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COMMONWEALTH OF AUSTRALIA

JOINT COMMITTEE

on

THE NATIONAL CRIME AUTHORITY

Reference: Secretary-General of Interpol

CANBERRA

Thursday, 5 December 1996

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JOINT COMMITTEE ON THE NATIONAL CRIME AUTHORITY

Interpol

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Present

Mr Bradford (Chair)

Mr Filing

Mr Truss

Mr Sercombe

Mrs West

The committee met at 11.07 a.m.

Mr Bradford took the chair.

Mr Raymond Kendall, Secretary-General of Interpol

CHAIR—I declare open this meeting of the Joint Parliamentary Committee on the National Crime Authority. This is a public hearing and today we welcome a distinguished visitor to Australia: Mr Raymond Kendall, the Secretary-General of Interpol. Mr Kendall has kindly accepted our invitation to appear today to brief the committee about Interpol's operations and to give us the benefit of his considerable knowledge and experience in relation to the international law enforcement situation.

I should say that my colleague Paul Filing, was largely instrumental in facilitating this meeting. As he will probably take the opportunity to tell us, Paul actually visited Interpol headquarters in Lyon some time ago and spoke very highly of that facility. When we heard that Mr Kendall was to visit Australia, Paul was very keen for us to organise this meeting. So I would like to put on record my appreciation.

Welcome, Mr Kendall—or, Ray, to be a little less formal. I wonder if I might ask you to kick off the proceedings by telling us a little about Interpol. It is probably a bit of a mystery to most Australians. We do not come in contact with it on a day-to-day basis. If you could tell us a little bit about it and perhaps give us a description of its role and functions, I am sure there will be a number of questions that committee members would like to ask you. Welcome and thank you for being with us.

Mr Kendall—Thank you very much for giving me the opportunity while I am in Australia to speak with you and perhaps answer some of your concerns, particularly from the international point of view, which is the area that I obviously am concerned with.

In so far as the Interpol organisation is concerned, Interpol is simply the telegraphic address by which the organisation is known, but it is the International Criminal Police Organisation, which is an intergovernmental organisation of 178 member countries, making it the second largest international organisation after the United Nations. We might say it is a sort of United Nations of policing and international law enforcement.

Without wishing to take up too much of your time with explanations, I could give you a brief overview as to what our function is, what we do, and how we are controlled to a certain extent. I know that the general public could have some worries about the way in which an international organisation which seemingly does not have national control by anybody handles information, and things like that. We are really the organisation which provides the tools which enable the national police forces of the 178 member countries to cooperate together. I insist on that, because one of the very clear indications in our constitution is that there must be an absolute respect for national sovereignty.

Why respect for national sovereignty? Simply because, unlike the opinion that may appear from certain writers of mystery novels and things like that, we are not a super-police force which intervenes from the international point of view and has a number of

James Bond types running around the world, carrying out investigations. That is not the case. We do not have an operational role. The nearest we ever get to that is by sending one of our officers when a country calls upon us for assistance. I should say that our headquarters in Lyon, in the centre of France, has about 350 people working there, of whom just over 100 are police officers from 60 different countries. We do have a member of the Australian Federal Police, who happens to be in charge of our drugs operation. So Australia has an important role to play in that area.

People say that 350 people for Interpol is not very many. But you can say that the organisation is as small as its headquarters or as big as the police forces of all its member countries. It is important once again to insist on the fact that it is the national police forces who are responsible for implementation of any operational action. I would not be able to come into Australia or send anybody to Australia to carry out any kind of investigation. From the moment some kind of operational action is required, that would be provoked through a request coming from us or from another country to the Interpol office in Australia—which happens to be in the Australian Federal Police here in Canberra—and if there is any need for that to go to a state force for action, then that would be coordinated in that way.

The other part of our constitution which is important to mention is that we do have an article which forbids us from intervening in matters of a racial, religious, political or military interest. Some people may think that because we are not allowed to intervene in those sorts of issues, and particularly when it relates to religion or politics, this would prevent us from dealing with terrorism. This is far from being the case. We have the theory, which is known to most lawyers, of the preponderance of the action in something like this. In other words, what interests first of all is whatever has happened—the facts of a case. So if there is a terrorism incident, whatever the alleged motivation may be, it is the criminal offence that has been committed—an assassination, a bomb attack, destruction of buildings, hijacking of an aircraft—which interests us, not the motivation.

There is very considerable cooperation concerning terrorism throughout the organisation, but it is important to mention the fact that that article in our constitution is intended to be sure that people are not the subject of international cooperation simply because they may have expressed some opinion, however extreme it may be. Those sorts of issues are excluded from cooperation in the same way as a military deserter would not be the subject of requests through the Interpol channels. So those are the restrictions.

I should explain that we do provide the tools for international cooperation amongst police services. What are those tools? The first and major tool for us is a secure, rapid and efficient means of communication. All the countries in our organisation are linked by this very efficient communication system which is available on a 24-hour basis throughout the year for communications purposes. There are something like one million messages a year that go through the system, as far as the centre is concerned. But a lot of bilateral cooperation goes on as well. So, first of all, there is a secure communication system.

Secondly—and I think this is perhaps of interest to many citizens in our member countries—we do have an international database of people who carry out criminal activity of an international nature. We are not responsible for repeating or duplicating what exists in national systems. We are only there to keep records on the people who are truly active from an international point of view. If somebody said to me, ‘How many people is that?’ I could tell you that at present—although the internal content of this record system may change—there are approximately 250,000 individual files on people who would be considered to be currently active.

We are very conscious of the issues of data protection, of not wanting to keep information any longer than is necessary and not keeping information which does not concern our direct function. Therefore, we do have weeding rules. The basis reference period that we have fixed, after much study of the question, is five years. If somebody is not active for longer than a period of five years they will be pretty well automatically removed from the record system unless there are specific reasons, such as a man still being wanted in a member country, or something like that.

We are not in the business of keeping information about people any longer than is absolutely necessary and we are very strict on that part of our role, in the same way as we are very strict about the kinds of people who happen to be the subject of international ‘wanted’ notices. Those international wanted notices—people who are wanted for extradition—are issued at the request of member countries. Those notices are reviewed on a yearly basis to be sure that they are still up-to-date and that a country is still willing to exercise its request for extradition. As you may well know, from the national point of view you may want to request extradition for somebody right now, immediately after an offence has been committed, but as time goes by there may be reasons why extradition would not be requested at a later date—expenses of trial, and so on. So we are continually controlling that situation.

Is there any independent body that controls the way that I, as the custodian of those records, go about keeping them, and so on? The answer is that there is. We have an independent supervisory board which is headed by a judge, at this moment, from Belgium with two members of national data protection bodies. These people are totally independent in the sense that they can, at the request of a citizen of any one of our member countries, check the records to see if they are being kept in the manner for which they are intended constitutionally, that there is no abuse, and that the information in those records is properly kept. That board has been in existence now for something like 10 years. The regulations that we operate internally correspond to the minimum standards that are required in the European Union countries for data protection criteria. I wanted to make that very clear because I know that sometimes people think that information going into the hands of an international body where there is not direct national control could mean that people are put at risk.

The other thing that I would like to say is that because I am really the guardian of

records and information that comes to me from somebody else, the people who control the information in my system are the people who put the information into the system. That means that any country that wishes to take part in any type of international cooperation has a series of decisions to make. The first decision, obviously, is that you do not give the information to anybody. That is your first option. The second option is that you are quite happy to put it into the international records centre, but you do not want it to go to anybody else. Or you can say, 'We would be happy for it to go to this country, or this group of countries, but not to others.'

All this is possible these days with computer technology and, on a daily basis, we are regularly applying those sorts of criteria. So, if you hear somebody having reservations about putting some information into the Interpol system because we do have a certain number of countries who may not be viewed with the same credibility as others—and I am thinking, of course, about state-sponsored terrorism where we have Iran and Libya as members and other countries that have, on occasions, been accused of sponsoring state terrorism—the type of selection process which it is possible to exercise technically means that your information only goes to the people you want to have it. It is important that the members of the public should know that.

This international records system is a very important tool in this whole question of international cooperation because that database also permits us to carry out a great deal of analytical work on crime trends, on the actions of certain groups and individuals, and the links that they may have with other individuals. All that is the kind of work of an analytical nature which is going on on a daily basis within the secretariat.

We also have a particular role in relation to the United Nations because we are the body which issues all the international notices for the War Crimes Tribunal in The Hague which was set up to deal with the problems of former Yugoslavia and which has continued into the problems of what is going on in Rwanda right now. We are responsible for issuing the international wanted notices as far as that is concerned.

How are we financed? We are financed in similar ways to other organisations in the sense that our member countries pay a contribution which is based on a certain number of criteria, such as, population, gross national product, and so on. There is one important difference between our organisation and what are known as the coordinated organisations under OECD rules. We do not have one country that pays a considerable amount more of its budget than others. In other words, the United States does not pay 25 per cent of our budget. Six countries pay the maximum contribution so if any one of them wished to withdraw from the organisation or wished to try to exercise some particular pressure on me as the secretary-general, it would be extremely difficult to imagine that happening. I personally regard that as a healthy situation.

Our total budget at this moment in time is in French francs. It is 150 million francs. If you divide by five, that gives you the number of US dollars. In my opinion, it is

a very small budget for an organisation which is dealing with what is considered to be one of the major problems in our world today when it comes to international criminality.

The last thing, by way of introduction, I would like to say is that I have noticed in recent times that such groups as the G7 summit meeting, which was held in the middle of this year in Lyons, have decided that their priority has to be the fight against terrorism, organised crime and drug trafficking. I strongly believe that is probably the biggest threat to our democracies today, now that the traditional east-west conflict is no longer there in the same way as we saw it before. Perhaps the kind of resources that should be put into this type of activity should be increased to a certain extent, or at least reorientated, to indicate that we do see this threat, nationally and internationally, as being a very serious one to our societies and our democracies. I say that, of course, because these organised crime groups, nationally and internationally, create such enormous resources that they are able to corrupt our institutions, be they police, political, administrative or even parts of our business community. All these things can be corrupted at a fairly high level because of the enormous resources that these people have.

I have given a rather brief introduction and I would be very happy to get into any detail that you may be interested in. To conclude my remarks, there is one structural issue which I will outline. Our principal policy-making and governing organisation is a general assembly which meets once a year. We also have an elected executive committee which meets two or three times a year. That committee is the committee which oversees, if I may put it that way, the implementation of policy action which has been decided in the general assembly by myself and by the secretariat and by the member countries as well.

Perhaps that will give you enough, Mr Chairman, for you to raise some issues or questions that you would like me to discuss specifically.

CHAIR—Thank you. That invitation will lead to a number of questions from my colleagues. Firstly, you mention the similarity with the United Nations. In fact, you are saying that Interpol, at 178, is the second-biggest organisation in terms of country membership. In that sense, I suppose you are the Boutros-Ghali of Interpol except you have been reappointed for a further five years and he has not. You mention Interpol's general assembly. Who attends that? I notice the last one was held in Beijing. In regard to the executive committee, has Australia had a representative on it in the past, or is it desirable that we should have? If so, how do we go about getting an Australian on the executive committee?

Mr Kendall—First of all, the general assembly's representation has evolved over the last few years in the sense that there is much greater interest at the political level in what is happening in the organisation. We are more of a technical professional organisation than a political organisation in the sense of the United Nations. So the delegations to the general assembly usually comprise police or law enforcement officers. We have seen in recent years more and more delegations including in their delegation somebody who

represents government, or government departments, at any rate. So, for example, in the United Kingdom delegation there is usually somebody from the Home Office. In the German delegation, there is somebody from the Bonn administration. We are seeing that, as political interest develops in matters of criminality, then the type of representation on those delegations is changing. Some policemen will regret that, but I personally welcome it because I think that if governments contribute to our budget then it is right that governments should have an interest in what we are doing. And that is why I welcome the opportunity to speak to your particular group.

I believe also that our organisation has embarked upon a policy of many more regional and sub-regional activities than we ever did before. There was a tendency probably to want to over-centralise, but the reality today is that the problems of one continent are not the problems of another, and the level of development of one continent is not the same as the level of development of another. You cannot prevent an organisation evolving simply by either dealing with the most developed or the least developed. So we found that this regionalisation policy, which we have developed over the last two or three years, is now working very well.

It also permits us—and I will come to the Australian role in a moment—to get the benefit from the increasing number of groups of countries that are linking together for, essentially, political-economic reasons. And so, in addition to the European Union which is an obvious one, you have the MERCOSUR agreement for Latin America, the NAFTA agreement for North America and the ASEAN group in Asia. There are many others too.

It is inevitable that those sorts of groups will become interested in their own internal security. If we want to take advantage of that, then we cannot say, ‘You can’t do that on a regional basis, you must fit in with a global strategy.’ Well, we do. And I strongly believe that, crime being the way it is today, from the international point of view we do have to have a global strategy.

But that does not mean that we cannot take advantage of this political will that people have to develop certain action in regions. We have found, notably in the MERCOSUR in South America, that the ministers of interior there have agreed that we are the proper channel through which they should develop their action. We have not seen, apart from the APEC group, to what extent you have that sort of development in this part of the world. I think it is less developed perhaps than in other areas. But I do believe that in anything that happens in South-East Asia and the Pacific area, I would have thought that Australia must be in a position to take a lead role in international cooperation in this region, as far as police matters are concerned.

There is a tendency, I know, to regard this area as having almost one well-developed nation as compared to rather a lot of less developed or even underdeveloped nations, but I think that Australia could perform a role. We have never had an Australian member on our executive committee. I do believe—and I do not think I would be giving

away any secrets because I just happened to speak to the Attorney-General about this—that it would be more than appropriate that there should be representation on our executive committee from this part of the world. The representation is broken up by continents and Australia is part of the ASEAN continent, which is an enormous continent. In my view somebody from Australia would be most appropriate on the executive committee, which is really the body which deals with the development of policy.

The members of the executive committee are elected by the General Assembly and this means that our general assemblies usually take place in October. If an Australian wished to become a member of the committee, then that sort of thing has to be properly prepared. The interest in being on the executive committee in our organisation has become more and more a source of competition—not only competition between the police representatives but also even competition at the diplomatic level, because these days the campaigns for membership of these committees do take place at government and intergovernmental level. So it is the sort of thing that has to be properly prepared.

CHAIR—You met, of course, Bob Sercombe and Paul Filing. But Andrea West has come in since and would like to ask you questions.

Mrs WEST—What credentials would the nominee or person have to have?

Mr Kendall—We do have a paper which indicates the kind of qualities we expect. We expect the person to be somebody who has an influence on decision making in his own country and therefore must be somebody at a very senior level, usually in the police structure within their own national organisation. It can go beyond that because our US representative, at the moment, is an undersecretary of state to the Treasury. So you can see that it can go even to a high level in government. That undersecretary to the Treasury, for enforcement in the United States, is the former commissioner of the New York city police so it is very clear there is a law enforcement background. Since most of the issues we are dealing with are law enforcement issues it is proper that, at the very least, it should be a very senior police official.

Mr SERCOMBE—I notice that you are visiting Australia primarily to speak to an IATA conference, and I think that was yesterday, with respect to aviation security. Can you give the committee some sort of assessment of Australia's position in relation to issues of aviation security? I suppose, more generally, I would be interested in hearing your observations on this question of the boundary that has often been there, at least in Australian institutions, between organisations that deal with national security and organisations that deal with organised criminal matters or general criminal matters. I would be very interested in any observations you had about the adequacy, at the present time, of mechanisms to deal with the interface there.

I had the opportunity to talk to a British parliamentary committee a little while ago that expressed some views, fairly strongly, that that traditionally perceived interface

between national security issues and criminal justice issues is getting awfully blurry. It would be very helpful to hear your observations on aviation security as an example of that more general issue.

Mr Kendall—I have some pretty strong views on these issues myself and they partly come from the fact that much of my police experience was in the Special Branch of Scotland Yard, which, of course, has a close role in connection with the activities of the security services, as well. It is true that international cooperation, particularly in relation to terrorism, can be complicated by the fact that you are not just dealing with a police matter but you are dealing with an area where the security services are involved.

We have allowed ourselves to get into some difficulty, to a certain extent, in terms of cooperation because the interests of the security service, on the one hand, may not necessarily be the same as, and very often are different from, those that would be normal for, shall we say, the criminal police side of things. So, before getting to the issue of aviation security, it can be part of the problem.

We all recognise that if you want to deal with the problem of international terrorism you must exchange as much information as you possibly can relating to the activity of terrorists. The security services have a tendency to want to develop their intelligence and keep it to themselves, so you have a contradiction in terms of interest, in my opinion. We have to work very hard at getting across that contradiction. I say this after many years of reflection on this sort of thing.

We have to look at what our real purpose is in looking at this issue of international terrorism. I believe that our purpose must be to remove as quickly as possible from circulation the people who are suspected or known to be either preparing for, involved in or subsequently giving assistance to any people who are involved in terrorism activity. If you want to remove those people from the circuit it is clear that you have to tell as many people as possible about them so that you get them arrested when they are travelling internationally. If you restrict the circulation of that information you make it easier for them to go about their business.

I am well aware of the issues of protecting sources and things like that but, leaving aside those issues, which can very well be protected—it is a question of judgment—I believe that, as soon as you have enough information about somebody, that should go into my public's, the police public's, circuit so that you can make it as difficult as possible for these people to be able to move. Their names should be given to all people at airports, they should be given to immigration services, they should be given to the services which are dealing with the provision of visas and things like that, so that their movements can be restricted to the utmost.

I think this is where we are a little bit lacking in our approach to the issue, because in the security services you have what I would dub the confidentiality culture pushed to its

limits, when our purpose should be to get as much information as possible for legal purposes to enable people to be prosecuted and eventually finish up in prison. So there is a problem with that conflict of interest which is gradually being resolved, but not as quickly as it ought to be. That is one thing.

When it comes to civil aviation, we have another difficulty because we are dealing on the one hand with a private sector activity compared to a public sector activity. Once again there is a kind of anomaly which I detect here and which I mentioned to this aviation security group in Sydney, that, because the police cannot provide the kind of service that everyone would like to see should be given to civil aviation, like controlling passengers, controlling luggage, controlling movement of people and so on, all this has devolved upon the airline companies. So we are giving a task which is a public security task to the private sector, but we are not giving to the private sector people all the tools and information they need to be able to perform that task efficiently.

This, once again, comes to the issue of information. How can you expect those people to do the job that you want them to do in the public interest if you do not circulate to them in the same way as we would expect the security service to circulate to us information on people, information on modus operandi, information on the latest types of devices that have been used for terrorist attacks, the types of devices that need to be identified, and so on? Whilst there are a number of provisions that are provided for nationally, there is not a systematic international approach to the exchange of information and the distribution, above all, of information for those private sector people.

It has got to the point where I have recommended that we should have a memorandum of understanding with the IATA group specifically to try and resolve this issue of exchange of information. I repeat, you cannot expect them to do that public security job for you if you do not give them all the tools that they need to do. A lot of people—and they were doing it themselves even yesterday—say, ‘The reason we like to meet is because we build up confidence in each other by personal contact.’ That is fine, but it is not enough. You must systematise this exchange of information on a structured basis.

Mr FILING—One of the areas of interest to us is Australia’s commitment to Interpol and to the principles of Interpol’s activities. Could I ask you, in answering, to enlarge on your view about Australia’s role in our region? What are the sorts of things Australia can do to perhaps help improve circulation of material and information and, of course, standards in the region?

Mr Kendall—First of all, may I say that we have always had, for the many years that I have known that we have been dealing with Australia, good relationships with Australia, sometimes better than others at certain times. Not wishing to flatter Mick Palmer too much, but I think he has a very good sense of the international aspect of things—I know very well that 90 per cent of all crime is mostly national but I think that other little 10 per cent is becoming more and more important to us all. It is becoming

more and more important to a country like Australia when there are certain changes that are taking place, notably, what is going to happen to Hong Kong later in 1997. You are being affected. You are receiving a lot of immigration from many Asian countries now. This international aspect cannot be, and should not be, neglected in any way.

When I speak about the role of Australia in this area I am well aware that the level of general efficiency in a country like Australia is high. I want to be careful the way I say this having seen how some comments by Mr Ryan were reported upon in the press recently. I would like to say that we see the standards of the way the police operate in Australia as being those which correspond to the way police operate in Europe and in my own country too. We see that Australia probably is one of the only countries in this region that could take on that sort of lead at this stage. New Zealand could do so too, perhaps to a lesser extent.

It was not possible in the beginning because the communications situation had to be dealt with. We have dealt with that now and we now feel, in going back to my regional concept, that first of all this south-east Pacific area does represent a region. There are many issues in this region. You have a number of states which are separated by quite large areas of water and so on and where the activities are certainly linked together. Australia would be the appropriate centralised place for some type of regional activity to happen.

The other thing I also believe, and I feel very strongly about this, particularly in the European context when we are talking about Eastern and Western Europe, is that countries can have a much more effective approach to dealing with many issues if they act as a group rather than just look at them as one individual country within a group. I believe that because Australia has already a leading role in the regional chiefs of police area that it seems to me a natural follow-on to that that Australia would be very appropriate to take on this coordinating role for the activity in the region.

I would also have thought—and it is not my place to tell people like you this—that there would have been considerable interest, for many reasons, for Australia to want to, in the region in general, take on the lead role that it has on other areas such as defence and things like that. It is the sort of role that could well be taken on to deal with the law enforcement problems that exist in a region like this now. Drug trafficking is one such problem and organised crime is another. They are the areas that the G7 countries have been insisting on now for political reasons. That is the kind of thing that you would want to develop in this area too.

Mrs WEST—What are the greatest challenges facing international law enforcement agencies? What would you prioritise as the ones that need addressing?

Mr Kendall—I find it interesting once again in speaking to a group of politicians. Sometimes the politicians seem to discover problems at a rather late date, that we already

know have been around for quite some time. I am very happy to see this priority given to organised crime, drug trafficking, and to a lesser extent, terrorism. I do not put terrorism in the same area. I know it is spectacular, I know it is a difficult area to deal with, but this issue of organised crime and drug trafficking is one which is a major area of concern for us all.

If we look at it from the internal point of view first of all, it is very clear—and I do not think that Australia is any different from any other country in this respect—that if we accept that a large part of our crime, as much as 50 per cent in most countries and in most big cities, is in one way or another linked with the drug problem, then it is very clear to me that if it is not only for logistic and economic reasons you would want to do something about that.

The drug problem, which you cannot any longer separate from organised crime because all these things are linked together these days, is a major problem for all of us. Earlier on this year I happened to speak to a meeting in Hobart on drug dependency and so on. There are all sorts of reasons why we should be looking at this drug problem as a global problem, not just as a law enforcement problem.

I would like to develop something which I said earlier. Looking in the defence sense for what is the biggest threat—because, after all, that is what we should be looking at—to us all and to our societies today, in Europe we no longer have the East-West conflict and, despite the fact that there are a number of small areas of conflict around the world, there are no major areas of conflict any more. What then is the biggest threat to your existence and to your democracy? To me, it is the vast amounts of proceeds which people, through drug trafficking and organised crime, have been able to develop.

When you speak about a threat, you automatically should be looking at the response that you are going to develop in relation to the threat. If the threat is, as I say, coming from this particular area, you should be putting the sort of resources into that threat to deal with its very nature and the way it can affect your democracies. None of us can ignore it. We all used to think that corruption was really a Third World problem. We have seen in our Western civilisations—you have seen it here in Australia—that it is now possible, because of the enormous resources that these people have, for them to corrupt not only the lower echelons of our institutions but also the very highest level of our institutions.

Who could ever have imagined, even 10 years ago, that we would see one of the major political figures, a former Prime Minister in a country such as Italy, now before the courts for his associations with organised crime? Obviously, part of the issue is going to be whether he is guilty or not, but the real issue is whether we would have imagined that we could see that kind of case going on before the courts today. I work every year now with the World Economic Forum in Davos, looking at the issues of ethics in business and ethics in our society, and that is only the preliminary stage, before we get into the

corruption areas. These are all linked together, and they should be part of a national strategy to look at issues and not just deal with issues on a one-off basis when they arise.

We should be putting in the right sort of measures to be sure that we can detect when things are going wrong, so that we can do something about that as soon as we possibly can. If you think the nature of the threat is as serious as I think it is, then your response must be the right level of response. I cannot see—and I know we are all affected in this way in our own countries—how, at a political level, you can decide on a priority to deal with organised crime, drug trafficking and terrorism but then start cutting budgets all over the place.

The tendency in most governments is to cut things across the board: in governments, nobody wants to upset anybody else, so they say, ‘All the cuts are going to be across the board, at 10 per cent,’ when in actual fact there have to be priority issues. If the public statement is that there are priorities to deal with the sort of things that I am talking about, then I do not see how you can have a stated political priority on the one hand and a reduction in resources on the other. I am a fairly simple, pragmatic person and I cannot see the sense or correlation in that.

CHAIR—This committee has a statutory role to oversight the operations of the National Crime Authority. I am not sure whether you are close enough to what is happening, but I assume you would be familiar with the NCA; that is largely our response to the problem we are grappling with. We are in the process of conducting a review of the operations and effectiveness of the NCA. In an international context, are we on the right track? Is the NCA approach the way to address the problem?

Mr Kendall—Very often, national responses depend on the way even cultures are set up. I know that, very interestingly—I was watching this on the television this morning—as long ago as 1901 you decided on the federal structured approach. Looking at it as a purely objective observer, I suppose you have to look very carefully at what has to be, in these circumstances, the role of the federal government as compared with the role of the state governments.

I have the feeling that what is happening in Australia is a little like what is happening in the United Kingdom, where more and more responsibility is being shifted to local areas—which is fine, to a certain degree—and even to policing, to a certain extent; but there are a certain number of issues that can only be dealt with in a centralised way. Corruption is one such issue, and things that are a national problem, such as organised crime and everything else, can only be dealt with at the federal level, with the right sort of responsibility being given to the bodies that deal with those issues. I think more countries are seeing that it is quite important to separate the body that deals with the issues of ethics and corruption, and so on, from normal police function. That is a response that is being developed in more and more countries these days to handle that problem.

I do not know what the powers of the NCA are but I feel that very often in these issues it is more a question of confidence in the institutions than it is in the creation of the institutions themselves. There has to be a recognition that corruption can be a problem and there must be a mechanism in place to identify it as soon as possible after it has happened or is detected. Once you have identified the problem, there must be an immediate response to deal with it, and I am not convinced that the creation of more and more institutions is necessarily the best way to deal with that. Very often, existing institutions can handle it but there must be confidence in the ability of those institutions to carry out their functions.

CHAIR—Obviously they would have to have powers commensurate. The big issue with the NCA is that it has these special powers. The debate or the tension often is between civil liberties and the powers that are necessary for it to carry out the task.

Mr Kendall—You are quite right. There is not much point in creating an institution if you do not create the conditions in which it can work. It is very clear to me that those two things have to go together. I think one of the areas that we have to become involved in in these days, and we cannot avoid it, is this rather difficult balance between what you might call civil liberties, and how far you can deprive the public of certain of their privileges, in the interests of the total community, when it comes to dealing with the problems that they are confronted with. It is a balance which is changing all the time.

Once again, it comes back to the issue of confidence. What will the public accept as a restriction on their normal liberties to deal with a certain situation? Much depends on how well that is explained to them. I refuse to accept that the public is stupid. If you explain to people why you feel you need to do something, I think that generally they will respond to that.

The very best example I can give you of that is of something that unfortunately happened in Paris yesterday, and it is something that happened in a similar fashion a year ago. Under those circumstances, the French implement a plan that they call Vigipirate, which provides for the use of the military. It provides for restriction on certain people's movements. The people accept it because of the exceptional conditions. Under normal circumstances, if you go into a department store in France nobody will ask to look inside your bag or whatever you are carrying. Today, they would accept it.

I think it is a question of looking at the conditions that exist and seeing what measures you need to take. It seems to me that very often civil liberties, and protection of the rights of the individual, are used as an excuse not to go far enough in dealing with the people that you really want to deal with. In other words, you are not protecting the innocent, you are moving towards a situation where you are protecting the guilty and not the innocent.

I think we should be very clear about that. If somebody asks, in police terms, whether you can be sure that at the moment in your record system of whatever that there

are not some innocent people, your answer should be, 'No, I can't be sure.' At any given time, when I am trying to deal with the problem of criminality, I am going to have to look at the innocent people to get at the guilty ones. I think you have to have confidence in your institutions and particularly confidence in your law enforcement and police services. Let them have the tools that they need to do their job but, at the same time, they need to have the proper control and oversight measures to be sure that, if somebody does exceed their powers, that very clearly and quickly comes to light and that you are not abused by a situation.

I have a feeling that sometimes the tendency is to look at the possible abuses and say, 'Because these possible abuses are there, we are not going to allow you to use these tools.' We should be saying that we allow them to intercept people's mail, and people's telephone communications and all this kind of thing but under the right sorts of controlled conditions. I know it is a very difficult issue to deal with at the political level. But that should not prevent us from having an overreaction because, occasionally, as they inevitably will, things will go wrong.

CHAIR—Thank you.

Mr SERCOMBE—Mr Kendall, you spoke before about the vast amounts of money that are generated by criminal activity, particularly, I suppose, in the drug trade. One of the things that is certainly of interest to me, and to the committee generally, is the increasing capacity to launder those sorts of funds in sophisticated ways by electronic means. There is the capacity to carry out commerce on the Internet, for example. I guess there is also the application of those sorts of technologies for large scale fraud, as well as for laundering the proceeds of crime. I am wondering what your thoughts are about the role of Interpol in relation to that emerging situation with money laundering and fraud, whether the organisation has the wherewithal to play a central role, or if there is a need for the international community to evolve other sorts of structures to deal with those evolving situations.

Mr Kendall—On this whole issue of money laundering, it is interesting how, as often happens, we develop a series of national responses to deal with something which is an international problem. That interests me, to know why—and I do not have the answer; I wish I did—people are not willing to use international conventions as a legal basis for certain types of international activity. I say that because on the issue of money laundering—and I know Australia was very strong in developing the 1988 Vienna convention to deal with the problem of illicit drug trafficking—the provisions of that convention particularly insisted upon the issue of cooperation in relation to money laundering and the movement of funds. It also created in the G7 context the financial action task force, of which our organisation is part, to deal with this issue too and to come up with action plans.

But one of the biggest problems we still have today is that not everybody has

adopted the legislation that was recommended in the 1988 convention. One of the problems we have is that we are continually trying to catch up on something, instead of being able to foresee or deal with something when it happens. One presumes that in 1988 when that convention was adopted it was recognised as being a problem. Many, many countries still have not adapted their national legislation to build into that legislation the provisions of the convention—and those that have only did it recently. If we are going to continue to deal with international matters in that way, we are never going to achieve any success. That is one point I wanted to make. The other point is that money laundering—

Mr SERCOMBE—Are you able to tell us which countries are dragging the chain in that respect, or would that be undiplomatic?

Mr Kendall—I do not have them in my head, but I would be quite happy to give them to you if I had them with me. I can provide you with them. Even some of the European countries have done so only in the last couple of years. Any legislation takes a long time to get through, as you know. So that is one reason why things are not being done the way they should be. The other thing is that we have to recognise that money laundering is part of the answer to the problem, but it is not the complete answer to the problem. You ought to know that money laundering investigations are time consuming, manpower consuming and extremely difficult.

To give you an example, the famous BCCI case involving the bank in Luxembourg started off in Miami, Florida, where a group of people were indicted after four years of investigation. They were convicted of laundering \$US14 million. For a four-year investigation you had a money laundering case involving \$14 million, when the annual figure circulating is estimated at more than \$450 billion. I am just trying to illustrate to you that you cannot expect to get the full answer in money laundering. That is a small part of the activity. The rest has to go with it.

One of the difficulties we also have is that the very same methods that the money launderers use are the methods that are used by the legitimate business community. If our international companies situate their offices in certain places in the world, it is to obtain a fiscal advantage in their operations. Until the legitimate international business committee is willing to give up all that, I do not think that we can expect to make serious inroads into the issues of money laundering.

Everybody says that there are certain countries that are tax havens. Yes, there are. There are certain countries that apply very strict banking security laws. Yes, there are. But the reason that they are able to continue to do so is because the legitimate business community is taking advantage of that situation, and I cannot see in the realistic world that they are going to be willing to give that up. In the long term, it would be the best way of attacking the illegal activities in money laundering. We have a special group that deals with that issue. They cooperate with the OECD countries. We probably could do more, but I do not see it as the immediate solution to our problems in this area.

CHAIR—You alluded earlier to the need to restrict international movements of known or suspected criminals. You also alluded to your compatriot, Peter Ryan's comments about the linking of crime to ethnic groups. But, in a broader context, Australia, of course, has a very large immigration intake—probably the largest in the world and has been for a long time close to the largest. We also, of course, get quite a movement of refugees. In that context, is that a factor that should be of concern to us in terms of our exposure to international crime and, of course, in the relaxing of visa issue processes? This is happening internationally, and we are under pressure to do it here. Do you think that that also represents a threat in any way to us?

Mr Kendall—I think that one of the issues that we normally, until two or three years ago, would not have thought it was our job to look at, would have been the issue of immigration. The reason that we have started to look at that is because of what it represents and what it has come to represent in Europe in the vast movement that is taking place of grand groups of people now. And the fact of the matter is—and I am sure that Australia is no exception—that the exploitation of the movement of people has become of interest to the organised crime people. In other words, if you want to go to this or this country, there are people who can facilitate that for you, either by providing you with totally false papers, or getting to the right people who can give you the genuine papers, and so on. It has now become an issue that is as much involved in organised criminal activity as are some of the more traditional actions. Even though the people themselves who have become a commodity and a product are innocent people, there are people who are now making lots of money through the movements of those people and I think that this is where the interest in immigration, in general, has to be a legitimate one. And I think that it also means that people are looking more at the issues of political asylum.

We have some contact with the United Nations refugee office in Geneva. A while ago, probably when people asked for political asylum, their requests would probably be taken at face value. Now, that issue has become something of an issue for us, too, because we are being asked more frequently to see whether these are genuine requests for political asylum, or whether they are not criminals using that as an excuse for getting possibilities to have a status to stay in the country. So, the issues of immigration, and things like this, have become part of a necessary international cooperation from the criminality point of view simply because it is becoming more prevalent because of the different conflict situations that exist in the world.

CHAIR—I have to excuse myself from this meeting as I have to meet an overseas delegation. I will ask Mr Sercombe, the deputy chairman, to take over as acting chairman.

Mr TRUSS—My question follows on from the one that you, Mr Sercombe, just asked, and your answer, Mr Kendall, concerning the 1988 convention on trade in drugs. I understand that Australia has been criticised for failing to submit the reports required under that convention for quite a number of years, and I think New Zealand was similarly criticised. Is there a view that Australia is not taking that convention seriously?

Mr Kendall—Certainly there is not such a view in my part of the community. I have known about the UN reporting systems and I have worked with trying to simplify those things because we found many years ago that if you cannot do things on proper data and up-to-date data then you will not be able to come up with good policy. So we have now been working with the United Nations and with the world customs organisation to simplify this whole question of reporting and data.

It has been agreed between the three organisations that the entire centralisation of the data will be with us. The reason that has been decided is because the UN requires certain information but it does not require information on individuals who are involved in drug trafficking. Indeed, they do not have even the legal authority to keep information on people. We can do it and so we will provide the United Nations with all the statistical data that they require, which is about movement and general trends and things like that but not about the individuals who are involved.

I have never heard the criticism about reporting as regards what Australia does but I do know that the system was complicated by the fact that in some countries it is the health department that does it, in other countries it is the interior authorities that do it and so on. Certainly, from our point of view we do not have any problem with information coming from Australia on drug seizures and things like that and I think it will become simplified now.

Mr TRUSS—I think the problem has been that in Australia it was not an argument as to which department did it, nobody has done it, and you think that perhaps that does not matter very much.

Mr Kendall—All I know is that as far as our side is concerned, Australia does do it. We do get the national drug statistics from the law enforcement point of view. If you are developing strategy you are more interested in dealing with your national problem nationally as opposed to simply providing—

Mr TRUSS—I am told that a computer program is being developed commercially to assist countries to honour their reporting obligations under the convention. Do you have any knowledge of that or comments on its suitability?

Mr Kendall—I was not aware that anything was being commercially developed. What I am aware of is the fact that it has certainly already been developed on a common formatting system for the three organisations and is in place as far as we are concerned. It is now a question for the UN people in Vienna to be sure that all the member countries, the countries they are dealing with, have the ability to use that system too.

Mr TRUSS—Do you feel confident that Australia will be able to use that system and choose to do so?

Mr Kendall—I see no reason why it should not. I have attended the UN Commission on Drugs for many years and Australia has always been a very strong intervening member in that commission and it has had a lot to do with the policy that has been developed and, indeed, with the 1988 convention. I hesitated earlier on to ask—and you may be able to tell me—whether Australia has implemented legally all the legislation that was required on money laundering coming from that convention. I know that Australia has, but it is interesting for me to know when.

ACTING CHAIR—I think it was 1987. The financial transactions reporting legislation dates back to 1987, I think.

Mr Kendall—Then you are one of the leading countries in this area. There are some European countries that adopted that legislation only a couple of years ago. In speaking about that in terms of legislation, we have to be looking a little more to the future than we do right now. A lot of countries are stuck because they implemented legislation for drug trafficking, but they did not include in it organised crime or any other illicit activity. And of course, as I said earlier, those two things are so closely related that you cannot separate them. The same thing applies in that some people are having problems in dealing with modern communications used by criminal people, because the old legislation only looked at existing technology; in those days, it was the telephone, but now it is something else. We have to be forward looking in the implementation of legislation by keeping it a little more general and saying that, for example, all means of communication that can be used by criminals can be the subject of interception—so that we will not be trying to catch up every time somebody has a new technical development in terms of communications.

Mr FILING—One of the areas that I know Interpol has spent some time examining has been the issue of organised criminal paedophile activity. Of course, given the recent events in Belgium—and, obviously, in Australia there is a serious investigation relating to the protection of paedophiles in New South Wales; but I am not sure if you have a copy of our report from November 1995.

Mr Kendall—No, I have not seen it; but I would be interested in it.

Mr FILING—From your inquiries—and, I should add, given the proximity to Australia of one of the key areas of the problem, the South-East Asian region, where European, American and Australian tourists travel to avail themselves of children for sexual activities—what lessons have you picked up from your investigations, and perhaps additionally in relation to the Belgium situation that has taken everybody's attention?

Mr Kendall—First of all, what happens very often is that these things come, unfortunately, into the front line of public interest. They are very serious issues and offences that arise, such as the one in Belgium which has particularly highlighted the nature of the problem. Since 1992, we have had a special international working group

looking at organised paedophile activity.

Something that is a little bit of a separate issue but is linked to that is the question you mentioned of what they like to call 'sexual tourism' and things like that. It remains to be seen whether, in fact, the case of Belgium goes beyond Europe: it seems to be pretty well Europe-orientated, not only by the criminals themselves but also in relation to the victims. But what we have found over the last four or five years—and we have done two series of analytical studies on this issue—is that, firstly, there exists a certain number of organised international groups which produce publications for contact purposes.

Strangely enough, in Belgium—but I am not trying to say that Belgium is particularly affected by this more than anywhere else is—one man was already being prosecuted two years ago for what was known as the Spartacus Group, which existed in Europe. Either fortunately or unfortunately, the man died while he was being dealt with before the court, so we did not see the sort of follow-up in terms of publicity that we might have had if that case had been followed through to its end. There was a coincidence—perhaps an unfortunate one—in that, two weeks after the outbreak of the Dutroux case in Belgium, there was a world conference in Sweden on the sexual exploitation of children, a conference which received a great deal of publicity and created political interest because of the Belgian case.

It has now been recognised, because of those cases, that this is a serious international problem. We are now in the process of conducting further analyses with the specialised group that we have. We have already produced a guide which is being sent out to all our member countries now on how police should recognise the extent of the problem and how they should deal with it. It does have some deep internal cultural problems for some of us in some of our countries because it can also be linked with the sexual exploitation of children by their parents as well. So there are a number of issues here that need to be looked at. The good thing we can say is that now the problem has been recognised it is receiving a lot of publicity, and I think we are dealing with it in the best way that we can deal with it up until the present time.

Mr FILING—I know we have only a little time left, but can I just ask a question relating to the second optional protocol to the International Covenant on Civil and Political Rights, to which Australia is a signatory. Australia has recently passed legislation relating to mutual assistance in relation to criminal matters, in which it provides for a restriction in the event of a person being arrested and charged with an offence involving a capital punishment. You may be aware that the restriction Australia has imposed upon itself is to require, before the exchange of information that may be sought, an undertaking that the capital punishment would not be carried out in the event of a conviction. I am wondering whether you would see that as having a restrictive effect in relation to mutual assistance, in particular in relation to the exchange of information by Interpol.

Mr Kendall—I have not read in detail that legislation but, the way you have

expressed it to me, I would regard it as a restriction. I can well understand a refusal to extradite in a case where the country that is requesting extradition does apply the death penalty to a person who is convicted of a certain offence in that country. But I fail to see why the exchange of information should be affected by that because there are two levels of decision here. I think the decision to extradite is a legal decision which will be taken after due study of the issue, but I do not see why that should affect the exchange of information on a subject when you know full well that you do not have to extradite the person at the end of the day. At first sight I would regard that as a restriction.

Mr FILING—As a matter of principle in relation to Interpol's activities, my understanding is—and correct me if I am wrong—that, with regard to considerations of, for instance, local political and cultural standards that may involve in, say, Thailand a number of offences involving capital punishment, similar in the People's Republic of China and, of course, the United States, where both federal and state governments have capital offences involved for certain offences, that as a matter of principle Interpol does not involve itself in imposing those types of standards—

Mr Kendall—I can tell you very clearly my reaction to that. In terms of international cooperation, I do not think you should be looking at the obstructions but I think you should be looking more at the things you can do positively together. I think if we try to categorise all the countries in the world we have to deal with according to the application of certain measures, be it the death penalty or other, you would not do anything. So I think we have to try and look at the areas of common interest that we have which will enable us to cooperate together as opposed to the differences. As far as possible the restrictions should not—it is like linking trade with the application of human rights. I am not sure that that is a practical and realistic way of dealing with things. You can exercise pressure in different ways on people as to the way they handle these issues. But, when it comes to the straightforward cooperation between law enforcement people where at the end of the day you yourself control what you will do when it comes to extradition and so on, I can see that it is quite possible to separate those two things. I think if we try to do otherwise it would not be possible for us to cooperate together.

However, I will go back to something at the very beginning. If you, as a country, decide on certain criteria that you wish to see applied and if there are certain countries that you wish to exclude from any type of cooperation, it is perfectly possible for our systems to handle that.

Mr FILING—May I just enlarge on that? I do not want to put you in a delicate spot; we are very close to knocking off. May I just say that in the case, in the event that—

Mr Kendall—Perhaps you could give me an example.

Mr FILING—I am thinking of the case, for instance, of the Oklahoma bombing where, say, Australia had information that would assist US authorities. With Australia

having, perhaps, arrested and charged an offender, the Attorney-General would now be restricted by the legislation from providing information unless the government concerned gave an undertaking that capital punishment would not be carried out, which I assume—

Mr Kendall—In my position, I would find that counter-productive.

ACTING CHAIR—We have already had a response from Mr Kendall on that.

Mr FILING—I was just going to raise one aspect in relation to our Olympic Games security and other arrangements: would that sort of restriction cause problems for Australia itself in being able to organise a successful security operation for the Olympic Games?

Mr Kendall—You will just have to wait and see. I really do not know the answer to that.

Mr TRUSS—With the issue now having been raised, perhaps you might like to comment, with the benefit of your international experience, on whether there are security risks—or terrorism or other particular incidents—associated with the Olympic Games. You might offer us advice on should be done to limit that risk.

Mr Kendall—I must say that I met yesterday with the man who has been appointed by Mick Palmer to be responsible for handling those security issues. It was very clear from my discussion with him that he understands perfectly well, and for very good reasons, that there is more and more of a tendency to profit from the security issues that have been dealt with by others who have faced these public manifestations. However, the only thing I would say is that we should not, or you should not, simply be thinking that there is a tendency to orientate this towards looking at terrorism and the possibility of terrorist risks.

In fact, there are as many risks, if not more, arising from the other types of criminal activity which are always linked to the occasions when a large number of people come together for a particular reason. So if all your hotels are full, the people who are specialists in going to hotels and stealing from them are going to come. We have to distribute regularly, for these purposes, a little booklet on the international pickpockets who always turn up on these occasions. I think that the broad nature of the risk should be looked at, not simply the terrorism aspect which immediately comes to everybody's mind.

The other thing I would like to say—it has just occurred to me—is a corollary of your comments on this question of cooperation. When you are looking at the types of offences that are going to be committed, whether they are capital offences or not, there are certain degrees of available action. What you will be very interested in, certainly up until the time of the Olympic Games, is prevention. In my opinion, there can be absolutely no restrictions, even in relation to your legislation, on distributing information which is of a

preventative nature. I just cannot see how you can prevent that happening in any way and nobody, be that person in the security services or anybody else, is going to argue with that. Anything connected with prevention can be, and will no doubt be, the subject of international cooperation. Where your difficulty might arise is when you actually start getting down to individual people who are doing individual things; then you may have to ask the question.

However, in terms of prevention, I am sure you will get all the cooperation that you should. We regularly remind all our member countries that if they have any information that may affect this particular event in this particular country, they must be sure to send it as soon as they possibly can. As you get closer to the date, the periodicity of those warnings will become much more frequent.

ACTING CHAIR—Mr Kendall, you have been very generous with your time and we have appreciated the—

Mr Kendall—I have got nowhere else to go.

ACTING CHAIR—I am sure the AFP or the NCA or others would have been delighted to have filled your diary. You have been very kind and frank with your answers. We will now adjourn to lunch.

Committee adjourned at 12.27 p.m.