions of dollars out of this country through an account by a person who was charged and, in fact, convicted. The results of which were that the person was originally given, I think, a week in detention and that was increased on appeal to 12 months. There was something of the order of \$15 million involved in that. I think that if that is the way these matters are dealt with, then we can expect to see people deciding that this is a very satisfactory way of dealing with their criminal profits.

It is something which we focus on all the time. Proving the relevant elements of the offence beyond a reasonable doubt may be difficult. We may be able to show that in the past the same people have moved substantial sums of money offshore, but there is no evidence that that is in fact the proceeds of crime. There may be a substantial suspicion, but there is no evidence on which you could then go along to a court and charge them with money laundering or those kinds of offences. That is one of the difficulties.

I think you will find that there are a number of matters currently before the courts in which we have certainly sought to keep pushing those kinds of offences. But if you look at the penalties overall that we report, you will see that there is substantial inconsistency.

**Senator FERRIS**—Yes, I agree.

**Mr Broome**—When you work nationally and you see the level of criminal behaviour—and this is not to suggest that judges should not have discretion to deal with cases as they see fit on their merits; I think they have to have that discretion—from our perspective, it is interesting to see that penalties can vary across the country very substantially for what seems to us at least to be similar kinds of offences.

**Senator FERRIS**—Do you expect those priorities to change in terms of still focusing on drug related crime or has there been any review of those priorities that you might be able to explain to us?

**Mr Broome**—I would not see them changing in the short term, but we are at the moment conducting an intelligence assessment of the criminal environment nationally which is being done as a result of an agreement with all of the state and federal agency heads and with the subsequent endorsement of that approach by the intergovernmental committee. That intelligence assessment may throw up—I do not know what the answer will be—other areas of activity in which there may be decisions by the IGC that we should go down that track. In the foreseeable future, this will be a continuing area of activity simply because, as we know and as the committee knows, there is a substantial amount of criminal behaviour going on in this area. It is very difficult to deal with but it



will not go away, and I think that that will continue to be our focus.

**Senator FERRIS**—I have two other questions with regard to your equal employment opportunity on page 71 and then, at the back of the annual report, you list the number of women in various groups. There is no comparison with the previous year. I am just wondering how those percentages have moved over the 12 months.

**Mr Broome**—If you could just give me the second reference. I have got the reference on page 71.

**Senator FERRIS**—The second reference is on page 98, table 4, entitled, ‘Representation of EEO groups within the APS salary levels’ and so on. I notice all the percentages there. I just wondered how they had moved. You have devoted quite a large section of the annual report to achievements during the year that related on page 71, but there is no indication of how the percentages might have moved over the year.

**Mr Broome**—In terms of 1995 on 1996, perhaps I can just give you the figures across the page. If you look at the totals, for 1996 you see that they are 55 per cent, six per cent, 13 per cent, 20 per cent, 0.4 per cent, four per cent and 80 per cent across the page. For the previous year, the relevant figures were 56 per cent, nine per cent, 12 per cent, 20 per cent, zero per cent, five per cent and 76 per cent. Roughly, that seems to be fairly little change. You will appreciate that in some of those categories where relatively small numbers of people are involved it does not take much to change the percentages significantly. Certainly, we have put a significant amount of effort into EEO activities. We have certainly tried, with training with all regions and so on, to reinforce those principles.

Some of these are reflective of the nature of some of the work that we are doing and broader issues about the spread within some of those classifications. That does not include the seconded police officers. These are only APS. Mr Lamb was just saying that, in relation to our seconded police officers, there has been a very substantial increase in the proportion of women who have been seconded to the authority. That has been a noticeable trend over the last two or three years. I can get you the precise figures for that. It tends to change fairly rapidly because of people finishing their secondments but, if we take a year on year figure at the end of June 1995 and 1996, we could give you those figures.

**Senator FERRIS**—I would be interested in those trend lines. My final question relates to page 99 appendix C, entitled ‘Consultants Engaged by the Authority’. I notice that Deloitte have been used several times. There is an item there of \$98,720 for independent advice on complex financial transactions. Are you able to give me any more information about what that would be? It actually takes the amount paid to Deloitte over \$100,000, but the other one is a line item. I would be interested in what complex financial transactions involved an outside consultant costing \$98,000.

**Mr Broome**—I understand that these are payments made in respect of an expert

witness who was giving evidence in a proceeding and who had come from overseas for that purpose. I can give you some more details of the break-up of that, but it was basically somebody from a company who was providing expert evidence to us and we have obviously had to pay for that testimony.

**Senator FERRIS**—I would be interested in that because it does follow up why my colleague Mr Filing asked a little while ago about the percentage per successful conviction. I would be very interested to know if it did result in a successful conviction and what the penalty was for that person, given that one of the witnesses cost almost \$100,000.

**Mr Broome**—Sometimes as much as counsel.

**Senator FERRIS**—Indeed. Is it possible to provide us with those details?

**Mr Broome**—We will certainly see what we can provide. I gather it is a fairly old matter. It may well have been that the payment was made at the beginning of the year. It certainly was before I joined the authority, but I will ascertain what it is about and give you an indication.

**Senator FERRIS**—Perhaps when you are looking at that, you could look and see whether that is a normal cost involved in a case. That appears to be the only one there.

**Mr Broome**—It would be abnormal to have to obtain that kind of expert advice.

**Senator FERRIS**—Can I assume from that that it would be a white-collar criminal charge?

**Mr Broome**—Not necessarily.

**Mr Lamb**—I do not recall the specific matter because it was before I came to the authority too, but I do know that it was for the high level analysis of transactions to do with international movement of money.

**Senator FERRIS**—If it is fairly old, it should be possible to tell me what the result of it all was.

**Mr Lamb**—Yes. The expertise was not available in Australia and most of the information that had to be analysed was in Hong Kong. I think the decision was that it was far better to have someone from Hong Kong doing it than bringing people from the UK or the US and placing them in Hong Kong for a lengthy period of time.

**Senator FERRIS**—I thought you might have been going to say Majorca.

**Senator McGAURAN**—One of the great shock headlines that I recall from the *Herald-Sun* many years ago was that of Robert Trimbole on a slab, dead, I believe in Spain. The headline was, ‘Evil’. Indeed, it is a headline I remember and do not disagree with. That leads me to say that I notice from your report there are, under the court results, some three Trimboles in gaol—Joseph, Rosario and Dominic. I also notice there Francesco Sergi, a family name that was close in their relationship, I believe. That sounds like a good result. Are they related to that man on the slab? I say that crudely and crassly because Robert Trimbole was a notorious and, I believe, evil criminal.

**Mr Broome**—I do not quibble with your analysis of Robert Trimbole. I am very reluctant to get into debate about some of the people you have mentioned simply because there are a number of proceedings current around the country involving family names—not necessarily of Trimbole—that have been associated in the past with individuals. I am very reluctant to get into debate about that in a public session.

**Senator McGAURAN**—Are those people of the Robert Trimbole family?

**Mr Broome**—No.

**Mr Lamb**—Not his immediate family.

**Senator McGAURAN**—Are they related?

**Mr Lamb**—Yes, but what is related?

**Senator McGAURAN**—Are they from Griffith, those that have been arrested and subsequently been given gaol terms?

**Mr Lamb**—Some are, but I would have to take that on notice.

**Senator McGAURAN**—And what drugs have those Trimbole’s that have been gaoled been involved in?

**Mr Lamb**—It was a mixture. I think cannabis and other drugs came out of a Victorian operation called Afghan.

**Senator McGAURAN**—From the time that they were arrested to the time they were given their gaol sentence, how long did that process take?

**Mr Lamb**—Specifically, I cannot say, but I would suggest at least a year and maybe longer.

**Senator McGAURAN**—If it was between a year and 18 months, that would actually be swift, I would think, in getting the court—

**Mr Lamb**—It depends on the jurisdiction, of course.

**Senator McGAURAN**—Anything like three to five years is too long. If they are related to Robert Trimbole, and given that they have taken up the old man's business, let them know that the NCA—which is in the public interest and it is good public news—is pursuing this crime family.

**Mr Broome**—Can I respond without necessarily agreeing to the assumption in your question, if I may. The whole point of operation Cerberus, which has been the subject of a public report and so on, was to deal with issues which were obviously concerning law enforcement around Australia and had been for many years. The results that the authority was able to be involved with as part of the coordination effort show that it was possible to get significant results in a number of these areas where there had been less than spectacular successes in the past.

We were part of that, but we were only part of it. A lot of agencies around Australia worked on Cerberus and it delivered some very significant results. The message is that, yes, the authority is certainly interested in dealing with people who are involved in serious criminality, but not necessarily or in any way based on what their affiliations might be but simply on whether or not they have been involved in criminal behaviour. That is why I am reluctant to get into arguments about whether people are a part of families.

One of the things that came out of Cerberus more than anything was about the way in which certain crime associated with the Italian community had operated in Australia, and that was that it had not been anywhere near as familial as some people had suggested but rather it was much more entrepreneurial. That is not to say that there were not clearly people involved in some of these activities for a long period of time; they had been and many of them have now been dealt with by the courts. But I think what we did learn and what everybody learnt from that exercise was that it was not perhaps as organised in the sense of it being within the same community, as some had suggested. It was far more broad ranging and there were many people prepared to be involved because of the profits to be made.

**Senator McGAURAN**—One last question: I take it surveillance was the most significant factor in the arrest of the Trimboles?

**Mr Broome**—Mr Lamb might challenge this. But my guess is that surveillance is the most important issue in all of the work that we do, and that is one of the things that is obviously of some concern when that kind of capacity is reduced. You simply cannot get results without adequate surveillance.

**Senator McGAURAN**—I think at the last meeting—probably I am wrong otherwise you would have done it—but weren't you going to give us some briefing on

surveillance: the costs of surveillance, the manpower required. If not, could you?

**Mr Broome**—I think when we had the last private session with the committee we gave some information of that kind. I am happy to make some arrangements, Senator, to let you have the same information.

**CHAIR**—Just in terms of your commitment to make this a more helpful report—and I do not want you to go through every item—just looking at some of them, perhaps the nature of the charge could be spelt out a bit more. And maybe, if you thought it was appropriate, without reflecting on anyone, you could make some comment about it because, once again, take Rocco Barbaro in matter 28 sentenced to eight years with a recommendation for release after six months. You have to wonder what extent—

**Mr Melick**—That recommendation, Mr Chairman, has not been followed through. What happened was that he lost a leg, or part of a leg, in a family dispute or family shoot out, and the judge at the time of sentencing was not sure, because of the disability, how well he would be able to handle gaol.

**CHAIR**—I see. That sort of comment would be helpful, because anyone reading this would wonder. With other ones, it just says drugs, for example, and I notice that one guy who had drugs and hindering police copped \$50 for each. I assume that they were not \$180,000 prosecutions to get \$50 out of him and \$50 for being upset when he was arrested.

**Mr Melick**—Mr Chairman, can I just make a comment generally about that matter and something that was brought up by Mr Filing and Senator Ferris. It is very dangerous to try to put a cost on particular matters because the results are very hard to explain. An operation like Miasto which cost, say, a ballpark figure of \$1 million, produced four arrests. You could say that is \$250,000 each. They happened to be spectacularly successful. They also led to the arrest of someone the Hong Kong police have been after for 20 years and his trial starts in May.

The operation under Soke may or may not yield arrests. Even if they only yield one arrest, that arrest may cost us some \$2 million to \$3 million, but he will be a very significant player and may also lead to another significant player in Asia. And when you look at some of these fines that these people get it is sometimes the old Al Capone factor. You get a big player—I am not suggesting these people are big players; I am just being general here—for a small matter. Like Lennie McPherson: people were after him for 40-odd years and we eventually got him for four years and he died in gaol.

We know from our intelligence and hearing programs that we have significantly disrupted some of the organisations that we are investigating, despite the fact that the arrest resulted is a minor gaol sentence and some small fines. To my mind, that justifies the cost of the operation because these people are taking hundreds of millions of dollars

out of the economy each year.

For instance, in Miasto it was \$14.5 million in one year from four people. I think it is difficult to ask whether we are getting value for money that cost \$250,000 per person to put them away. I just caution about trying to put straight statistics like \$180,000—

**Mr FILING**—If you think we are being searching, wait until you get into the public domain and some of the people who are actually out to square off against the NCA. I am just pointing out that we are trying to ascertain what the explanation for that cost is and, if it is not adequately described in the annual report, then people who do not have any other access to you will not be able to tell.

**Mr Broome**—Exactly, I understand that. On that point, that is one of the difficulties that we have speaking publicly—and this is the problem with this morning's hearing. We can be involved in the arrest of somebody and we may have substantial material—I do not want to use the word 'evidence'—which leads us to believe that over periods of time very substantial sums of money have been removed from the country by the people concerned. In fact, a number of these matters are before the courts and I am very reluctant to talk about it in a public session; in private session we could be a bit more specific.

Let us assume we have got a case in which we can identify over a number of years a figure of \$50 million, \$60 million or \$100 million that has gone out of the country. It is a reasonable assumption that if the people remain unarrested that kind of behaviour will continue. One of the questions—it is a genuine question—is whether it is appropriate for the authority's performance to be measured in terms of stopping that kind of behaviour, bearing in mind that one of the difficulties is that we simply do not have the evidence to prove that those cash flows were money laundering or indeed were the profits of particular criminal behaviour, for the very reason that we did not catch them at the time. One can draw some conclusions and maybe on the balance of probabilities any reasonable person might be prepared to say, 'Yes, there is a fair conclusion that can be drawn'. That certainly would not satisfy a criminal standard—nor should it. But that is part of the difficulty in getting some sort of handle on these kinds of events.

If people have moved \$5 million, \$10 million, \$20 million or \$50 million over relatively short periods of time, it is clear they have not paid tax on that, it is clear that the mechanisms that are being used may also be used by others whose earnings may be legitimate but you can question whether they are using the same techniques to avoid their taxation obligations and so on. So there are some very difficult issues in all of that in terms of what one can say publicly.

Our difficulty is not being able to give the chapter and verse, as it would be quite wrong to do so in public for people who have never been charged or convicted of these matters, and yet there is evidence which is available. You cannot put it in an annual report

for the very reason that if I sat here and you asked me to justify our statement that we stopped a \$50 million money laundering activity', I would say, 'I can't really do that in public, Mr Filing. I can show you the records but I can't really justify that conclusion so I don't put it in'.

The second issue is that in the past we have, as I think has been reported, reported both charges and outcomes. The outcomes are more difficult to record because they often depend upon getting information from directors of public prosecution two or three years after the event when our officers who were involved in the arrest may have long gone back to their home forces and there are some real difficulties getting the information. By putting in the information about charges we are trying to give you at least the most accurate up-to-date picture of the kind of work we are doing.

However, there has been a serious question raised about whether we should in fact include that information—that it is in fact wrong to list the names of people charged and the nature of those charges until those matters are concluded. There are some very difficult issues in that. It is all a matter of public record if someone wants to go and find out. However, when it is produced in the annual report it is readily accessible to the press and to others, and it is accessible in a way in which I would argue is not publication in the sense of something being put on the public record which was not otherwise there. But it does raise some questions about whether people should be referred to by name in that way.

That is something which the authority has done for a number of years because it believed it was able to provide the committee and indeed the public generally with more recent information than it would be able to do if it waited for three-year-old court cases to be completed. We would be in more trouble trying to defend ourselves on the basis of three-year-old statistics, but there is a real dilemma in that. We can certainly try to subtext convictions, although there is always the problem of possible appeals and so on, but you certainly cannot do that at the stage of the original charge. And so sometimes you find that DPPs make decisions to change the charges. We may or may not be consulted in that process. It is, after all, their proper call at the end of day, and we certainly accept that.

It is very difficult sometimes to use those kinds of measures. I guess part of our problem is that it is only with a committee like this where we can in confidential session give you a greater feel for what is going on and that we can actually explain a lot of this.

**Mr FILING**—What I was going to suggest was maybe it is possible you could provide us with a supplementary document in camera that we can rely on in relation to any debates that might—

**Mr Broome**—We might touch on this when we come back to it. But there is the quarterly report—and there may be the same sort of comments about how that is presented—and there is information in that which we certainly do not feel able to be

making publicly available—

**Mr FILING**—No, I appreciate that.

**Mr Broome**—Which does, I think, give you the flavour. We appreciate the support, and we know that it is because you have got a better understanding. It is just a very difficult situation when you cannot really get out there in public and explain a lot of this material. It is as frustrating for me—and perhaps more so—than it is for you.

**CHAIR**—There are a number of general matters we wanted to ask you about while we were in open session. I have got one final question on the annual report and it has to do with page 36 under ‘Taxation and Proceeds of Crime Results’. Actually, the ANAO performance audit was not uncomplimentary generally about the performance of the NCA. I note that it says it has ‘a highly competent financial analysis capability’. One wonders why you needed to pay \$100,000 to Deloitte but I suppose that is history. No, that is not fair; I am being facetious.

**Mr Broome**—Can I say there are a lot of companies in Australia that pay a hell of a lot more than that for consultancy services on financial transactions.

**CHAIR**—I am being facetious. But just with table 3 relating to taxation and proceeds of crime results, the ANAO report says that the estimated value of criminal activity in Australia is between \$4.2 billion and \$4.7 billion per annum, of which 10 per cent comes within the Commonwealth’s responsibility—so that is \$400 million, I guess. This table here does not make any sense to me at all; it does not add up anywhere.

Once again, we are dealing, with the greatest respect to people that read these things, with simple minds that are looking for ammunition to fire at you, and they are going to look at this and wonder. Could you help us to understand what table 3 actually says, because I am used to looking at tables that have a total somewhere. I tried to add up a few of these figures and I cannot get any of them to add up at any point—

**Mr Broome**—But it does have totals.

**CHAIR**—Let alone to add up to \$400 million or any reasonable percentage of \$400 million.

**Mr Broome**—The heading ‘Cumulative Total’ reflects the cumulative total. That is, if you take the first line, under the Commonwealth Proceeds of Crime Act, in 1995-96, restraining action was taken in respect of \$1,890,000 by the authority. The cumulative total of amounts restrained under proceeds of crime since the NCA came into existence is \$33,114,000.

**CHAIR**—So that is since 1980 something.



**Mr Broome**—Yes, that is the cumulative total. If you go back and look at each annual report, you will see that these are year on year additions.

**CHAIR**—Are you bound to give us that cumulative information? Is that—

**Mr Broome**—I guess It gets back to Mr Filing's point. What we are trying to demonstrate there is the amount of actual assets which have been restrained, the amount which has actually being forfeited. That says much more about delays in the system than it says about capacity to restrain or whatever.

On pecuniary penalties, you will see that \$80 million or so pecuniary penalty orders have been made. What has been realised is in fact a very substantially lower sum. That is because the assets are within the jurisdiction to be got.

My argument would be, however, that we—and we have not done this in the past—routinely seek pecuniary penalty orders from the courts if we do not think there are any assets available. I think that perhaps there is a lot to be said for doing that because it means that the courts are going to be in a position to make some kind of independent assessment of how much criminality they think the participants were involved in. While it may not be recoverable—and this may not answer the critics who say, 'Where are the dollars in the tin?', as it were—it is a reflection of the seriousness of the behaviour of the people with whom we are dealing.

But that is one of the difficulties of this. It is clearly the case now that most of the people we are dealing with are removing assets from Australia extremely quickly. There just simply are not assets here to be restrained other than those which relate to the sort of activity which has led to the particular arrest. What has gone before has gone before. So that is one of the difficulties in this area.

As I say, I think for reasons of resources, and it takes time to do this in the court process, there has been a reluctance on behalf of the DPPs, and indeed we have not put a high profile on it ourselves, to get pecuniary penalty orders at the end of a trial; yet it is one measure which I think is much more relevant than perhaps some of the others. It is something we are examining.

**CHAIR**—The bottom line of the table is 'private recovery'. That is a cumulative total of a neat \$60 million. What is that?

**Mr Broome**—I will double check this, but I think it is the Bank of China matter, which in fact the amounts were recovered. It followed an investigation in which the authority was very heavily involved. But those amounts were in fact recovered by the Chinese government from the US as a result of the investigation which we carried out which traced the funds.

**CHAIR**—So would it be correct once again to add up the cumulative total column and come up with a total there and compare that with what was spent on the NCA since its inception to get some indication of how effective it has been at least in respect of proceeds of crime, or would that be very misleading?

**Mr Broome**—I think it would be extremely misleading, for the very fact that the \$80 million on pecuniary penalties merely reflects those cases in which prosecutors have sought and obtained pecuniary penalty orders. It does not reflect in any sense the totality of the criminal behaviour of which there may have been evidence to justify a conclusion being reached and being carried out. So it is a difficult thing to get a handle on in terms of the overall value.

Let us go back to the point Mr Melick made. If you arrest people and you seize 10, 15 or 20 kilos of heroin, you are able to freeze a few million dollars and you can trace a substantially greater amount which has gone out of the country over the recent past. You are getting some sense of the order of the magnitude, but that is not necessarily being picked up in the figures. I think street values are very dangerous figures because they seem to be inflated when it suits people.

But clearly in task forces in which we have been involved over the last 12 months there has been a very substantial amount, for example, of heroin seized. That is not going onto the street. It is therefore not earning the profits. But equally clearly, there is a great deal which has got onto the streets, which has earned the profits and which has got out of the country.

So the problem with these proceeds areas, and the problem which I think the ANAO report fails to address, is that a vast amount of the proceeds were never going to be recoverable because of the way in which the proceeds are dealt with by those involved in criminal behaviour. So it is a bit of a mirage in one sense. It is very real money that has gone and it is never going to come back, but your chance of getting it I think is very difficult.

**Senator McGAURAN**—For example, in relation to proceeds of crime, just so I can get an idea of what you collect, in matter 25, an investigation on page 27, you seized \$800,000 worth of cash. Would that immediately go into the proceeds of crime; that is what is counted?

**Mr Broome**—It would go into the funds which are administered by the Insolvency and Trustee Service. It could be taken out of that account only after a judge had made an order to forfeit the assets after conviction in the case of a federal offence. In the case of state offences—in New South Wales, for example—it is possible to get forfeiture before conviction and then it is a matter for the applicant to seek to have the money back, for example, if the prosecution is unsuccessful. There are slight differences there, but that is what would normally go. Of course, in the past it has then become part of the distribution

from the Confiscated Assets Trust Fund, which will now be distributed to other areas.

**Mr Melick**—Of course that money can also be made available for the legal defence of the people involved. Often those moneys become substantially reduced.

**Mr SERCOMBE**—You have spoken about the proceeds of crime in Australia being laundered offshore. Could you talk a little about the reverse, the proceeds in Australia? There was an article in the *Financial Review* a while back that purported to represent the NCA assessment on Japanese organised crime. I just wondered whether you had any observations about that, specifically with respect to Japanese crime but also funds coming into Australia from other countries for laundering purposes, particularly Chinese sources?

**Mr Broome**—I have no doubt that there are significant sums of criminal proceeds which are being invested in Australia and which are being laundered through Australia simply because Australia has a whole range of characteristics that make it a very, very attractive place to either invest and/or launder funds. It has an open financial system, money can be moved freely around in and out of Australia, it is obviously a good investment location—all the things that are in fact positives for the economy in general.

Of course, if you were sitting there thinking, ‘How would I launder \$100 million from somewhere else in the globe,’ Australia would look somewhat attractive. Another reason why it is attractive is that there is a fairly substantial volume of funds coming and going legitimately and therefore it is easier to hide any funds that you may be putting in.

What must be remembered, of course, is that often before the funds get here they may have been through a number of loops, so their origins are simply unknown. So you cannot with any certainty say that these are criminal proceeds being invested. There may be some transactions which one has evidence of which are somewhat difficult to explain, but that at the end of the day is not proof of anything. Certainly people are entitled to move funds in and out of accounts in Australia as they see fit.

As far as the *Financial Review* story is concerned, we carried out an assessment; that was part of the menu for us to look at that area. The general conclusions were that there was not substantial evidence of funds invested in Australia which could be traced to obvious criminal sources, but that is because the very nature of money laundering is to make the origin less clear. Usually these things would go through three or four sources before they end up here if this is to in fact be the place where funds are kept for some time. We may be part of a loop where it comes and goes very quickly. We may be an investment place because the assets can be liquidated fairly quickly if you want to access your funds.

Does it happen? Yes, it does. There has certainly been some world estimates, and they are very much ballpark figures. They talk about money laundering being the third

largest value activity in the world behind arms and petroleum. But in fact there is very little empirical work being done on the volumes for the obvious reason that it is a clandestine activity.

**CHAIR**—When we met with Mr Raymond Kendall—who is, I am sure you know, the Secretary-General of Interpol—he said that he was somewhat sceptical of the pursuit of money laundering in isolation, which he suggests was in the order of \$450 billion per annum worldwide. He described money laundering investigations as time-consuming, manpower-consuming and extremely difficult.

**Mr Broome**—Yes, he is right.

**Mr Lamb**—You are reliant on your foreign partners, a lot of whom may not necessarily see things in the same light as you.

**CHAIR**—On this ANAO report, has any progress been made to improve reporting between the tax office and the NCA on the level of the recovery of tax based crime?

**Mr Broome**—The level of reporting I think is in fact very significant and always has been. We are constantly in touch with Tax and running tax based investigations under section 3D of the Taxation Administration Act. Information is consistently being passed to Tax in accordance with those provisions and of course Tax then do whatever they will do with that information. Whenever there are significant assets involved or we believe that there have been significant assets involved in criminal behaviour, we certainly pass that information to the tax office.

The very points that Mr Kendall makes can be re-emphasised: it is difficult, time-consuming, resource-intensive and requires fairly expert activity to unravel a lot of these assets and to in fact establish the taxation liability and so on. I do not accept that there has been anything other than good cooperation with the tax office for many years in relation to the exchange of information in accordance with both our act and the tax act.

**CHAIR**—Are there any other members who wish to ask general questions? Mr Filing is out at the moment. I think he wanted to ask a couple of questions about organised criminal paedophile activity, so we might wait until he comes back. Relations with other security agencies have been an issue for you. In relation to the formal exchange of information, say, with ASIO, especially in relation to international targets, do you have a formal system of exchange of information with ASIO?

**Mr Broome**—I do not think there has been any problem between us and ASIO about the relationship. ASIO is not a law enforcement agency; its act makes that very clear. It will pass to us information which it acquires in the course of its activities which would be of interest to the authority—that is, which relates to what may be relevant criminal activity—and we would pass to ASIO information of which we became aware

which had a security implication.

Our international activities and indeed their international activities would not in the vast majority of cases coalesce, because ASIO is not interested in the activities of international criminals, in the general sense of that word, and we are not interested at all in those issues which fall within ASIO's remit. Yes, we have a relationship. Yes, we pass information. There is not a great volume of it going either way simply because our perspectives are in fact somewhat different, and that is to be expected and normal.

**Senator McGAURAN**—Have ASIO been very useful?

**Mr Broome**—In what respect?

**Senator McGAURAN**—I am sure they have been cooperative. Has their information been weighty and led to a bust, or are ASIO just on the fringes of these matters?

**Mr Broome**—Basically they are on the fringe. The sorts of people that ASIO would be taking an interest in under their act are going to be in large part very different from the sorts of people we are interested in. We occasionally will pick up, in the course of an activity that we are engaged in, information which may be relevant to them. I suppose an obvious area would be if, in the course of an investigation, there was some evidence that might suggest that possible politically motivated violence had taken place or was taking place. That is clearly within ASIO's remit and we would disseminate the information to them. But, essentially, we are just dealing with different spheres.

There are some more general questions about the information that may come to light in the course of intelligence operations, which may have relevance both for state police and for ourselves. There are now very well developed processes to circulate that kind of information—and, of course, very significant and proper constraints as well on what ASIO can disseminate and to whom, and, indeed, the same for us. But it is not a major issue. We would have—

**Senator McGAURAN**—A good relationship?

**Mr Broome**—Yes, we have a good relationship, but we do not seem to be dealing with the same kinds of customers. I guess that is it.

**CHAIR**—But, in that context, when we met with Mr Kendall he said quite a lot about the issue of information sharing. In fact, one of our recommendations after we had met with Mr Kendall was that the government take steps to ensure that there are no unnecessary barriers which would inhibit the flow of information and intelligence between security and law enforcement agencies. Are you generally satisfied that international cooperation, particularly, is being maximised to track the illegal activities of international

criminals?

**Mr Broome**—I think one has to distinguish, and be very careful about distinguishing, between the kind of information that law enforcement agencies gather in the form of intelligence and what some intelligence agencies—at least international ones—might also be in the business of gathering. I have read Mr Kendall's evidence. I am not quite so convinced that one needs to be freely passing information between law enforcement and international intelligence agencies. I would want to have some greater focus on that issue.

Our major links are with those international agencies who have mainstream law enforcement interests. Could the relationships be better? Obviously, around the world there would be circumstances where we would like to have better access, but better access is about reciprocity. Therefore, there are a whole lot of questions there which go much more to government policy than the NCA's operations. I know this is a point that Mr Filing has taken up in the past.

We have good relations with a number of overseas law enforcement bodies. As in a lot of things, we do as much as we can within the resources. Again just maintaining those kinds of links can be fairly resource intensive, because a lot of it is about building up understanding and trust with agencies and that involves personal contact and so on. So there are some inhibitions in some of that area but, in terms of this broad intelligence gathering in the national security type sense, I am just not quite so convinced that one has made the case out yet or that, indeed, it is sufficiently described before I would be saying, 'Yes, it's a good thing' in the way that Mr Kendall seemed to be suggesting, almost without qualification.

The other point that Mr Lamb makes is valid. That is, Kendall's experience in Europe is very much driven by what has happened in Europe with the changes in the former Soviet Union, the developments in central Europe, the way in which security and law enforcement agencies in those jurisdictions have sometimes found a much greater coming together of their customer base than might have been the case, for example, here. I think there has been some evidence of that kind of behaviour in Europe and I can see that Interpol is saying that of course it would like to have greater access to some of this information—bearing in mind that Interpol is essentially an international post office rather than an organisation which investigates things in its own right. That is the other question that you have to focus on, that its members have access to its database. Therefore, there are inevitably going to be some limitations on the kind of information that will find its way onto their information bases—for reasons that I think are fairly clear.

**Mr FILING**—The next subject is organised criminal paedophile activity. The NCA has been undertaking strategic assessment since March 1994. What is the current status of that assessment, and when are we likely to see an outcome?

**Mr Broome**—The current status is as I advised the committee on 22 October. That is, we have essentially completed the report; it is with other agencies for final comment; it will then be circulated to agencies that have contributed to the assessment. The question of whether there will be a public report, and the nature of that public report, will probably be a matter to be considered by the intergovernmental committee. So in a sense it is exactly as we talked about it back in October. I do not envisage our report, in whatever form, becoming a public document until after the intergovernmental committee meeting in the middle of the year.

**Mr FILING**—Given that the revelations from the Wood royal commission, particularly in more recent days, tend to contradict the evidence that was given to our committee's hearings earlier in the piece, we would have a great interest in seeing that. What would be the impediment to our getting to see that as soon as the IGC does?

**Mr Broome**—I am not sure that there is a particular impediment. However, I think it is fair to say that the normal process with intelligence assessments that the authority has been involved with has not been to make them available to the committee. I am not ruling it out; I just would want to take the question on notice. I am still not convinced, I have to say, that even in relation to the recent revelations—although maybe there were some things this week when I was not in Australia—a lot of what has come out in the royal commission, about which they will make their own conclusions, is inconsistent with what this committee's findings were in its earlier report.

**Mr FILING**—Except that in the earlier report the conclusion was that there was no evidence of organised paedophile activity, whereas evidence in the royal commission last week pointed to there being organised criminal activity. I am just talking about the only way we are going to be able to tell. If, for instance, it is clear that the committee's findings may have been in error, then we would like to know about it as soon as possible—bearing in mind, of course, that we also took an interest from the word go, as soon as that menu of inquiries was published in the CLER report, we in what the NCA's response was going to be. Obviously, it would be of assistance to us if we could see it.

**Senator FERRIS**—I was just going to point out to Mr Filing, who was on the committee, that one of the major recommendations is that there was no evidence to suggest that organised paedophile groups have ever resembled what is traditionally thought of as organised crime. Do you still stand by that?

**Mr Broome**—I am reluctant in a public session to be trying to categorise in a couple of sentences what the whole assessment might come up with. The assessment is a very long, detailed document. Let me say this: I have not obviously been privy to all the evidence which is available to the royal commission, although I have certainly followed the 'revelations' that have come out of the royal commission over the last few months. There has not been, from what has been publicly reported—and I stress that because I do not know what is going on in the royal commission behind the scenes—relevant criminal

activity of the kind that is organised crime that our act talks about.

There is not yet evidence which has come out in that context of which I am aware—and let me exclude the last week because I have not been here, I have been overseas—of relevant criminal activity that our act talks about, despite a lot of debate and assertion and comment to the contrary. I do not think there has been substantial evidence, in what has come out, of relevant criminal activity of the kind that is organised crime that our act talks about. That is not in any sense to downplay the issue but there is no evidence that suggests there is organised criminal behaviour of the kind there is in relation to drug trafficking, for example, in relation to paedophile behaviour.

**CHAIR**—We discussed that with Mr Kendall. I think he expressed a view about—

**Mr Broome**—He made passing reference to events in Belgium and seemed from that to draw a conclusion that there was some sort of international paedophile activity. I think that is part of the difficulty with this issue. It is terribly emotive and one has to be very careful to actually analyse the facts before you jump to a conclusion. That is all I have tried to do in this whole debate.

**Mr FILING**—I can recollect that in the case of my former police force, the Western Australian force, they went from having no problem to having a problem and then, some nine months later, the head of the child abuse unit was saying it was in crisis and that they were under-resourced. Clearly, there was a—

**Mr Broome**—There is a huge difference between there being a major child abuse problem and, indeed, a major paedophilia problem in terms of one to one activity, and there being organised criminal behaviour in relation to paedophiles.

**Mr FILING**—I appreciate that—

**Mr Broome**—That is the distinction I am trying to draw.

**Mr FILING**—Yes, of course. What was asked of the WA police force in the first instance was precisely that: was there evidence of organised criminal paedophile networks? In the first instance they said no but then they changed their mind. Then later there was this allegation by the head of their unit that they had a serious problem with it, not with just child abuse, but with that. That was why, at the conclusion of our report, there was some difficulty—certainly in my case—in accepting the view that there was no evidence. Of course, we had a hands-off relationship with the Wood royal commission for obvious reasons. I am just conscious of the fact that given some of the things that have come to light, given the more recent material in relation to organised activity, whether—as my colleague Senator Ferris is interested in doing—it would be possible to get a private briefing on the report that you are preparing as a result of your strategic overview.



**Mr Broome**—We can look at that. I am somewhat between a rock and a hard place in the sense that as much as I think we have demonstrated our willingness and preparedness to cooperate with this committee, I have also got a second statutory committee made up of the relevant ministers who also have a very strong interest in this area. I have been very conscious of the fact that, as with the Cerberus report, there was a process developed in that context about how we took the matter forward. Can I just take it on notice?

**CHAIR**—Sure.

**Mr Broome**—I will get back to the committee very quickly with our reaction to it because we will need to think about it and then we can take it forward from there.

**Mr FILING**—Just on that, I notice from this report that the IGC only met once in the period covered by this report.

**Mr Broome**—Yes.

**Mr FILING**—I would have thought that if that was the case then the next time they are going to meet to listen to a report from you—

**Mr Broome**—They meet twice a year. The reason they only met once in the reporting period was that the meeting in Brisbane last year was held on 3 July and, therefore, was outside the reporting period. They will be meeting on, I think, 11 June and 12 June this year, and they met in November.

**Mr FILING**—We have commented on a number of occasions that the IGC spends a very small amount of time considering the NCA.

**CHAIR**—This committee meets twice a month. Anyway, you have taken that question on notice. I just should make the point that there have been recent reports on international paedophile activity on the Internet as well so that does add another dimension to the whole problem.

**Mr SERCOMBE**—Could I invite Mr Broome, and obviously without disclosing anything that might be in the intelligence assessment, to say whether or not intelligence assessment does consider issues in relation to communication by electronic or print media of paedophile material?

**Mr Broome**—Yes, it does address the issue but again one has got to be careful about drawing the distinction between the communication of information, particularly on something like the Internet where it only takes an individual to start circulating material, and whether that amounts to anything which is organised and of the kind that we are interested in.

One of the things I have been very concerned about is that an assumption has been made that this is an area in which the authority could, or should, be involved. If there was relevant evidence of conduct in relation to paedophilia, and leaving aside the definitional problem because most jurisdictions do not necessarily define the problem in the same way, even if those problems were overcome, and if the IGC believed that it was something which we should be given references in relation to, then clearly so be it.

My own view is that it is difficult to sustain the proposition that it could or would fall within the relevant criminal activity definitions in the act. That is not in any sense to suggest it is not serious, it is not important, it should not be dealt with. There is a hell of a lot of serious crime that we do not get involved in. I think there is that sort of issue.

**Mr FILING**—Other than the fact that the Commonwealth law enforcement review suggested it for you.

**Mr Broome**—Sorry, it suggested an assessment should be carried out—

**Mr FILING**—Yes, I appreciate that.

**Mr Broome**—in the same way it suggested an assessment should be carried out about a whole range of things. One of the results of those assessments has been the conclusion that in a number of cases there is not an issue. That was the whole point of doing the assessment.

**Mr FILING**—I appreciate that but given that the report was published in 1994 and you have, in fact—

**Mr Broome**—This is one of the later ones to be finished and one of the—

**Mr FILING**—It is one of the ones that has taken longer than others in the menu.

**Mr Broome**—One of the reasons why it took time was that the royal commission was established. We have worked with them in the sense that we have provided information but we have also had access to material which they have had. So it has been a process of trying to develop a relationship, bearing in mind the latest available information, and that has been part of the problem.

**Mr Lamb**—And we only have x amount of analysts, we have to work our way through it.

**Senator FERRIS**—But honestly, going back going back to your role and function here, I would have thought that the community would value equally highly any focus on this sort of activity on a national basis, as it would to some of those drug charges with the very small penalties. I accept that the penalties are outside your control.

I am not sure if any of you saw the program on Channel 9 yesterday morning which was an examination of case studies of three child murderers who were found to be paedophiles. That did seem to me to raise very important issues of legal principle, which I want to explore with you in the private session. I am just interested in the fact that because it does not have organised criminal activity, in your opinion, then you are saying it falls outside what you believe to be an area on which you might focus in a national sense.

**Mr Broome**—It falls outside the area which the parliaments, plural, the Commonwealth and all of the states and territories, have conferred upon us. Like any statutory authority, we are a creature of our statute. Unless and until you can establish that that kind of behaviour fits within those elements within our act, the definition in section 4 of relevant criminal activity, we cannot act. It says nothing about its importance, its seriousness or its abhorrent nature. Unless it fits the definition then it may not be something which the authority, as the act currently exists, could be the subject of a reference being given to us.

**Mr SERCOMBE**—Serial murder is pretty serious too but that does not make you chase around Belanglo Forest.

**Mr Broome**—Exactly, because one of the elements is the notion of the number of people being involved, of repetition, of sophistication, of complexity. It may well be quite difficult to sustain the proposition that paedophile behaviour fits within that definition.

**Senator FERRIS**—I would have thought that evidence over the last week or so to the royal commission might have justified some of those descriptions being applied to it.

**Mr Broome**—At the end of the day, whether governments give us a reference will depend on whether the ministers wish to do so. But, more importantly, having been through what we have been through recently I think that everyone is going to err very much on the side of caution in issuing references unless it is clear that the behaviour falls within the definition. It would be, to say the least, a rather troublesome thing to conduct an operation for two or three years and then find that when we got to court the evidence was being ruled out because we should not have had a reference in the first place.

**Senator FERRIS**—I could not agree more. I am just concerned about the credibility of this committee—and I am a very new member of it—and the credibility of the NCA when just 18 months ago we were all party to some findings which indicated that there was no organised—

**Mr Broome**—But part of the reason for that is that the limits on our jurisdiction to investigate using our special powers are not the same limits which, under the act, circumscribe the subject matter that the committee can examine. What happened was that the committee went off and did a report on paedophilia, which it was able to do under the statutory charter it has. But the committee's capacity to investigate a matter and to issue a

report is not coextensive with the powers that the authority is able to exercise. That is where the difficulty arises. As I say, none of us would want to suggest that we do not regard the matter as extremely serious—of course it is. But the assumption that because it is a serious matter we should necessarily investigate it ignores the question of whether it fits within the definition and, indeed, whether governments would be prepared to give us a reference to look at it, assuming that such a reference could be issued.

**Senator FERRIS**—I understand the confusion and difficulty that you have. I am merely pointing to the difficulty that the public would perceive that you have.

**Mr Broome**—I am used to that.

**Senator FERRIS**—Perhaps they would not understand that you are constrained in that way and they might wish that you were not.

**Mr Broome**—With great respect to the committee, its constant referral to this issue when we give evidence and in other contexts does not help that public understanding. There is an expectation that, because the committee talks about it, it must be something which the authority can deal with. I think that is part of the difficulty we have had to cope with.

**CHAIR**—Okay, but it is on your menu of work and I think, as you said, the time will come when we might be able to be aware of what the end of that strategic assessment will be. That might put the matter somewhat to rest.

**Mr FILING**—It might get us off your back.

**CHAIR**—Exactly. Can we move on to something else?

**Mr Broome**—You are very persuasive, Mr Filing.

**Mr FILING**—Is the authority aware of the status of police inquiries into the 1994 bombing in Adelaide? Do the South Australian police keep you informed of its progress?

**Mr Broome**—They keep us generally informed of progress. In fact, yesterday was the third anniversary of the bombing. They have been keeping us generally informed of progress. As I understand it, they have also been keeping Mrs Bowen and Peter Wallis informed of progress. But, clearly, as I have said, these are matters for the South Australian police and not for the authority. I do not feel able to say anything other than that I am generally aware of where the matter is going.

**Mr FILING**—Have you had any response to the \$500,000 reward that is offered?

**Mr Broome**—We would not have had a response because the response would go to the investigating police, who are in South Australia.

**Mr FILING**—How successful, as a method, is that generally?

**Mr Broome**—I am aware of some cases involving the authority where it has been quite successful.

**Mr FILING**—Mrs Bowen has recently received \$372,000. I am told that is still going through the courts, is that right? Without intruding on the sub judice nature of that, would that be the full extent of the compensation or are there other avenues of claim, as far as you are aware?

**Mr Broome**—The short answer to that is: I do not know. It will be a matter for her and her legal advisers as to the basis on which any payments are made to her and any arrangements are made in relation to them.

**Mr FILING**—With regard to Mr Wallis's loss of an eye, what compensation is being arranged for him?

**Mr Broome**—My understanding is that Mr Wallis has received certain entitlements under Commonwealth Comcare legislation and continues to do so.

**Mr FILING**—In other words, you are satisfied that he has been fully compensated for that loss as a result of the injuries inflicted on him?

**Mr Broome**—It is not for me to determine those questions. It is a question of the conflict—

**Mr FILING**—As far as you are concerned, as chairman of the authority? He is one of your personnel.

**Mr Broome**—As far as I am aware, he is getting all of the benefits to which he is entitled, as he should do.

**Mr FILING**—For instance, you would not consider it appropriate to make an application to the Attorney-General for him to receive an ex gratia payment?

**Mr Broome**—No because it would be an application that he would make, not me.

**Mr FILING**—Why is that?

**Mr Broome**—Ex gratia payments are normally made on the basis of either an application by the person concerned or, in the case of a death, by those who are acting on

their behalf. That is the normal process and that is what has happened in this case, as I understand it. As far as I am aware, Mr Wallis has made no such application.

**CHAIR**—On behalf of the committee, we appreciate you sending us a brief on the theft of the computer. Whilst there are some elements of that that probably remain unsatisfactory from both your point of view and from ours, nevertheless we appreciate the comprehensive advice you gave us on that.

Just on the recent charging of Mr Kasar Karlos, I understand your enthusiasm to put out a press release to explain the NCA's role. I do not have a real problem with that other than wanting to be sure that the facts were right before you did that. Is the general principle of putting out a press release to announce an arrest a good one? Secondly, in relation to that particular matter, as it actually occurred in my part of the world, I understand there was some dispute about whether he did or did not own the Sydney escort agency.

**Mr Broome**—I do not want to get into statements about the facts in that particular case in a public session because the matter is before the court. As to the general principle: yes, the authority normally issues a factual statement of the nature of the charges which are made after the person has been charged. It does so in accordance with long established principles, which are followed by every law enforcement and other regulatory agency in the country. I do not think we do, and I would certainly be opposed to us doing, what some others may do in terms of detail and material. We keep it very much to the core facts, which are on the public record because the person has been charged with those events. We then try, as far as possible, to make no further comment on the matter while it is before the courts. But, in every case, it is something which has been made public because it is a matter of public record. That is the general policy. Have we done it regularly? Yes, we have. For all of the major operations in which we have been involved, certainly since I have been with the authority, there has been a press release of that kind issued.

**Senator FERRIS**—Do you have an established set of criteria? In other words, does it have to involve a particular amount of money or does there have to be a certain degree of seriousness of the crime? I am interested that the NCA would put out a press release relating to somebody being arrested and charged. Do you have a set of established criteria by which your public relations person actually knows to start preparing media releases?

**Mr Broome**—We usually know in advance that an operation is going to be executed. So, yes, there is an opportunity to prepare something in advance. That is a fairly standard practice. The guidelines we operate under are very simple. We will summarise the nature of the charges, and you will notice in the particular case to which you are referring that we do not name individuals. We are, I think, at pains to provide the least amount of information which we can, consistent with hopefully ensuring that the matters,

when they are reported—inevitably they are reported because they become matters of public record in any event—are reported with some degree of accuracy.

Quite frankly, one of the reasons for putting out press releases is to ensure that, as far as possible, what is reported is consistent with what has actually happened in terms of the nature of the charges and so on. It is sometimes the case that journalists may not understand the nature of some of the offences, and we think it is important they get it right, but we certainly try to keep the details to a minimum and we do it in respect of any major operation which leads to arrests and people being charged.

**Senator FERRIS**—Why didn't you use his name, given that he had already been charged and bailed and his name was very easily available to journalists?

**Mr Broome**—Because, as a matter of course, we try not to name people. If the matters get reported by the press, then they have the material to fill in the factual gaps. If they do not, quite frankly, as far as I am concerned, that is fine. I have been around enforcement agencies long enough to know that certainly this is completely normal. It is considerably more understated than some agencies and very deliberately so. We have a strong policy that we will put the factual material out and we will keep it as understated as we can.

**Senator FERRIS**—I am not trying to pursue it and I am not disagreeing with you putting out the press release, but I find it interesting that there is a good deal of detail in this which may not have come out in the preliminary hearing and yet you have not named the man. You are suggesting that journalists can get all of this material but then they have to run down to the court and get the man's name. If you think it is serious enough to put out a press release on it, I am just surprised that you would not actually go that last extra step and name them. There is a great deal of detail in here.

**Mr Lamb**—He is named in the annual report.

**Senator FERRIS**—Yes, that is right. He is named in the annual report.

**Mr Broome**—No, he is not.

**Senator FERRIS**—He will be.

**Mr Broome**—That is the difference. By the time it gets to the annual report—

**Senator FERRIS**—But it seems to me to be splitting hairs. You have put in every single thing about this case—and I do not disagree with that—

**Mr Broome**—No, we have not.

**Senator FERRIS**—There is a good deal of stuff here that would make a very good story and yet the journalist has to ring the local court or run down the road to find out the man's name. I am just interested in that point.

**Mr Broome**—If we put the names in we get criticised for doing that as well.

**CHAIR**—We might just draw this open session of the hearing to a conclusion.

*Evidence was then taken in camera—*

**Committee adjourned at 12.14 p.m.**